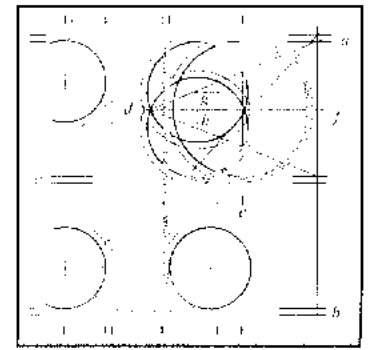


B.F.

An Bord Pleanála



PLANNING DEPARTMENT

28 DEC 2012

The Secretary,
Planning Section,
South Dublin County Council,
P.O. Box 4122,
Town Centre,
Tallaght,
Dublin 24.

24 DEC 2012

Appeal Re: A lawn cemetery comprising 3,461 plots, management building, toilets, storage building, car parking, vehicular entrance, landscaping and site development works.
Lucan, Newlands Road, Dublin 22.


Dear Sir/Madam,

An order has been made by An Bord Pleanála determining the above-mentioned matter under the Planning and Development Acts 2000 to 2011. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

Yours faithfully,


Mary McGrath,
Administrative Assistant.



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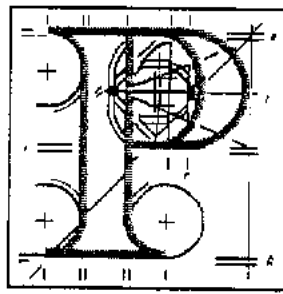
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Fax: (01) 872 2684
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An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

South Dublin County

Planning Register Reference Number: SD10A/0331

An Bord Pleanála Reference Number: PL 06S.239778

APPEAL by Tom Howard care of Anthony O'Beirne and Associates of 18 Rathdown Avenue, Terenure, Dublin and by Raymund Egan of 74 Lucan Newlands Road, Lucan, Dublin against the decision made on the 7th day of October, 2011 by South Dublin County Council to grant subject to conditions a permission to Bernard Creavin care of Cunnane Stratton Reynolds of 3 Molesworth Place, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: A lawn cemetery comprising 3,461 number plots, a single storey management building (93 square metres), a toilet building (23 square metres), a storage building (68 square metres), columbarium wall (two metres in height), 40 number car parking spaces (includes three number disabled parking spaces), one number new vehicular entrance off Lucan Newlands Road and three number pedestrian access points, internal network of pedestrian and vehicular pathways, realignment and partial de-culverting of underground drainage pipe to enhance the existing watercourse, provision of a water feature and contemplative area, landscaping works including boundary treatment, and all other necessary site development, excavation works and associated development at Lucan Newlands Road, south of New Esker burial grounds, close to Cherbury Park and abutting the N4 Lucan bypass and Vesey Park, Lucan, 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.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the location of the site, the established cemetery uses in the vicinity including the existing Esker cemetery which is approaching capacity, and to the zoning of the lands, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the character of the surrounding area, would not seriously injure the amenities of property in the vicinity of the site, would not constitute a threat to water pollution, would be acceptable in terms of traffic safety and convenience and 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 submitted on the 13th day of September, 2011, 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. A total of 372 number burial plots contained within the linear blocks adjoining either side of the watercourse (196 number to the south/176 number to the north) that runs through the site, shall be omitted from the proposed development.

Reason: In the interest of the proper planning and sustainable development of the area and to prevent the pollution of surface and ground water.

3. (a) All burials on site shall be greater than one metre above the highest natural water-table, where the water-table is in the bedrock, burials shall be no less than one metre above bedrock and any fractured/weathered bedrock on the site.
- (b) Water-table monitoring boreholes shall be installed on-site, details of the location and number of monitoring boreholes shall be submitted to and agreed in writing with the planning authority prior to installation.
- (c) The Waste Management Strategy submitted to the planning authority on the 13th day of September, 2011 shall be implemented in full.

Reason: In the interest of public health and prevention of pollution of natural waterways and groundwater.

4. 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.

5. The colonnade on the public road face of the entrance area, shall be omitted from the proposed development and revised drawings showing this amendment shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: To protect the amenities of adjoining residential property.

6. The proposed overflow car park (30 number spaces) shall utilise a cellular support system within the proposed grassed surface.

Reason: To prevent interference with drainage on site and to provide for adequate car parking surface.

7. Details of the roadside footpath and roadside drainage shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: To ensure timely and satisfactory provision of such site development works.

8. (a) The landscaping scheme shown on the Revised Landscape Master Plan drawing number 10663-2-101-revB, as submitted to the planning authority on the 13th day of September, 2011 shall be carried out under the supervision of a qualified Landscape Consultant.
- (b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (c) All hard and soft landscaping works shall be completed in full accordance with the landscape plan not later than the first planting season following substantial completion of construction works.
- (d) All new tree plantings shall be positioned in accordance with the requirements of Table 3 of BS 5837:2005 Trees in Relation to Construction.

- (e) The black poplar (*populus niger*) shall be omitted from the proposed water garden planting.

Reason: In order to ensure the satisfactory provision, establishment and maintenance of a reasonable standard of landscaping in accordance with agreed designs.

9. Prior to the commencement of development, details relating to the provision of the Green Link along the south of the site shall be submitted for the written agreement of the planning authority. The details shall include:

- (a) a plan indicating a detailed outline of the land to form the development of the Green Link through the site,
- (b) construction details for the proposed pedestrian and cycle paths,
- (c) construction and design details for the proposed railing between the Green Link and the cemetery,
- (d) two underground electrical wiring ducts shall be provided beneath the Green Link, and
- (e) signage and lighting in accordance with the requirements of the planning authority shall be provided and installed by the developer upon erection of a bridge connecting the Green route to Vesey Park.

Reason: In the interest of visual amenity and to ensure provision of the Green Route.

10. The proposed earth and green waste storage compound shall be located at least five metres from the western boundary of the site.

Reason: To protect the amenities of adjoining lands.

11. The management, protection and enhancement measures contained in the Bat Management Plan submitted to the planning authority on the 13th day of September, 2011 shall be implemented in full. In particular:

- (a) the installation of temporary bat boxes in suitable mature trees and the incorporation of suitable permanent bat roosting boxes into the fabric of the new building shall be carried out,
- (b) all internal planting shall be achieved using an ecologically focused planting regime of appropriate native woody species,

- (c) the amenity grassland areas, shall be seeded with an appropriate mix of native meadow/grassland and wildflower species, and
- (d) new street lighting or security lighting shall be kept to a minimum particularly around the water garden and site boundaries which are adjacent to hedgerows, tree lines and wooded areas. Low pressure sodium lamps shall be employed rather than mercury or metal halide lamps.

Reason: In the interests of ensuring protection of protected species.

12. The management and protection measures contained within the Badger Management and Protection Plan submitted to the planning authority on the 13th day of September, 2011 shall be implemented in full. Revised drawings showing a buffer area along the western site boundary, and around badger sett S1, as indicated in the Badger Management and Protection Plan, shall be submitted for the written agreement of the planning authority prior to commencement of development. No development, other than such as is necessary for badger protection, shall be permitted within this buffer area.

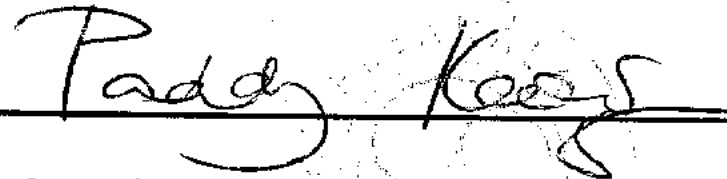
Reason: In the interest of ensuring protection of protected species.

13. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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. 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. 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 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.



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

Dated this 21st day of December 2012.

JUDICIAL REVIEW NOTICE

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act 2000 (as amended)

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

Modified 30/11/2011

FÓGRA FAOI ATHBHREITHNIÚ BREITHIÚNACH

Athbhreithniú breithiúnach ar chinneadh a rinne An Bord Pleanála faoi fhorálacha an Achta um Pleanáil agus Forbairt, 2000 (arna leasú)

Nuair is mian le duine agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird caithfear é sin a dhéanamh trí athbhreithniú breithiúnach amháin. Tá na forálacha chun agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird le fáil in ailt 50, 50A agus 50B san Acht um Pleanáil agus Forbairt, 2000 (arna ionadú le hait 13 den Acht um Pleanáil agus Forbairt (Bonneagar Straitéiseach) 2006, le hait 32 agus 33 den Acht um Pleanáil agus Forbairt (leasú), 2010 agus le hait 20 agus 21 den Acht Comhshaoil (Forálacha Ilghnéitheacha), 2011.)

Ní féidir ceistiú a dhéanamh in aghaidh cinnidh an Bhoird ach amháin trí iarratas ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúrteanna (I.R. Uimhir 15 de 1986). Faoi réir fho-alt 50(6) den Acht um Pleanáil agus Forbairt, 2000 déanfar iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach laistigh den tréimhse 8 seachtain den dáta a rinne an Bord an cinneadh nó laistigh d'aon síneadh ama a cheadaíonn an Ard-Chúirt faoi fho-alt 50(8). Tabhair faoi deara nuair atá athbhreithniú breithiúnach i gceist faoi alt 50 nach féidir ach bailíocht an chinnidh a cheistiú agus ní thugann an Chúirt aon chinneadh faoi fhiúntas na forbartha ó thaobh prionsabail pleanála cuí nó forbairt inchothaithe na háite nó éifeachtaí ar an timpeallacht. Tá sé leagtha síos in alt 50 nach ndéanfar cead d'athbhreithniú breithiúnach muna bhfuil an Chúirt sásta go bhfuil forais shubstantiúla ann chun argóint a dhéanamh go bhfuil an cinneadh neamhbhailí nó gur ceart é a neamhniú agus go bhfuil suim shásúil ag an iarratasóir leis an ábhar i gceist san iarratas nó i gcásanna a bhaineann le measúnacht tionchair timpeallachta gur eagraíocht í an t-iarratasóir a chomhlíonann coinníollacha áirithe.

Tá forálacha in alt 50B mar gheall ar chostais maidir le himeachtaí san Ard-Chúirt i dtaobh athbhreithniú breithiúnach i gcásanna áirithe (lena n-áirítear imeachtaí faoi chinntí nó gníomhartha de bhun dlí de chuid an Stáit lena dtugtar éifeacht do na forálacha faoi rannpháirtíocht an phobail agus rochtain ar an gceartas atá leagtha amach i dTreoir 85/337/CEE i.e. an Treoir faoi mheasúnacht tionchair timpeallachta agus na forálacha i dTreoir 2001/42/CE maidir le héifeachtaí pleananna agus clár áirithe ar an timpeallacht a mheasúnú). Is í an fhoráil ghinearálta in imeachtaí lena mbaineann alt 50B ná go n-íocfaidh gach páirtí a chostais féin. Is féidir leis an gCúirt costais a bhronnadh i gcoinne aon pháirtí i gcásanna áirithe. Chomh maith le sin tá forálacha i bhfeidhm ionas gur féidir leis an gCúirt iomlán a chostas nó cuid díobh a bhronnadh ar an iarratasóir, in aghaidh fhreagróra nó fhógrapáirtí i gcásanna ina bhfaightear faoiseamh mar gheall ar gníomhú nó neamhfheidhm an fhreagróra nó an fhógrapáirtí.

Tá eolas ginearálta faoi athbhreithniú breithiúnach le fáil ar an suíomh idirlín www.citizensinformation.ie.

Séanadh: Tá an t-eolas thuas tugtha mar threoirline. Ní éilítear gur léirmhíniú dlí faoi na forálacha ábhartha atá ann agus dá mbeadh sé ar intinn ag éinne cás dlí a thógáil in aghaidh an Bhoird bheadh sé innholta comhairle dlí a fháil ar dtús

Athbhreithnithe 30/11/2011