An Coimisiún Pleanála

Commission Order
ABP-318987-24

Planning and Development Act 2000, as amended

Planning Authority: Fingal County Council

Planning Register Reference Number: F23A/0169

Appeal by Camillus Archer of Sandyhills South, Shoreroad, Rush, County Dublin against the decision made on the 11th day of January 2024 by Fingal County Council to grant, subject to conditions, a permission to PWCPS (F. Price, F. Wilson, B. Carroll, T. Phelan, L. Schwer) care of Downey Planning of 29 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development will consist of the construction of 40 number residential units comprising 30 number terrace types units (26 number three-bed two storey houses, two number three-bed 2.5 storey houses, and two number four-bed three storey houses), and 10 number semi-detached type units (eight number four-bed with study 2.5 storey houses and two number three-bed 2.5 storey houses), all provided with private gardens and associated car parking; proposed vehicular access via previously permitted residential development to the south accessed via Park Road (Hyde Court development substantially complete - register reference F15A/0294, F15A/0294/E1, F16A/0148/PL06F.246808; F19A/0102); provision of sections of new East- West Road; one number pedestrian/cycle access on Palmer Road; landscaping including play equipment; footpaths; visitor car

parking; boundary treatments; public lighting; and all associated site infrastructure and engineering works necessary to facilitate the development all at lands at Palmer Road and Park Road, Rush, County Dublin. The proposed development was revised to 39 residential units with further information submission dated the 6th day of December 2023.

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 including DMSO53 that provides for a financial contribution in lieu of any shortfall in public open space,

(c) the net density of the proposed development being 34.9 dwellings per hectare (dph) and The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Heritage and Local Government in May 2009, that place the site within an Outer Suburban/ Greenfield location

with a density objective of 35 to 50 dph, and the Sustainable and Compact Settlements Guidelines for Planning Authorities issued in January 2024, wherein the density objective for Large Towns Suburban/Urban Extension (e.g. Rush) is 30 to 50 dph,

(d) the pattern of existing and permitted development in the area,

(e) the observations and contents of the appeal received, and

(f) the report by the Planning Inspector,

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 6th day of December 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. The grant of permission relates to 39 number residential units.

Reason: In the interest of clarity.

3. All bathroom/en-suite windows shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.

Reason: In the interest of residential amenity.

4. The window on the eastern elevation at first-floor level of house type F6 shall be fitted with obscure glass. The use of film is not acceptable.

Reason: In the interest of residential amenity.

5. Prior to commencement of development, the developer 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 on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún 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 for the area.

6. The following shall be complied with:

(a) Prior to the commencement of the development as permitted, the developer 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 relevant residential units permitted, to first occupation by individual purchasers, that is those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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.

7. Bilingual proposals for an estate/street 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 estate and street 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 and to ensure the use of locally appropriate placenames for new residential areas.

8. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes, through open spaces and shall take account of trees within the revised landscape plan drawing. Such lighting shall be provided prior to the making available for occupation of any residential unit.

   Reason: In the interest of amenity and public safety.

9. The following requirements shall be complied with in full:

(a) Prior to the commencement of works on site, a revised landscape plan and management and maintenance plan (with particular reference to the short, medium and long term maintenance of SuDs features) shall be submitted for written agreement.

(b) Prior to the commencement of works on site, the public open space including SuDs shall be fenced off, and shall not be used as a site compound, car park or for the storage of material.

Reason: In the interest of biodiversity and visual amenity.

10. Prior to the commencement of development, the developer shall undertake a badger survey. If any active badger setts are located, the National Roads Authority Guidelines for the treatment of setts prior to the construction of road schemes shall be adhered to.

Reason: In the interest of wildlife and biodiversity.

11. The following requirements shall be complied with in full:

(a) No objects, structures or landscaping shall be placed or installed within the visibility triangle at the vehicular entrances and junctions, exceeding a height of 900 millimetres, which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.

(b) The layout of the front garden, landscaping, paving and in-curtilage carparking should allow for space for universal access to the front doors of the houses, the detail of which shall be agreed in writing with the planning authority prior to commencement of development.

(c) The road cross-section of the section of the 'east-west road' should be further developed and submitted for the written approval of the planning authority prior to commencement of development, the cycle track should generally be raised 50 millimetres from the road surface and as per the typical details contained in Figure 4.79 in section 4.3.6.1 of the National Transport Authority Cycle Design Manual.

(d) The overall transition detail of the section of widened road and footpath along Palmer Road with the existing Palmer Road in the north-western corner of the site boundary shall be agreed in writing with the planning authority prior to commencement of development.

(e) A Stage 1 Road Safety Audit, and Stage 2 Road Safety Audit.shall be submitted for the written approval of the planning authority, prior to commencement of development.

(f) All of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle EV charging points.

(g) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary.

(h) All stormwater shall be disposed of to soakpits or drains within the site and shall not discharge onto the public road.

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

12. All roads and footpaths and cycleways where applicable shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a drawing [a revised taking in charge drawing] which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

13. 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 disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health

14. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

15. The developer shall construct and maintain to the Council's standard for taking in charge all the roads, including footpaths, verges, public lighting, sewers, watermains or drains, forming part of the development, until taken in charge by the Council. A drawing identifying the areas proposed to be taken in charge shall be submitted to the planning authority for agreement prior to the commencement of development.

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

16. A detailed Construction Management Plan and Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

17. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency'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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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 proper waste management and sustainable development.

18. All external finishes to the dwelling units shall accord with the details submitted with the planning application and as set out in the additional information received by the planning authority on the 6th day of December 2023, unless otherwise agreed in writing.

Reason: In the interest of visual amenities.

19. All service cables associated with the proposed development shall be run underground within the site. In this regard, ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

20. The following requirements shall be complied with in full:

(a) The developer 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 (for example, 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 or archaeological interest.

21. The development shall provide unimpeded permeability for vehicles, pedestrians and cyclists from the subject site along the east-west road to the east and west of the site on completion of the road outside the boundary of the site.

Reason: To enhance permeability in the area.

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.

23. The following shall be complied with:

(a) All necessary measures shall be taken by the developer to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the developer's own expense.

(b) The developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Fingal County Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.

Reason: To protect the amenities of the area.

24. 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 Coimisiún Pleanála for determination.

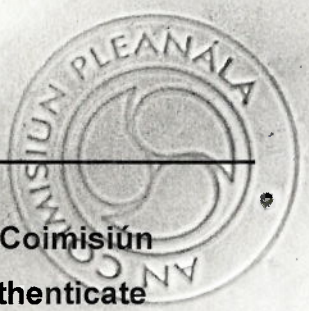
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

25. The developer shall pay to the planning authority a financial contribution in lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted 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 and shall be subject to any 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 Coimisiún Pleanála to determine the proper application of the terms of the Scheme. The shortfall in public open space for the purpose of this condition is set at 0.003 hectares.

Reason: It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

26. 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 Coimisiún 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.



Declan Moore
Planning Commissioner of An Coimisiún Pleanála duly authorised to authenticate the seal of the Commission.
Dated this 24th **day of** November **2025**