

An
Bord
Pleanála

Board Order
ABP-310594-21

Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F21A/0184

Appeal by Nora O’Gara Flynn care of CWPA Planning and Architecture of Unit 10 North Street Business Park, Seatown West, Swords, County Dublin against the decision made on the 24th day of May, 2021 by Fingal County Council to refuse permission for the proposed development.

Proposed Development: Permission is sought for the demolition of the existing house located on lands at Ballyhack, Kilsallaghan, County Dublin (as previously approved under register reference F14A/0214). The construction of a new two- storey, four number bedroom replacement dwelling, a detached garage, entrance gates and wing walls (to replace existing farmgate entrance off L7210), new wastewater treatment system and all associated site works, landscaping and drainage to facilitate the development at Ballyhack, Kilsallaghan, County Dublin and Heathwood Farm, Kilcoskan, Kilsallaghan, County 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.

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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 nature, extent and location of the replacement dwelling, on a site proximate to the applicant's place of employment and to the associated demolition of the existing dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and would constitute an acceptable form of development at this location. Furthermore, it is considered that the demolition of the existing dwelling, having regard to extant permission F14A/0214, which secured an extension of duration of permission in 2019 and which provides for the demolition of this dwelling, and by reason of the location, form and quality of the existing dwelling, which is not deemed to be of any particular vernacular merit and which in its current form and site context does not contribute to the character of the area, would not be harmful to the amenities and character of the rural area and would not materially contravene objectives CH37, RF28, RF64 and RF65 of the Fingal County Development Plan 2017-2023. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted that the proposed development is for a replacement dwelling, with the associated demolition of the existing dwelling specifically described within the nature and extent of the overall proposed development, thus no addition to the housing stock in this rural area would arise. Given that the demolition of the existing dwelling has previously been granted by the planning authority, along with the provision of a replacement dwelling and that this extant permission secured an extension of duration of permission in 2019, the Board determined that the same principles of rural housing need apply in this instance. The Board also considered that the proposed replacement dwelling in itself would be acceptable in terms of design, layout and the provision of access/egress.

Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, 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. The proposed replacement dwelling shall not be occupied by the applicant, until demolition of the existing dwelling has been completed. Details providing for the landscaping of the area upon which the existing dwelling is located shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

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3. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

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

Reason: In the interest of visual amenity.

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5. The developer shall enter into a water connection agreement with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

6. Drainage arrangements, including the 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.

7. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

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8. 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 interests of visual and residential amenity.

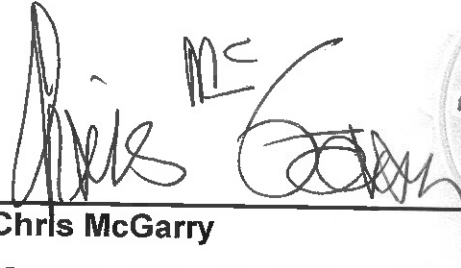
9. Site development and building works shall be carried out only between the hours of 0700 to 1900 Monday to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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, 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.

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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.


Chris McGarry

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 13th day of December 2021.