

An
Bord
Pleanála

Board Order
ABP-315161-22

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: F22A/0034

Appeal by PWPCS care of Downey Planning of 29 Merrion Square, Dublin against the decision made on the 26th day of October, 2022 by Fingal County Council to refuse permission for the proposed development.

Proposed Development: The construction of 74 number residential units comprising 18 number three bed with study 2.5 storey semi-detached houses, six number three bed with study 2.5 storey terraced houses and six number four bed with study 2.5 storey semi-detached houses, all with private gardens and associated car parking, 44 number duplex units (22 number one bed units and 22 number two bed with study units) contained in three number three storey blocks, all provided with gardens/terraces and associated car parking and bicycle parking; one number pedestrian/cycle access on Palmer Road; two number vehicular accesses via Palmer Avenue including provision of sections of new east-west road; proposed vehicular access via previously permitted residential development to the south accessed via Park Road (Hyde Court development under construction – register references F15A/0294, F15A/0294/E1, F16A/0148/PL06F.246808; F19A/0102); landscaping including play equipment; footpaths; boundary treatments; public lighting and all associated site infrastructure and engineering works necessary to facilitate the

development on lands at Palmer Road and Palmer Avenue, Rush, County Dublin. Further public notices were received by the planning authority on the 30th day of June, 2022 and the 30th day of September, 2022.

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:

- (a) the site's location on lands with a zoning objective for residential development, and the policy objectives and provisions in the Fingal County Development Plan 2023-2029 in respect of residential development,
- (b) the nature, scale and design of the proposed development which is consistent with the provisions of the Fingal County Development Plan 2023-2029 and appendices contained therein,
- (c) the Guidelines for Planning Authorities on Sustainable Residential Development and Compact Settlements, issued by the Department of the Housing, Local Government and Heritage in January 2024,
- (d) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2022,

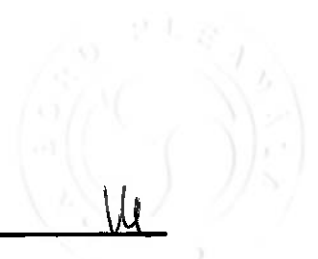
- (e) Housing for All, issued by the Department of Housing, Local Government and Heritage in September 2021,
- (f) to the pattern of existing and permitted development in the area, and
- (g) to the submissions and observations received,

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 of property in the vicinity, would be acceptable in terms of urban design, height and density of development and would be acceptable in terms of traffic and pedestrian 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 received by the planning authority on the 30th day of June, 2022 and the 22nd day of September 2022 (Design Option 2), 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 the commencement of development, the developer shall submit the following for the written agreement of the planning authority:
- (a) A full schedule of floor plans, elevations and sections for the amended Design Option 2, as received on the 22nd day of September, 2022.
 - (b) A revised site layout plan which shows all roads and footpaths which are proximate to adjoining lands are completed up to the boundary with the adjoining lands and details of the boundary treatments where proposed internal roads interface with adjoining lands
 - (c) A phasing plan for the delivery of the proposed development including the timing for the delivery of the proposed elements of the east-west link road.

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

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

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

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

Reason: In the interest of visual amenity and to provide for acceptable standard and quality of development for future residents.

5. 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, and the common good.

6. The road network serving the proposed development, including turning bays, junction with the public road, parking areas, footpaths and kerbs, access road to service areas shall be in accordance with the detailed construction standards of the planning authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal 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 housing unit and shall have regard to impact in terms of biodiversity.

Reason: In the interests of amenity and public safety.

8. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to, and agreed in writing with, the planning authority.

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

9. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness, these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

10. The construction of the development shall be managed in accordance with a Construction Environmental 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 the intended construction practice for the development.

Reason: In the interest of amenities, public health and safety.

11. Proposals for a naming and 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 numbers shall be provided in accordance with the agreed scheme.

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

12. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority (Water Services Section) for such works and services.

Reason: In the interest of public health.

13. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

14. 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. All existing overground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

15. (a) The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted. In addition, a revised landscape masterplan shall be submitted to the planning authority for written agreement prior to the commencement of development, which provides for the following:
- (i) Boundary Treatment B (1.2 metres high wall) which is located to the rear of the proposed duplex apartments shall be revised so the side wall of each garden area is increased to 1.8 metres as a measure to enhance the privacy of the amenity area.

- (ii) Proposals for more substantial barricades and screening to ensure that vehicular access is prohibited to the temporary cul-de-sac of the east-west link road (east and west land parcel) until such time a future application is forthcoming for the extension of this road.
 - (iii) Details of the proposed boundary treatment along the southern site boundary where it abuts the boundary (including public open space) associated with the Hyde Court development.
 - (iv) Incorporation of additional boundary landscaping (medium trees if feasible) between the site boundaries and the proposed duplex apartments.
- (b) The applicant shall submit to the planning authority for written agreement final details of the proposed play provision prior to the commencement of development on site.

Reason: In the interests of residential and visual amenity.

16. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

17. (a) 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, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

18. Site development and building works shall be carried out only between the hours of 0700 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.

19. Prior to the commencement of development, the applicant shall prepare and submit a Construction Management Plan to the planning authority for written agreement. The Construction Management Plan shall deal with issues relating to traffic management, noise and dust mitigation measures, site hoarding and security, details of construction lighting and waste minimisation.

Reason: In the interest of clarity and to safeguard the amenities of property in the vicinity.



20. (a) The applicant is required to engage the services of a suitably qualified archaeologist to co-ordinate the mitigation proposals for further Archaeological Assessment and Monitoring of ground disturbance as described in the Archaeological Impact Assessment Report (Section 5.2, page 42).
- (b) Should previously unidentified archaeological material be found during the course of assessment and monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or preservation by record) and should facilitate the archaeologist in recording any material found.
- (c) The planning authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

21. A minimum of 10% of all car parking spaces should be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage 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.

22. 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.

23. 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.

24. 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 or 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.

25. The developer shall pay to the planning authority a financial contribution in lieu of public open space provision, in accordance with the terms of note 5 'open space shortfall' 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 the commencement of development or in such phased payments as the planning authority may facilitate. The application or indexation required by this condition 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 shortfall in public open space for the purpose of this condition is set at 0.15 hectares.

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.



Una Crosse

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 28th day of March 2024.

