

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Dún Laoghaire-Rathdown County

**Planning Register Reference Number: D15A/0121**

An Bord Pleanála Reference Number: PL 06D.245755

**APPEAL** by Gerard Cosgrove care of McCutcheon Halley Walsh of 6 Joyce House, Barrack Square, Ballincollig, County Cork and by others against the decision made on the 22<sup>nd</sup> day of October, 2015 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Chris and Niall Power Smyth care of Cathal O'Neill and Associates of 33 Pembroke Road, Dublin in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Demolition of furniture store and construction of a 5,214 square metres mixed-use building of between three and six storeys, with balconies and retractable awnings, over a basement car park for 92 cars, 48 bicycle spaces, six motorbike spaces, refuse storage and individual residents' storage rooms. The building will have four office units totalling 282 square metres at ground floor level, 48 residential dwelling units (10 one-bed, 27 two-bed and 11 three-bed units), amenity space for residents, and all ancillary site works to include boundary treatment, landscaping and plant at roof level. Vehicular access to be from Deerpark Road and non-vehicular access via an existing footpath from Wilson Road, all at site known as Flanagan's, Deerpark Road, (backing onto Wilson Road) Mount Merrion, 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 zoning of the site, to the scale of the existing building, to the site characteristics and the pattern of development in the area, to the planning history of the site and to the nature, scale, mass and quality of design and to the standard of finishes of the proposed development, the Board considered that the proposed development was generally in accordance with the development plan policies for residential development, would enhance the residential mix in this area, would not injure the residential amenities of the area, would not constitute a traffic hazard and would, therefore, subject to compliance with the conditions set out below, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the scale and mass of the existing building and its proximity to a quality bus corridor and was satisfied that a building incorporating an element of six stories would not contravene the provisions of the current Dún Laoghaire-Rathdown Development Plan. In this regard the Board noted the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in 2009, and that the impacts on residential amenity have been carefully considered in the design and any residual impacts would not merit refusal.

## 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 to the planning authority on the 3<sup>rd</sup> day of July, 2015 and the 25<sup>th</sup> of September, 2015, 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 all external finishes to the proposed development in respect of colour and texture 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. All service cables associated with the proposed development (such as electrical, telecommunications and television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

4. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, detailed plan and elevation drawings to include cross-sections of the proposed ramped entry treatment for pedestrian priority at the new vehicular entrance to the proposed residential development on Deerpark Road, the footpath shall remain level (not dished), in accordance with the Guidance and standards set out in Chapter 4.2.6 of the 'Design Manual for Urban Roads and Streets' (2013)/the 'Traffic Management Guidelines Manual (2003)'. These drawings shall also show the gradient of the entry/exit slopes for the proposed (required) ramped entry treatment and the required road markings (that is, sharks teeth). The proposed contrasting sett type surface shall also be shown to be omitted.

**Reason:** To comply with the 'Design Manual for Urban Roads and Streets' (2013) and the 'Traffic Management Guidelines Manual (2003)'

5. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, detailed plan drawings showing the omission of car space 'Number 29 (Apartments)' to allow clearance to the stairs and the lift via the 'hall', and relocation of bicycle spaces numbers 8-15 to either side within the omitted car space 'Number 29 (Apartments)'.

**Reason:** In the interest of traffic safety.

6. All works to be carried out on the public road (including on footpaths) shall be at the developer's expense to meet the planning authority's 'Taking-in-Charge' requirements and to the satisfaction of the Transportation Planning and Road Maintenance Sections.

**Reason:** In the interest of clarity.

7. 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.

8. 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.

9. The disposal of surface water be in accordance with the requirements of the planning authority. The drainage shall be constructed as shown on the drawings submitted on the 3<sup>rd</sup> day of July, 2015. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority full details of the proposed surface water sewer diversion on Deerpark Road, to include specifications, design drawings, programme, method statement and contractor. The developer shall carry out a CCTV survey over the full length of such pipe when constructed and shall provide the planning authority with the results of such survey together with a satisfactory remediation report (if required), before such pipe system is connected to any receiving pipe or outfall system. The proposed surface water sewer diversion shall, upon satisfactory completion and connection to the public sewerage network, become a public sewer.

**Reason:** In the interest of public health.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of [three] years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

11. Prior to the commencement of development, the developer shall appoint a qualified arborist as Arboricultural Consultant for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site on a regular basis and shall ensure that appropriate tree protection fencing is installed and maintained in robust condition. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the Arboricultural Method Statement and Tree Protection Plan, in the submitted tree report. All tree felling, surgery and remedial works shall be completed within one year of the practical completion of the development.

**Reason:** To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

12. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

13. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

14. 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.



15. 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.

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

**Dated this            day of            2016.**