



An  
Bord  
Pleanála

Board Order  
ABP-313835-22

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F21A/0476**

**Appeal** by Sabrina Joyce-Kemper of 23 Portmarnock Crescent, Portmarnock, County Dublin against the decision made on the 23<sup>rd</sup> day of May, 2022 by Fingal County Council to grant subject to conditions a permission to Gerard Gannon Properties care of Downey Planning of 1 Westland Square, Pearse Street, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Proposed stormwater storage tank and overflow outfall gravity sewer to the Broadmeadow River with associated manholes, proposed vehicular/service access onto Balheary Road, landscaping, boundary treatments and all associated engineering and site works necessary to facilitate the development, all on lands locally known as the Celestica/Motorola Site, Junction of Glen Ellan Road and Balheary Road, and at/on Balheary Road, Swords, County Dublin, as revised by the further public notices received by the planning authority on the 23<sup>rd</sup> day of February, 2022 which included a revised Natura Impact Statement.

## **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.**

## **Reasons and Considerations**

Having regard to the applicable policy context including the provisions of the Fingal Development Plan 2017 - 2023, the site location within an existing urban area and the nature, scale and purpose of the proposed development comprising a stormwater tank and overflow gravity sewer and associated works to address existing constraints within the foul water network, the Board is satisfied that, subject to compliance with the conditions set out below, the proposed development would be an appropriate solution, would alleviate the existing constraints within the foul water network and would significantly improve the existing situation, where uncontrolled flooding of foul network currently occurs. It is further considered that the proposed development would not cause a deterioration in water quality or status, either by itself or in combination with other discharges. The Board is also satisfied that the proposed development would not injure the amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment:**

The Board concluded that, on the basis of the information on file, which was considered adequate in order to issue a screening determination, the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Malahide Estuary Special Area of Conservation (Site Code: 000205) or the Malahide Estuary Special Protection Area (Site Code: 004025), or on any European Site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not, therefore, required.

### **Conditions**

1. The proposed 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 the planning authority on the 15<sup>th</sup> day of February, 2022 and the 29<sup>th</sup> day of April, 2022, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

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

2. All trees along Balheary Road shall be retained and maintained with the exception of the following:

- (a) Specific trees, the removal of which is authorised in writing by the planning authority to facility the proposed development.
- (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees shall be protected from damage during construction works. Within a period of 12 months following the completion of the proposed stormwater storage tank, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replaced planting required under paragraph (b) of this condition.

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

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

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

4. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

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

5. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

6. The construction of the proposed 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 proposed development, including noise management measures and off-site disposal of construction/demolition waste.

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

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7. 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.

*Patricia Calleary*

**Patricia Calleary**

**Member of An Bord Pleanála**

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



**Dated this 28 day of March 2023.**