



An
Bord
Pleanála

Board Order ABP-317192-23

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: F22A/0652

Appeal by Talbot Court Management DAC care of RW Nowlan and Associates of Basement Office, 54 Fitzwilliam Square North, Dublin against the decision made on the 27th day of April, 2023 by Fingal County Council to grant permission subject to conditions to Garvagh Homes Limited care of Manahan Planners of 38 Dawson Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development will consist of the demolition of existing bungalow and outbuilding on a 0.21 hectare site and the construction of a three storey apartment building over basement comprising a total of 14 number residential units together with all associated site works, drainage, tree removal, boundary treatments, green roofs, PV panels, bin stores, footpaths, new vehicular access arrangement, new tree planting and landscaping. A total of 19 number car parking spaces, including one number accessible space and one number EV charging designated space and 45 number bicycle parking spaces, including one number non-standard/cargo bike space are proposed to serve the development all at Wycliffe, Millview Road, Malahide, 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.

Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan 2023-2029, as varied, and to the location of the proposed development on zoned and serviced residential lands in Malahide, it is considered that, subject to compliance with the conditions set out below, the proposed development would make efficient use of an underutilised residential site and positively contribute to compact growth in an established urban neighbourhood, would positively contribute to an increase in housing stock in this location, a short distance from a range of social, commercial, retail, and public transport infrastructure, would be acceptable in terms of urban design and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure residential or visual amenities, or significantly increase traffic volumes in the area or adversely impact on the natural heritage including biodiversity of the area. 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 5th day of April, 2023, 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 development 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 glazing to all bathroom and en-suite windows shall be manufactured opaque or frosted glass and permanently maintained. The application of film to the surface of clear glass is not acceptable.
- (b) The glazing to the northeast facing window of unit number 6 shall be manufactured opaque or frosted glass and permanently maintained. This window shall be fixed and non-openable.

Reason: In the interest of residential amenity.

4. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

5. Proposals for a development name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority

prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

6. 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 interest of visual amenity.

7. (a) Details of the uncontrolled pedestrian crossing point shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The internal road network serving the proposed development, including junctions, parking areas, footpaths and kerbs, and access road to the underground car park shall be in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) and the detailed construction standards of the planning authority for such works.

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

8. (a) The maximum number of car parking spaces serving the proposed residential development shall be 19 in number, inclusive of car club spaces. The minimum number of motorcycle spaces serving the proposed residential development shall be one in number.
- (b) A minimum of 10% of the proposed car parking spaces in on-surface and multi-storey car parking shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces in the multi-storey car park shall be fitted with ducting for electric

connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

9. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Traffic Management Plan (TMP) for the construction phase of the development for the written agreement of the planning authority. The TMP shall incorporate details of the road network to be used by construction traffic including oversized loads, detailed proposals for the protection of bridges, culverts and other structures to be traversed, as may be required. The agreed TMP shall be implemented in full during the course of construction of the development.

Reason: In the interest of sustainable transport and safety.

10. 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. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

11. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the attenuation and disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable urban drainage.

12. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

13. (a) Detailed measures in relation to the protection of trees on and adjoining the site, including an Arboricultural Method Statement, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.
- (b) All demolition and construction works shall be carried out under the supervision of a qualified arborist.

Reason: To ensure the protection of the natural heritage on site.

14. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed play equipment and street furniture including bollards, lighting fixtures and seating; and
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

15. (a) The 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.

16. (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 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.

17. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

18. 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.

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

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

20. Building noise insulation shall be provided to an appropriate standard having regard to the location of the site within Dublin Airport Noise Zone D.

Reason: In the interest of residential amenity and to ensure compliance with Objective DMSO105 of the Fingal Development Plan 2023-2029.

21. 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.

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

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 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.

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 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.



Peter Mullan

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

Dated this 15th day of August, 2024