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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: FW19A/0189**

**Appeal** by Frank Gleeson of CDP Architecture of 4 The Mall, Main Street, Lucan Village, County Dublin against the decision made on the 10<sup>th</sup> day of September, 2020 by Fingal County Council to refuse permission for the proposed development.

**Proposed Development:** Demolition of the existing two-storey public house premises, and construction of a new building consisting of three number commercial units (two number retail units, one number licenced public house) and 40 number apartments, (four number studios, 14 number one beds, 17 number two beds and five number three beds) all across lower ground to fourth floor, with associated 84 number surface car parking spaces, utilizing the existing vehicular and pedestrian site access. All with associated landscaping, public open space at roof level, bin storage, bike storage, signage and site works, all at the former Páidí Ógs Public House, junction of Church Road and Old Navan Road, Mulhuddart, Dublin.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

Having regard to the planning history for the site, to the mixed-use commercial and residential nature of the proposed development, predominantly located within Local Centre zoned lands in the current Fingal County Development Plan, to its location within a defended area in Flood Zone A in the Strategic Flood Risk Assessment of the development plan, and to the revised Flood Risk Assessment (inclusive of a hydrology report and additional flood risk mitigation measures) submitted to An Bord Pleanála on the 7<sup>th</sup> day of October, 2020, it is considered that the proposed mixed use development, subject to compliance with the conditions set out below, is an appropriate redevelopment of this urban brownfield site, would provide a satisfactory level of residential amenity for future occupants, would not seriously injure the residential amenities of adjacent properties, would not give rise to an increased risk of flooding, and would not endanger pedestrian or traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission on the issue of flood risk, the Board considered that the revised Flood Risk Assessment submitted with the appeal addressed the Board's previous reason for refusal and the concerns identified in the planning authority's reason for refusal in relation to the 100 year flood level, and that the finished floor levels of the proposed development and flood event management had been addressed and overcome. In particular, the Board noted the revised finished floor levels for the residential development and the Emergency Escape Plan for the commercial units were based on the results of a hydrology assessment. The Board also agreed with the planning authority that the proposal would be of merit and would, if permitted, contribute to the achievement of a broad range of policy and objectives of the Fingal County Development Plan

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 14<sup>th</sup> day of August, 2020 and the further information submitted to An Bord Pleanála on the 7<sup>th</sup> day of October, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water. No dwelling unit shall be made available by the developer for occupation until water and sewerage services serving the development have been installed in accordance with the connection agreements made with Irish Water.

**Reason:** To ensure that satisfactory water and wastewater arrangements are in place to serve the development.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

4. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

5. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works, and shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS), with particular reference to kerb radii and internal road widths. A revised parking layout demonstrating the separation of residential and commercial parking, and the layout for the parking and loading bay on the public road shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and of pedestrian and traffic safety.

6. The proposed car parking spaces shall be reserved for the use of the residents of the proposed development. A minimum of 10% of these spaces shall be provided by the developer, as part of the site development works, with functioning electric vehicle (EV) charging stations/points. Ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Proposals relating to the installation of EV ducting and charging stations/points, in accordance with the above requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

**Reason:** To provide for and/or future-proof the development in order to facilitate the use of electric vehicles

7. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of communal open spaces, roads, footpaths, parking areas, landscaping and internal communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

8. The areas of communal open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 19<sup>th</sup> day of November 2019, as amended by plans and particulars submitted to the planning authority on 14<sup>th</sup> day of August, 2020 and the further information submitted to An Bord Pleanála on the 7<sup>th</sup> day of October, 2020. This work shall be completed before any of the units are made available by the developer for occupation.

**Reason:** In order to ensure the satisfactory development of the communal open space areas, and their continued use for this purpose.

9. Prior to commencement of any demolition works, a bat survey shall be carried out by a suitably qualified ecologist. Detailed measures in relation to the protection of any bat roosts or bats that may be present shall be submitted to and agreed in writing with the planning authority, prior to commencement of such works. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and a copy of any such licence shall be submitted to the planning authority before any demolition works commence.

**Reason:** In the interest of wildlife protection.

10. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

**Reason:** In the interest of amenity and public safety.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of visual and residential amenity.

12. Prior to the commencement of works on site, the developer is requested to submit to, and agree in writing with the planning authority, a revised landscape plan (that is prepared by a suitably qualified Landscape Architect or landscape professional) for the development. This shall incorporate details of the following:

- (a) All hard and soft landscape works shall be completed in full in accordance with the approved Landscape Plan,
- (b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of two years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (c) A project Landscape Architect/landscape professional shall be retained by the developer for the duration of the project to supervise the implementation of the landscape plans from start to finish and to sign off upon completion to the satisfaction of the planning authority.

**Reason:** In the interests of residential and visual amenity.

13. Full details of the proposed play area and facilities shall be submitted to, and agreed in writing with the planning authority prior to commencement of works on site.

**Reason:** In the interests of residential and visual amenity.



14. Proposals for an estate/development name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

16. Construction and demolition waste shall be managed in accordance with a construction waste management and demolition plan which shall be submitted to and agreed in writing with the planning authority prior to commencement of development on the site. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects” published by the Department of Environment, Heritage and Local Government in July 2006. The Plan shall include details of waste to be generated during site clearance and construction phases and details of the methods and location to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provisions of the Waste Management plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

17. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To secure the protection of the trees on the site.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Maria FitzGerald**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2021.**