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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F20A/0510**

**Appeal** by David Fletcher of Donabate Portrane Community Council, 142 The Links, Donabate, County Dublin against the decision made on the 26<sup>th</sup> day of August, 2021 by Fingal County Council to grant subject to conditions a permission to Cairn Homes Properties Limited care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** (i) Construction of 36 number houses, comprising of 10 number four-bedroom, two-storey, semi-detached houses; 18 number three-bedroom, two-storey, semi-detached houses; and eight number two-bedroom, two-storey, terrace houses. Each dwelling will feature a private rear garden and roof mounted solar panel or photovoltaic panels; (ii) construction of 28 number apartment/duplex units, comprising of 14 number two-bedroom apartments and 14 number three-bedroom duplex units, in three number three-storey blocks. Each apartment/duplex unit is provided with a private balcony or terrace. The three number blocks proposed are served by 430 square metres of communal amenity space and roof mounted solar panel or photovoltaic panels. The proposed development includes 111 number car parking spaces, inclusive of 64 number on-curtilage car parking spaces

servicing the houses (two number spaces per three and four bedroom house and one number space per two bedroom house), 41 number car parking spaces servicing the apartments/duplex units and six number visitor car parking spaces, and 72 number bicycle parking spaces (36 number provided in three number secure bicycle storage areas and 36 number provided throughout the development); (iii) construction of a 1,800 square metres public open space area, featuring a playground, in the north-western corner of the site; (iv) creation of new vehicular entrance from New Road along the site's southern boundary; (v) alterations to existing site levels through the importation of clean, uncontaminated soil and stones to the site; and (vi) all associated site, landscaping and infrastructural works, including tree planting, boundary treatments; street lighting; ESB substations; internal roadways, footpaths and shared surfaces; and foul/SuDS drainage, necessary to facilitate the development. Temporary permission (5 years) is also sought for: (i) the erection of three number advertising signs (totalling 42 square metres), for the purposes of marketing, on the sites eastern and southern boundaries, all on lands at Ballymastone, Donabate, County Dublin. The further public notices were received by the planning authority on the 30<sup>th</sup> day of July, 2021.

## **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.

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## Reasons and Considerations

Having regard to the following:

- (a) the provisions of the Fingal Development Plan 2016-2022, including the zoning objective C1 - New Residential with a stated objective 'to provide for new residential development',
- (b) the Housing for All - a New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021,
- (c) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013,
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- (e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Local Government and Heritage in December 2020,
- (f) the Planning System and Flood Risk Management (including the associated Technical Appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009,

- (g) the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December 2018,
- (h) the nature, scale and design of the proposed development,
- (i) the availability in the area of a wide range of social, community and transport infrastructure,
- (j) the pattern of existing and permitted development in the area,
- (k) the planning history within the area, and
- (l) the report of the Planning Inspector and the submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



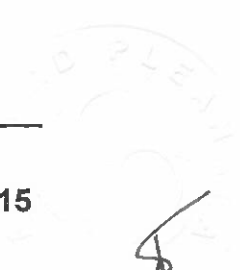
## Conditions

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 on the 1<sup>st</sup> day of April, 2021 and the 15<sup>th</sup> 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. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. 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, 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.



3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

4. Proposals for an estate/street name, house and apartment 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 house and apartment numbers, shall be provided in accordance with the agreed scheme. 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.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling unit.

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

COMPLEMENT  
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6. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Street. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.
- (b) A Car Parking Management Strategy for the overall development shall address the management and assignment of car spaces to residents and units over time and shall include a strategy for the community use and any car-share parking.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

7. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of permeability and the proper planning and sustainable development of the area.

8. (a) Bicycle parking spaces shall be provided within the site in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2020. Revised details of the number, layout, and design, marking demarcation and security provisions for these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Electric charging facilities shall be provided for cycle parking and proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation, in the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric cycles.

9. A minimum of 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.



10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. 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.

11. 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.

12. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interests of clarity and public health.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

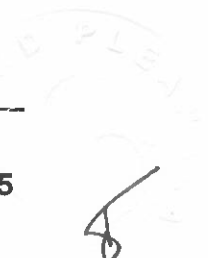
14. The site shall be landscaped and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.

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



15. (a) Prior to commencement of development, all trees/hedgerow which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.
- (c) Excavations in preparation for foundations and drainage, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
- (d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained adjacent to the site unless otherwise agreed with the planning authority.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.



16. 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.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 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. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, drawings showing all development works to be taken in charge, designed to meet the standards of the planning authority.

**Reason:** In the interest of the proper planning and sustainable development of the area.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

20. Detailed measures in relation to the protection of bats shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. 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 details of any such licence shall be submitted to the planning authority.

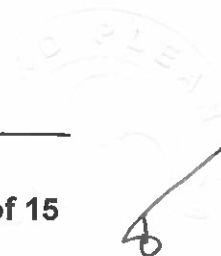
**Reason:** In the interest of wildlife protection.

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21. 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 and maintenance until taken in charge by the local authority 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 or maintenance 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 and maintenance of the development until taken in charge.

22. 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

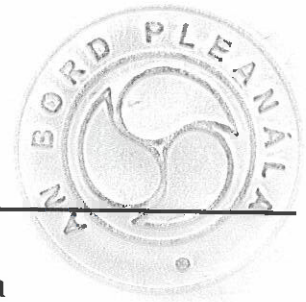
23. The developer shall contact the planning authority's public art coordinator prior to commencement of development to agree the provision of a public art sculpture to be located near the south-eastern corner of the development facing the junction of New Road and the Donabate Distributor Road.

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



Terry Ó Niadh

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



Dated this 11<sup>th</sup> day of February, 2022.