



Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F21A/0190

Appeal by Anthony and Yvonne Murray of High Rock, Coast Road, Portmarnock, County Dublin against the decision made on the 27th day of May, 2021 by Fingal County Council to grant subject to conditions a permission to Richard and Sherril Burrows care of Scott Tallon Walker Architects of 19 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: (i) The demolition of an existing detached bungalow of approximately 427 square metres and associated detached garage, (ii) the construction of one number detached two-storey, five-bed dwelling (373.3 square metres) with attached garage, two number detached two-storey, four-bed detached dwellings with setback second floor accommodation (250.3 square metres each) and three number detached two-storey, four-bed detached dwellings (218.3 square metres each). Each dwelling to be provided with two number on-curtilage car park spaces and private amenity space, (iii) existing vehicular entrance to be remodelled to serve one of the new dwellings with the remainder to be accessed via a new vehicular entrance to the Coast Road, (iv) ancillary site landscaping and boundary treatment and (v) SUDS drainage and all other ancillary site development works necessary to facilitate

the development on a site area of 1.04 hectares at Dunseverick, Coast Road, Portmarnock, 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.

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 provisions of the Fingal County Development Plan 2017-2023 and to the nature and scale of the proposed development on residentially zoned land, with the open space area on that part of the site zoned 'High Amenity', it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, the Malahide Estuary Special Area of Conservation (Site Code 000205), the Malahide Estuary Special Protection Area (Site Code 004025), the Baldoyle Bay Special Area of Conservation (Site Code 000199) and the Baldoyle Special Protection Area (Site Code 004016), taking into account the nature and scale of the proposed development, the Appropriate Assessment Screening Report submitted with the application, the Inspector's report, and the submissions on file. In completing the screening exercise, the Board noted that the proposed development is not directly connected with or necessary to the management of a European site and adopted the report of the Inspector and concluded that, by itself or in combination with other plans or projects, the proposed development would not be likely to have significant effects on any of the aforementioned European sites, in view of the sites' conservation objectives. The Board considered that a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not, therefore, required.

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 received by An Bord Pleanála on the 20th day of July 2021, 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. Details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. (a) The roads and traffic arrangements serving the site (including road signage and markings relative to the access lane and to the junction with the R106 Regional Road), shall be in accordance with the detailed requirements of the planning authority for such works, and shall be carried out at the developer's expense.
- (b) The internal road network serving the proposed development including access, turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such works.
- (c) Proposed pedestrian access shall comply with the detailed standards of the planning authority for such works.

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

4. The development shall incorporate noise mitigation measures to ensure that appropriate noise levels for habitable rooms are achieved and maintained, having regard to the location of the site within the Outer Airport Noise Zone. The required measures shall be determined by a quantified noise assessment of the site which shall be carried out by an appropriately qualified and experienced professional at the expense of the developer. Full details of the assessment and the proposed noise mitigation measures/construction materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

A plan to scale of not less than 1:500 showing:

- (a) Existing trees, hedgerows, shrubs, specifying which are proposed for retention as features of the site landscaping.
- (b) The measures to be put in place for the protection of these trees and landscape features during the demolition and construction period.
- (c) Details of replacement tree planting for those trees that are felled to facilitate the proposed development. The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include prunus species.
- (d) Details of screen planting along the north-western boundary with Robswall Park, which shall not include cupressocyparis x leylandii.

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 five 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.

Reason: In the interests of residential and visual amenity.

6. Trees to be removed on site shall be felled in late summer or autumn. Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist.

Reason: In the interest of nature conservation.

7. A tree bond of €5,000 (five thousand euro) shall be lodged with the planning authority prior to the commencement of development in order to ensure that the trees are protected and maintained in good condition throughout the course of development. The tree bond shall be held by the planning authority for a period of two years post construction and shall not be released until an Arboricultural Assessment Report and certificate signed by a qualified arborist has been submitted and any remedial works have been fully undertaken to the satisfaction of the planning authority.

Reason: To ensure the protection and long-term viability of trees to be retained on site.

8. A management plan for the control of alien invasive plant species, including a monitoring programme, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and to prevent the spread of alien plant species.

9. Details of the proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

10. 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.

11. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

12. All public services to the proposed development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site.

Reason: In the interest of visual amenity.

13. Lighting shall be provided along the access road in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any house and shall be designed to avoid light pollution of neighbouring properties and Robswall Park.

Reason: In the interests of amenity and public safety.

14. Proposals for a name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

15. 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

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

16. 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.

17. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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 the 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 locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

18. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

19. 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, 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.



20. 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.


Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 5th day of November 2021.

