



An
Bord
Pleanála

inspector's Report ABP-302548-18

Development

The development will consist of minor revisions to the internal layouts and elevations to 13 no. houses, the addition of sunrooms to the rear of 12 no. houses and all associated site works. These houses were previously permitted under planning permission F14A/0106.

Location

Seamount Rise, accessed from Seamount Abbey, off Seamount Road, Malahide, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F18A/0357

Applicant(s)

Ballymore Central Ltd.

Type of Application

Permission

Planning Authority Decision

To Grant Permission

Type of Appeal

Third Party

Appellant(s)

Johnny and Emily Grimes and Others

Observer(s)

No observers

Date of Site Inspection

15.02.2019

Inspector

Erika Casey

1.0 Site Location and Description

- 1.1. The subject site has an area of 0.45 ha and is located on the northern side of Seamount Road. It is located to the immediate north of the Seamount Abbey, Seamount Park and Seamount Grove residential estates and to the east of Oakhill estate. Development in the vicinity is predominantly residential in character comprising low density suburban estates. To the east of the site, there is a reservoir and a public park.
- 1.2. The site is currently undeveloped. It is irregular in shape and has a varying topography, sloping steeply from northeast to the southwest.

2.0 Proposed Development

- 2.1. The proposed development comprises minor revisions to the internal layout and elevations of 13 houses permitted under application reference F145A/0106/PL06F.244128 including:
 - Minor revisions to the internal layouts and elevations of house no.s 1-11, 39 and 40. It is proposed to increase the floor area of House Type E from c.158 sq. m. to c. 166 sq. m. and the floor area of House Type D from c. 184 sq. m. to c. 194 sq. m. Elevational changes relate to fenestration and finishes.
 - The addition of sunrooms to the rear of 12 no. houses (houses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 39 and 40). The proposed sunrooms are being added to House Type D and E. On House Type D, the sunroom is located to the rear and side and has an area of c. 16 sq. metres. It will project from the side of the dwelling by c. 1.2 metres but will be set back from the front building line by c. 8.8 metres. On House Type E, the sunroom is located to the rear and has an area of c. 11.7 sq. metres.
 - Change of House Type A (4 bedroom, two storey, detached house) to House Type E (4 bedroom, two storey, detached split level with a floor area of 166 sq. metres) for house no. 40.
 - It is detailed in the application that many of the amendments are in response to changes in the Building Regulations and to ensure optimal compliance with

Part M. It is also the intent to enhance the appearance of the dwellings through improved finishes and materials and minor elevational amendments.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. To Grant Permission subject to conditions. All conditions standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Report (15.08.2018)

- The proposed works represent an amendment to a previous permission. Numerous objections were raised under this previous application which were considered by the Board during their assessment of the appeal and subsequent grant of permission. It is not intended to revisit these matters which have already been determined.
- The minor amendments to the house designs are considered to be consistent with the zoning objective pertaining to the area. The changes to the elevations are not considered to be significant and the contemporary approach is welcome. The amendments result in a more appropriately proportioned front façade. The revised design would integrate appropriately.
- Adequate private open space is proposed to the rear of the dwellings which would not be compromised by the inclusion of the proposed sunrooms. The sunrooms would not give rise to undue overshadowing of adjoining gardens having regard to their limited projection and orientation.
- Connection to subsurface drainage was permitted under F14A/0106 and refusal for a development which does not relate to this matter is unreasonable. Refers to Development Management Guidelines and section 34 (13) of the Planning and Development Act.
- In relation to the validity of the application, adequate information regarding the development is set out in the drawings.

3.2.2. Other Technical Reports

Water Services Department (26.07.2018): No objection.

3.3. Prescribed Bodies

Irish Water (29.07.2018): No objection.

3.4. Third Party Observations

3.4.1 A number of third party observations have been made on the application. Issues raised relate to:

- Lack of legal entitlement for engineering connections due to the common areas within Seamount Abbey being transferred by the registered owners to Seamount Abbey Management Company Limited.
- Concerns regarding the original development approved under F14A/0106/PL06F.244128 particularly in relation to vehicular access via Seamount Abbey. Object to increase in density and site coverage and consider that the development will have an adverse impacts on the amenities of the adjacent estate.
- Concerns regarding the validity of the application.
- Impact on surface water attenuation.
- That the development will have a negative impact on the residential amenities of adjacent properties.

4.0 Planning History

Planning Authority Reference F14A/0106/Appeal Reference PL06F.244128

4.1 Permission granted by the Board in April 2015 for a residential development comprising 47 houses (7 dormer and 40 two storey houses) and associated open space including provision for pedestrian link to Oak Hall, car parking, road and infrastructure works with permanent access from Seamount Road via Seamount Abbey.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the Fingal County Development Plan 2017-2023. The site is subject to the zoning objective *'RS: To provide for residential development and protect and improve residential amenity.'*

5.2. Natural Heritage Designations

5.2.1 The site is located in close proximity to the Malahide Estuary SAC and Broadmeadow Swords Estuary SPA.

5.3 EIAR Screening

5.3.1 Having regard to nature of the development comprising amendments to a previously approved development and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Johnny and Emily Grimes and Others

- Note the previous decision of the Board under appeal reference PL06F.244128 and the recommendation of the Inspector that development be refused. Whilst the recommendation was overturned by the Board, contest the view that a suitable access can be provided through Seamount Abbey. A development of 47 dwellings was never envisaged on the site and the existing estate road is unsuitable to facilitate a development of this scale. Object that the development will increase the size of the dwellings and may attract larger families and thus additional vehicular traffic. This will exacerbate congestion, cause inconvenience to residents in Seamount Abbey and have a negative impact on

existing residential amenity. Consider alternative access to the lands should be provided.

- Concerns regarding the validity of the application noting that there are no distances indicated on the drawings from the sunrooms to the site boundaries and that it is unclear from the public notices as to the increase in floor area from the parent permission. Consider site location map to be inaccurate.
- Consider that there is inadequate information submitted regarding surface water attenuation and that due to the increase in the floor plan with the proposed sunrooms, the applicant should be required to revise their surface water attenuation system and discharge/overflow rates as well as any impact on Part V.
- Note that the applicant has stated that some of the amendments to the application are necessary in order to comply with the fire regulations. Concerned that the previous permission was granted despite containing a serious fire risk.

6.2. Applicant Response

- No response received.

6.3. Planning Authority Response

- The matters raised in the appeal have been addressed within the assessment of the planning application and accompanying documents.
- The appeal raises issues identified within the Inspector's Report under Appeal Reference PL06F.244128. These matters were considered by An Bord Pleanála in their assessment of the appeal. The current development did not revisit these matters which have already been determined.
- Issues regarding the validity of the application are addressed in the Planning Report.
- The Planning Authority are of the view that the development is in accordance with the proper planning and sustainable development of the area.

6.4. **Observations**

- No observations received.

7.0 **Assessment**

7.1 **Introduction**

7.1.1 The main issues are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Procedural
- Principle of Development.
- Surface Water Attenuation
- Appropriate Assessment.

7.2 **Procedural**

7.2.1 A number of issues have been raised by the appellants regarding the validity of the application. It should be noted that the application was considered to be fully valid by the Planning Authority, and deemed to be in accordance with the Planning and Development Regulations 2001, as amended.

7.2.2 I have reviewed the planning drawings and note that the scale and dimensions are indicated. I consider that sufficient information is available to appropriately assess the application and I am satisfied that no third party rights were prejudiced in this regard.

7.2.3 With regard to the site location map, I note that the development as proposed relates to 13 of the houses permitted under the parent permission. The applicant has correctly indicated these dwellings within the red line to denote the proposed development with the remainder of the site located within the blue line boundary as required under section 22 (2) (b) (i) and (ii) of the Planning and Development Regulations 2001, as amended.

7.2.4 The appellants also raise concerns regarding the public notices and comment is made that they fail to adequately describe the nature and extent of the development,

in particular, the increase in floor area proposed as a result of the additional sunrooms.

7.2.5 Section 3.4 of the Development Management Guidelines 2007 sets out guidance regarding the public notices. It states:

“The purpose of the notices, that is, the newspaper notice (Article 18 of the Planning Regulations) and the site notice (Article 19), is to inform the public of the proposed development and alert them as to its nature and extent.....In recent years the amount of detail in the public notice has increased continuously to the extent that such notices frequently include every detail of the proposed development, rather than comprising a brief description the proposed development.....The public notice should therefore be drafted so as to give a brief indication as to the nature and extent of the proposed development and is not required to go into excessive detail.”

7.2.6 Having regard to this guidance, I am satisfied that the nature and content of the site and newspaper notice submitted with the application was sufficient and the extent of the development adequately described to enable third parties to consider the proposal. Having regard to foregoing, there is no basis to dismiss the appeal on the grounds of validity.

7.3 Principle of Development

7.3.1 The proposed development comprises minor modifications to a previously approved residential development. The amendments relate to 13 of the permitted 47 dwellings and the principal change is the addition of a sunroom to 12 of the houses. As noted by the applicant, a number of the amendments are also proposed to address compliance issues with relevant building regulations and to enhance the overall architectural appearance and quality of the development.

7.3.2 I am satisfied that the principle of the development is acceptable. The proposed sunrooms are modest in scale and will provide an additional amenity to the dwellings. Having regard to the limited scale and height of the sunrooms, they will not result in any adverse overlooking or overshadowing impacts to adjoining residences and thus there will no adverse impacts to residential amenities. The amendments to the elevational treatment are welcomed and will enhance the overall development.

- 7.3.3 The appellant's principal objection is that the proposed development will be accessed via the existing Seamount Abbey estate. Reference is made to the previous Inspector's Report under Appeal Reference PL06F.244128 and the views of the Inspector stated therein, that the development would have an adverse impact on the existing residential amenities of this estate as a result of the proposed access arrangements.
- 7.3.4 The Board however overturned the recommendation of the Inspector and stated:
"the Board considered that notwithstanding the existing site layout, it was always envisaged that a further phase of development would be facilitated by vehicular access via Seamount Abbey and the Board is satisfied that suitable access can be provided."
- 7.3.5 The current application solely relates to amendments to 13 of the previously permitted dwellings. No changes to the permitted road layout or access to the site are proposed. I consider that the issue of access to the site and potential negative impacts to the residential amenities of Seamount Abbey was fully considered and assessed by the Board in their decision to grant permission for the development under appeal reference PL06F.244128. In this regard, I consider the issue of access to the site, as previously approved, to be outside the scope of this assessment and it would entirely inappropriate to refuse the development on the basis of an issue that has already been fully assessed, determined as appropriate and permitted.
- 7.3.6 I note the appellant's statement that they are concerned that the increase in the dwelling size by the addition of the sunroom may attract larger families to the development and may result in increased vehicular traffic with consequent negative impacts to the residents of Seamount Abbey. The proposed sunrooms are modest in scale ranging in size from 11 to 16 sq. metres and they will enhance the living accommodation proposed. The appellant's concerns about traffic generation are in my view anecdotal and no technical evidence has been submitted in support of their assertions. Given the modest extent of additional accommodation proposed, I am satisfied that any impacts in terms of additional traffic will be imperceptible and in this context, I am satisfied that the development will have no bearing on the access arrangements as previously permitted and would not result in a significant increase

in vehicular traffic that would result in additional traffic congestion or hazard in Seamount Abbey.

7.3.7 With regard to the appellant's concerns regarding fire safety, I note that the application has been made to regularise some aspects of the design to ensure compliance with relevant building regulations including Part B. These regulations came into force after the development was permitted and I am satisfied that the applicant is endeavouring to ensure compliance with the relevant codes of practice. Compliance with the Fire Regulations is a separate statutory process and outside the scope of this assessment.

7.4 Surface Water Attenuation

7.4.1 I note the appellants concerns regarding surface water attenuation. The report by Waterman Moylan Engineering Consultants submitted with the application states that the proposed sunrooms are located in an area that previously consisted of paved rear patios and, therefore, there is no increase in hard standing area over the previously approved scheme and thus no changes to the surface water attenuation system or discharge outflow rate. No objection to the proposal has been raised by the Drainage Department of the Fingal County Council. I am satisfied that any further matters pertaining to surface water drainage can be addressed appropriately by way of condition.

7.5 Appropriate Assessment

7.5.1 Having regard to the nature and scale of the proposed development comprising amendments to a previously approved residential development on zoned and serviced land within an established urban area, and the distance to the nearest 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 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the current Fingal County Development Plan 2017-2023, the planning history of the site and to the nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance 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. 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 applicant shall comply with all conditions of the previous parent permission granted under Reg. Ref. F14A/0106/An Bord Pleanála Reference PL06F.244128 unless required to do so otherwise by any condition attached to this permission.

Reason: In the interest of clarity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. 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.

Erika Casey
Senior Planning Inspector

19th February 2019