



An
Bord
Pleanála

Inspector's Report ABP-301639-18

Development

Modifications to previously granted planning application Reg. Ref. F15A/0093 (An Bord Pleanála Ref. No. PL06F.245710). Application is for proposed changes to the road levels to the internal road network and floor levels within the previously approved houses.

Location

Campions Public House, its carpark and lands to its rear, Malahide Road, Balgriffin, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F18A/0092

Applicants

Crosswaithe Development Ltd

Type of Application

Permission

Planning Authority Decision

Grant permission subject to conditions

Type of Appeal

Third Party

Appellant

Derek McGowan

Observers

None

Date of Site Inspection

22nd December 2018

Inspector

Stephen O'Sullivan

1.0 Site Location and Description

- 1.1. The site is on the northern fringes of Dublin, c9km north east of the city centre on the Malahide Road, which is the R107. It has a stated area of 1.83ha. It includes the a public house formerly known as Campions, which is in a two-storey building that fronts directly on the footpath along the Malahide Road, and an elongated site to its rear. The building at the front of the site includes an adjoining house within internal links to the pub. Part of the land to the rear is occupied by a recent development of 8 houses which are served by an access off the public road along the southern side of the pub. The rest of the site remains undeveloped. A single storey building adjoins the northern side of the site along the Malahide Road. It is occupied the appellant's business which provides headstones and related products.
- 1.2. The area around the site is in transition. The immediately adjoining lands remain undeveloped, and a large graveyard lies on the opposite side of the road. However the nearby area to the south has seen significant urban development in recent years which has included an upgrade of the Malahide Road to an urban dual carriageway.

2.0 Proposed Development

- 2.1. It is proposed to amend the level of the houses and roads authorised under PL06F. 245710, Reg. Ref. F15A/0093. A letter was submitted with the application stating that the amendments were to reflect the ground levels on the site more closely and to minimise cutting and filling, and that in no case would the alteration change the levels by more than 670mm.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 5 conditions.

Condition no. 2 required that the junction with the Malahide Road be provided in accordance with the development authorised under F15A/0093 (PL06F. 245710).

Condition no. 3 stated that the period of the permission would be the same as the parent permission and would lapse on 21st March 2021.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The proposed development is for a moderate alteration of an existing residential scheme and is in keeping with the zoning of the site. The proposed changes in level are moderate and are therefore considered acceptable. A condition should be applied to require the provision of the junction layout at the Malahide Road that was authorised under the previous permission. The retention of Campions Pub can be addressed in the concurrent application. The planner visited the site on the 26th and 28th March within the assessment period and on both occasions the site notice was visible on the wall of the pub. A grant of permission was recommended.

3.2.2. Other Technical Reports

The Transportation Section referred to its concerns about the parent permission with regard to the planned east-west distributor road. However the current proposal is to change levels only and the section has no objection provided the signalised junction authorised by the parent permission is provided.

The Parks Division gave standard advice on soil works and tree protection.

The Water Services Department stated no objection.

3.3. Prescribed Bodies

Irish Water stated no objection.

3.4. Third Party Observations

The appellant made a submission that the site notice was not properly visible because it was erected on a gate that is open during the day, and so adequate time was not available to prepare a submission.

Another submission stated that the development was not in keeping with conditions nos. 2 and 3 of the parent permission because as it shows the Campions Pub retained and it does not show the required demolition of part of the pub to provide an access of 10.5m as authorised

4.0 Planning History

4.1. PL06F. 245710, Reg. Ref. F15A/0093 – The board granted permission on 14th March 2016 for a development of 43 houses on this site. The proposed development included the replacement of the public house with a building containing 9 apartments and a shop but this was omitted by condition. The planning authority had decided to refuse permission. The conditions of the permission include the following –

2. The layout shall be amended as follows:

(a) The amount of car parking in courtyard 02 shall be reduced to 28 spaces. The car parking shall be grouped such that there shall be two lines of car parking spaces accessed off a single six metres wide access way, located at the West side of this courtyard, with a single hammerhead at the Northern end. Access to the houses at the Eastern side of this courtyard shall be by pedestrian access over the proposed open space area. The roadway shown at the Eastern and the Northern end of this courtyard shall be incorporated into the open space provision for the scheme.

(b) House type A1 shall be amended to allow for the omission of the second floor window in the gables of these houses and to provide for the widening of the other window to the affected bedrooms.

Revised drawings showing compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: *To ensure adequate open space provision and to prevent overlooking in the interest of residential amenity.*

3. The proposed commercial unit, apartments and parking spaces 01 through 18 shall be omitted from the scheme. Any proposal to develop the area thus vacated shall be subject to a further planning permission.

Reason: *The proposed apartment building would be unsympathetic to its surroundings by reason of excessive height, inappropriate scale, unco-ordinated window openings and materials not in sympathy with the existing streetscape. The removal of this element of the proposal is necessitated in the interest of visual amenity.*

- 4.2. ABP-302404-18, Reg.Ref. F18A/0167 – There is an application and appeal before the board seeking permission to amend the above permission to provide 47 houses in place of 35 of the authorised houses on the current site, and to change the use of part of the former public house to a betting shop and another part to an apartment.
- 4.3. PL06F.248052, Reg. Ref. F15A/0609 – In June 2017 the board granted permission for a residential development to the south of the current site at Belcamp which included a new road from the western side of the Malahide Road that would run parallel to the southern boundary of the current site. Works on this scheme have not commenced in the vicinity of the current site.

5.0 Policy Context

5.1. Development Plan

The Fingal Development Plan 2017-2023 applies. The site is zoned RA - Provide for new residential communities subject to the provision of the necessary social and physical infrastructure

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant runs his business, Fingal Memorials, from the buildings adjoining the former pub to the north. His premises are on the same landholding as the application site and he has occupied them under lease for 30 years. During this time the business has used the car park serving the pub. The applicant has prevented this use and the proposed development does not provide facilities for parking or deliveries to the applicant's premises. It also fails to provide sufficient width along the public footpath to allow it to be used for such parking and deliveries without obstructing pedestrians. The nature of the business is that heavy goods and materials are being

transported and parking needs to be close to the premises. The proposed development would therefore give rise to a traffic hazard.

- The site notice of the application was not properly displayed. It was attached to a gate that was opened into the site during the working day and so it was not properly visible from the public road as required by the planning regulations. Photographs are submitted to demonstrate this. The council planner's account of the visibility of the site notice is not accepted.
- The proposed development is not consistent with the conditions of the parent permission. Condition no. 2a) has not been complied with. Part of the public house has been demolished without planning permission contrary to condition no. 3 of the permission. The proposed junction is not consistent with the authorised ones. These discrepancies should have been addressed before the planning authority considered a decision to grant permission.

6.2. Applicant Response

- The planning authority was satisfied with the site notice.
- The issues regarding the car park are not relevant to the appeal.
- Phase 1 of the development has commenced on site and there is a concurrent application that refers to other modifications to the permitted scheme.

6.3. Planning Authority Response

- The proposed modifications would not materially detract from the amenity of the permitted scheme
- Issues relating to the car park are a civil matter.
- If the board grants permission a contribution should be required under the council's adopted scheme.

7.0 Assessment

- 7.1. The applicant asserts that a site notice was properly displayed. The appellant asserts that it was not. An official of the planning authority visited the site during the period within which it was necessary to display a site notice and was satisfied with its display. The appellant was obviously aware of the application and was duly informed of the decision of the planning authority at the appropriate time. An appeal was made which allows the board to consider any substantive objections to the proposed development. A declaration that the application was invalid would not be justified in these circumstances. No prejudice to the position of the parties or the proper planning and sustainable development of the area would arise if the board proceeded to consider the current application and appeal in the normal manner.
- 7.2. Contrary to the assertions in the appeal, the proposed development is consistent with the conditions of the previous permission issued by the board under PL06F. 245710, Reg. Ref. F15A/0092. The form, quantity and layout of the housing shown on the plans submitted with the current application are in keeping with the permission. Condition no. 3 of that permission omitted a proposed apartment block from the authorised development that would have taken the place of the building occupied by Champion's pub. That condition did not omit the proposed access in its proposed dimensions from the Malahide Road from the authorised development. That would have rendered the permission incapable of proper implementation. The layout submitted with this application shows courtyard no. 2 in the form required by condition 2 of the previous permission but with 27 rather than 28 car parking spaces. This allows for planting to ameliorate the visual impact of the rows of car parking, and the shortfall is not material in planning terms. However a condition could be imposed to omit the planting and provide 28 car parking spaces if the board considered that necessary. In any event, as the current proposals have been made in an application for permission under section 34 of the planning act, with the same opportunities for submissions and appeals as the original application, a deviation from the authorised development would not in itself justify a refusal of the application.
- 7.3. The proposed amendments to the permitted development would not affect access or parking to the appellant's premises compared to the existing or authorised situation.

Neither would they affect the operation of the road network in the vicinity, the amenity of adjoining properties or the amenity of future occupants of the development. They would not prejudice the integration of the authorised housing on the site with the development of the adjoining zoned lands as it would allow for a future connection to the planning east-west distributor road in the same way that the authorised development would. They would therefore be in keeping with the proper planning and sustainable development of the area.

- 7.4. If permission was granted on foot of the current application could be implemented in conjunction with the parent permission to provide the housing that the latter permission authorised. It is noted that there is a concurrent application and appeal for amendments to the previous permission. While the other proposal retains a large part of the form of the authorised development, it would contain specific departures from the authorised layout and from the layout shown on the plans for this application. The two sets of proposed amendments are therefore considered to be incompatible, therefore. If the board were to grant permission for both applications only one of them would be capable of implementation.
- 7.5. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, consisting of minor changes to an authorised housing development on zoned and serviced land, and the separation from any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the limited nature and scale of the proposed modifications to the development authorised under PL06F.245710, Reg. Ref. F15A/0093, it is considered that, subject to the implementation of the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity or the amenities afforded to the occupants of the authorised housing, would not prejudice

the orderly development of the surrounding area and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in keeping with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions..

Reason: In the interest of clarity

2. The conditions of the permission granted under PL06F. 245710, Reg. Ref. F15A/0093 regarding the authorised junction with the Malahide Road/Hole in the Wall Road shall be complied with in full in the course of the development herein permitted.

Reason: In the interests of orderly development and road safety

3. This permission shall expire on the 15th day of March 2021

Reason: To coincide with the appropriate period of the parent permission granted under PL06F. 245710, Reg. Ref. F15A/0093

4. The developer shall comply with the specifications and requirements of the planning authority regarding soil handling and tree protection.

Reason: In the interests of amenity

5. 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

Stephen O'Sullivan
Planning Inspector

23rd December 2018