



An
Bord
Pleanála

Inspector's Report ABP-303367-19

Development	Construction of 88 no. apartments in total and all associated site works
Location	Former Phoenix Park Racecourse, Castleknock, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW18A/0100
Applicant(s)	Flynn & O'Flaherty Construction.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Mr. James Wharton.
Observer(s)	None.
Date of Site Inspection	14 th March 2019.
Inspector	Karen Kenny

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1.0 Site Location and Description

- 1.1. The appeal site is located in the former Phoenix Park Racecourse site in Castleknock, Dublin 15. The site forms part of a larger urban development site (c.40 hectares) located to the south of the N3, east of Castleknock Village and west of the Phoenix Park.
- 1.2. The appeal site, with a stated area of 0.61 hectares, is located centrally within the overall site to the north of a proposed link road (Phoenix Park Avenue). The site comprises disturbed ground. There are 3-4 storey apartment blocks to the east of the site and 2-storey housing to the south. Lands to the north and west are undeveloped.

2.0 Proposed Development

- 2.1. Permission is sought for a development comprising:
 - 88 no. apartments (1, 2 and 3 bed) contained in 4 no. blocks of 4, 5 and 6 storeys.
 - 111 no. car parking spaces. 96 no. car parking spaces in a ground level under-croft and 15 no. on street car parking spaces.
 - All other associated works.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to conditions. The following conditions are of note:

Condition No. 7: Applicant to agree mobility management proposals (inc. car club parking spaces, electric vehicle spaces with charging points, visitor parking) and a construction traffic management plan.

Condition No. 8: Applicant to agree details for temporary footpath / cycleway to Navan Road Parkway Rail Station.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Following an initial assessment, the planning authority sought further information in relation to overlooking, density, phasing, energy, childcare, context, public art, public open space and landscaping, car parking, mobility management and taking in charge. The assessment following the submission of further information generally reflects the decision to grant permission.

3.2.2. Other Technical Reports

Water Services: No objection.

Transportation: No objection.

Parks / Operations: No objection.

3.3. **Prescribed Bodies**

Irish Water: No objection.

EHO: No objection.

Dept. of Culture, Heritage and Gaeltacht: No objection.

Iarnrod Eireann: No objection.

TII: No observation.

3.4. **Third Party Observations**

Two third party observations were received and considered by the planning authority. Issues raised can be summarised as follows:

- Height.
- Traffic.
- Car Parking.
- Overlooking.
- Density.

- Open Space.

4.0 Planning History

4.1. The following planning history pertains to the appeal site:

ABP Ref. PL06F.202469 and PA Ref. F02A/1255:

Permission granted in 2003 for a large mixed-use development on a site of approximately 45.8 hectares that comprises the former Phoenix Park Racecourse and lands to the north in townlands of Castleknock and Ashtown, Dublin 15. The approved development comprised over 2,300 residential units and mixed-use development. This permission expired in 2018 following an extension of duration. Development is ongoing under more recent permissions.

PA Ref. F06A/0832:

Permission granted to modify development on a site of approx. 1.61 hectares (Parkside Apartments) including the appeal site. Permission was granted on the appeal site for a 3-5 storey apartment block over a basement car park. This permission was not implemented.

4.2. Recent planning history in the vicinity of the appeal site:

FW19A/0035: Permission granted for alterations to houses approved on lands to the immediate south of the site under PA Refs. 17A/0027, FW17A/0110 and FW13A/0052.

FW18A/0118: Permission granted for the construction of 88 no. apartments contained in 4 no. blocks of 4-5-6 storeys, on lands to the west of the subject site.

FW18A/0112: Permission granted for the construction of 88 no. apartments contained in 4 no. blocks of 4-5-6 storeys, on lands to the immediate west of the subject site.

FW18A/0096: Permission granted for extension of the Phoenix Park Avenue roadway connecting the eastern developed sections of the development with the existing western grade separated N3 Navan Road interchange, along with a new internal access road.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The Fingal Development Plan 2017-2023 is the relevant statutory plan for the area. I consider the following provisions of the Plan to be relevant:

- **Zoning:** The site is zoned 'RA' Residential Area with an objective to "Provide for new residential communities subject to the provision of the necessary social and physical infrastructure".
- **Chapter 3 Placemaking** – Chapter 3 sets out Design Criteria for Residential Development including mix of dwellings, density and open space provision.
- **Chapter 4 Urban Fingal** – The site is located in the "Phoenix Park Masterplan" area (Map Sheet: MP13A refers). Objective Blanchardstown 18 refers to the preparation and / or implementation of Local Area Plans and Masterplans for areas including the Phoenix Park Masterplan area, while the written text states that the Masterplan will "*facilitate delivery of residential, commercial and community facilities along with open space in a phased manner*".
- **Chapter 12: Development Management Standards**
 - Section 12.3 of the Plan sets out design criteria for urban development. Reference is made to guidelines published by the Department of Environment, Community and Local Government in respect of quality housing and sustainable residential development. It also refers to the Design Manual for Urban Roads and Streets published jointly by the Department of Transport Tourism and Sport and the Department of Environment, Community and Local Government. Policy objectives PM31 to PM33 promote good urban design in accordance with these guidelines.
 - With respect to residential densities, the Plan states that regard should be had to the national guidance set out in the *Sustainable Residential Development in Urban Areas Guidelines and the accompanying Urban Design Manual*. The Development Plan promotes higher densities at

suitable locations such as along public transport corridors and in main town centres (objective PM41).

5.2. **Natural Heritage Designations**

None.

5.3. **EIA Screening**

- 5.3.1. The redevelopment of the former Phoenix Park Racecourse site for urban development has been subject to EIA. Having regard to the nature and scale of the proposed housing development on zoned and serviced land, which is in effect an amendment to the development originally approved under ABP Ref. PL06F.202469 and PA Ref. F06A/0832, and to the nature of the receiving environment, 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**

The grounds of appeal as detailed in the submission to the planning authority can be summarised as follows:

- Height is out of line with existing development and unsuitable.
- Increase in traffic, where congestion is already a problem.
- Inadequate car parking for number of apartments proposed. Provision is below that required under Chapter 12 of the Fingal Development Plan.
- Concerns over management of car parking.
- Reiterate issues raised in objection of Fairhaven Residents Association.

6.2. **Applicant Response**

The response of the applicant can be summarised as follows:

- Appeal is vexatious and should be rejected. The appellant has no material interest in the proposed development.
- The application is made within the context of completed / permitted development and the sites location overlooking a proposed public park. Careful consideration given to the scale and height of the blocks. A reduced height would be visually incongruous and result in reduced density.
- The proposal would not impact on traffic in the area. The overall development was subject to traffic analysis. The site is accessed from a number of road junctions and is served by public transport. The Parkway Rail Station was built by the applicant and has been operational since 2008. The Navan Road QBC has a range of bus routes and service will be expanded through the Rapid Bus Transport Network planned for the Navan Road.
- Sustainable Urban Housing Design Standards for New Apartments, 2018 allow for reduced parking provision at suitable locations. Mobility management initiatives agreed with the planning authority include consideration of a car sharing facility (letter from 'Go Car' on file), bike sharing facility (letter from 'Bleperbike' on file) and improved accessibility to cycle and pedestrian facilities. Condition no. 7 of the notification to grant permission requires agreement in relation to mobility management plan.
- The development including car parking will be controlled by the management company. Surface spaces along the Phoenix Park Avenue will be visitor spaces and will be marked, signed and lined accordingly and subsequently taken in charge by FCC.
- The submission of the Fairhaven Residents association raised issues in relation to overlooking, density and open space provision. Concerns were addressed at further information stage. The Fairhaven Resident's Association did not appeal the decision, presumably having been satisfied by the response to their concerns at additional information stage.

6.3. The Planning Authority Response

The response of the Planning Authority can be summarised as follows:

- Issues raised in the appeal were addressed during the application process.
- The height of the proposed apartment block is wholly in keeping with the neighbouring apartment developments to the east and north east, fronting onto the public park. The height mirrors that of the proposed apartments to the west. Full cognisance has been taken of the height of neighbouring properties and of the overall development.
- The amount of car parking to be provided is addressed in the report of the Planning Officer. Provision is based on the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, December 2015. The development would be within 1600 metres of the Navan Road Parkway Railway Station and the N3 Quality Bus Corridor and as such the level of car parking is appropriate.
- Conditions are attached in relation to mobility issues and improved connection to the rail station.
- Condition no. 19 requires a Management Agreement to be in place, detailing areas to be maintained by a Management Company.

6.4. **Observations**

None.

6.5. **Further Responses**

A further submission was received from the appellant on 4th March 2019. The submission refutes the claim that the appeal is vexatious or frivolous. The applicant also responds to the applicant's response to issues raised in relation to the height of the proposed apartment block and car parking provision quoting from relevant sections of the Sustainable Urban Housing Design Standards for New Apartment Guidelines for Planning Authorities, DHPLG, 2018.

7.0 Assessment

7.1. Validity of the Appeal

- 7.1.1. The applicant argues that the appeal is vexatious and that it should be rejected as the appellant has no material interest in the development. Section 138 (a) (ii) of the Planning and Development Act, as amended, allows the board to dismiss an appeal in circumstances where the Board is of the opinion (inter alia) that the appeal is vexatious. While I note the concerns of the applicant, I am of the opinion that a number of valid planning issues are raised and recommend that the appeal is considered by the Board.

7.2. Introduction

- 7.2.1. I consider that the main issues for consideration are as follows:

- Site Context and Principle of Development
- Building height and scale,
- Traffic,
- Car parking, and
- Other issues.

7.3. Site Context and Principle of Development

- 7.3.1. The appeal site is part of the larger Phoenix Park Racecourse site (c. 40 ha), located to the west of the Phoenix Park, east of Castleknock Village and south of the N3 Navan Road. The lands have been zoned for residential development over a number of development plan periods. In 2003, permission was granted for a mixed-use development on the overall site that comprised 2310 no. residential units and associated commercial development and infrastructural works (ABP Ref: PL06F.202469 and PA Ref. F02A/1255 refers). While the original permission expired in 2018, the site continues to be developed within the general framework established by this permission.

7.3.2. The proposed development comes forward on land zoned for residential development and forms part of a wider mixed-use development at this location. The proposed development is, therefore, acceptable in principle.

7.4. Height and Scale

7.4.1. The grounds of appeal argue that the height and scale of the proposed apartment block is out of line with existing developments in the area and is unsuitable for this location.

7.4.2. Permission is sought for an apartment development comprising 4, 5 and 6 storey blocks that will sit within a wider urban development. The mixed-use development approved on the racecourse site in 2003 incorporated housing blocks of 2-5 storeys in height. Completed housing blocks to the east and south of the site are 2, 3 and 4 storeys and permission has been granted on undeveloped lands to the immediate west for two developments comprising 4, 5 and 6 storey apartment blocks (PA Ref's. FW18A/0118 and FW18A/0112).

7.4.3. The appeal site and lands to the west are at an important location within the overall scheme, fronting a public open space to the north and a key link street to the south. The proposed development responds to this context with an increase in building height. I consider the proposed development to be well designed and am satisfied that it would integrate well with both existing and permitted development in the area. I am also of the view that the development will provide a strong urban edge to the street to the south and to the park to the north. I would not, therefore, recommend a refusal of permission on this basis.

7.5. Traffic

7.5.1. The grounds of appeal argue that the proposed development, with access onto the N3 will greatly increase traffic in the area, where traffic congestion is already a major problem. I would note concur with this view. The site is located in an urban area that is well served by public transport. Furthermore, a number of significant transport improvements completed in the area will support the overall racecourse development. These include the Navan Road Parkway Rail Station, the Navan Road QBC, an interchange on the N3 and a roundabout on the Castleknock Road. On the

basis of the foregoing, I am satisfied that the proposed development is well catered for in transportation terms and that it would not substantially affect the existing traffic situation in the area.

7.6. Car Parking

- 7.6.1. The proposed development includes provision for a total of 111 no. car parking spaces (96 no. spaces within a ground level undercroft and 15 no. spaces on street). The grounds of appeal argue that the level of provision falls below the standard detailed in Table 12.8 of the Fingal County Development Plan 2017-2023¹. The applicant's appeal response acknowledges the shortfall and argues that the DHPLG's Apartment Guidelines, March 2018, promote reduced car parking provision in suitable locations. The submission details services and improvements that are proposed to counteract the shortfall, including a car sharing facility, bike sharing facility and improved access to cycle and pedestrian facilities.
- 7.6.2. I would note that the level of provision falls below the Development Plan Standard. However, I consider the appeal site to be a suitable location for reduced car parking provision given the sites urban location and the level of public transport provision in the area. There is sufficient provision to provide a car parking space for each unit and additional visitor or drop off spaces. I am satisfied that the reduced provision is acceptable in the context of the guidance set out in the DHPLG's Apartment Guidelines and that the reduced provision will promote the use of other more sustainable modes of travel, such as walking, cycling and public transport.

7.7. Other Issues

- 7.7.1. The appeal submission seeks to reiterate issues raised in the submission of the Fairhaven Residents Association, submitted to the planning authority at application stage. The issues raised, relating to overlooking, density and open space provision, were specifically addressed in the request for further information and in the applicant's response at further information stage. The nature of the appellants concerns in respect of these matters is therefore unclear.

¹ Table 12.8: 1 space per 1 bed apartment, 1.5 spaces per 2 bed apartment, 2 spaces per 3 bed apartment and 1 no. visitor space per 5 units.

- In relation to overlooking, I would note that revised plans were submitted at further information stage to address concerns in relation to overlooking within the scheme. The development is at a significant distance from existing dwellings and will not give rise to overlooking in my view.
- In relation to density, details submitted at further information stage indicate that a net density of between 63 to 78 dwellings per hectare is envisaged within the overall site. I am satisfied that the density is consistent with the density standards contained in the Sustainable Residential Development in Urban Areas Guidelines, DECLG, 2009 (Chapter 5).
- In relation to public open space, I would note that lands to the north of the appeal site are zoned for open space and that the calculations provided at application stage indicate that the standards of the Fingal Development Plan are met.

Archaeology

7.7.2. A submission on file from the Department of Culture, Heritage and the Gaeltacht recommends, due to the scale of the overall site and its proximity to the Phoenix Park, that works on site are subject to archaeological monitoring. Condition no. 26 of the original permission (ABP Ref. PL06F.202469) also required archaeological monitoring. In light of the foregoing, I recommend a condition to this effect, in the event of a grant of permission.

7.8. Appropriate Assessment

7.8.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced urban area, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that 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 is granted subject to the conditions set out below.

9.0 Reasons and Considerations

9.1.1. Having regard to the residential zoning provision of the Fingal County Development Plan, the pattern of development in the area, to the close proximity to mainline rail and bus connections, to the density, layout and design of the proposed development I consider, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the residential amenities of the area or of future residents and would represent a high quality residential environment generally in compliance with the objectives of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, (March 2018), the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and the accompanying Urban Design Manual (May 2009) and the Design Manual for Urban Roads and Streets (2013).

10.0 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 submitted on the 13th day of November 2018, 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 dwellings 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water and provision for foul sewer connections within the site, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. A landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

5. The developer shall comply with the requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:

- (a) The location (s) and layout of car parking and bicycle parking shall be in accordance with the detailed requirements of the Planning Authority for such works.
- (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works.
- (c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (d) A minimum of 2 no. on-street car parking spaces shall be reserved for car sharing, unless otherwise agreed in writing with the planning authority.
- (e) A minimum of 2 no. on-street car parking spaces shall have electric vehicle charging points and all spaces should have the infrastructure

to enable future provision of electric vehicle charging points.

(f) Car parking spaces within the undercroft shall be sold, let or assigned in conjunction with the sale of apartment units within the approved development only and shall not be sold or let separately.

(g) A Mobility Management Plan shall be submitted to the planning authority for their written agreement, prior to the occupation of the development and shall be implemented within one year of the occupation of the first apartment. It shall be updated annually thereafter for a period of five years.

Reason: In the interest of traffic, cyclist and pedestrian safety, to promote sustainable transportation and to protect residential amenity.

6. 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 amenity of property in the vicinity and the visual amenity of the area.

7. 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 prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

8. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development.

9. Public lighting shall be provided in accordance with a scheme, 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 apartment.

Reason: In the interests of amenity and public safety.

10. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

11. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

12. 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

13. Site development and building works shall be carried out only between the hours of 0800 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.

14. During construction stage, all topsoil stripping associated with the proposed development shall be subject to archaeological monitoring by a suitably qualified archaeologist. Provision shall be made available for the resolution of any archaeological features or deposits that may be identified.

Reason: In order to secure the preservation and protection of any archaeological remains that may exist within the site.

15. 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.

16. 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.

17. 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.

Karen Kenny

Senior Planning Inspector

22nd March 2019