

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Dublin City**

**Planning Register Reference Number: 3766/14**

An Bord Pleanála Reference Number: PL 29S.245849

**APPEAL** by Belgrave Residents' Association care of Cliona Buckley of Rathmines and Ranelagh, P.O. Box 4612, Rathmines, Dublin against the decision made on the 4<sup>th</sup> day of November, 2015 by Dublin City Council to grant subject to conditions a permission to Dumbarton Construction Limited care of McGill Planning Limited of 7 Fitzwilliam Street Upper, Dublin.

**PROPOSED DEVELOPMENT:** Development consisting of construction of a new residential development and a new lane accessed from Church Avenue. The development will comprise 16 number residential units including nine number three-storey, three to four bedroom houses ranging in size from circa 128 square metres to circa 184 square metres, each with rear garden and west facing terrace (with opaque glazed screen) at second floor; and a four-storey apartment block (with roof garden) comprising one number one bedroom (with study), five number two bedroom and one number three bedroom apartments ranging in size from circa 74 square metres to circa 128 square metres. Off-street parking (20 number spaces) and bicycle parking. Bin storage areas. Works to and repair of existing stone wall on Church Avenue. All associated site development, landscaping, boundary treatment works and services provision, all on a site of circa 0.214 hectares comprising a former car sales/garage premises (now demolished) at the corner of Church Avenue and Church Gardens, and lands to the rear of properties numbers 44 to 54 Upper Rathmines Road (all Protected Structures), Rathmines, 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 scale, mass, materials and height, to the planning history and the zoning of the site within an area designated as a residential conservation area in the Dublin City Council Development Plan 2011-2017 and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity 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.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that, subject to the amendments conditioned hereunder, the proposed development would not seriously injure the visual or residential amenities of the area, would not contravene the development plan and would 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 8<sup>th</sup> day of October 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. The first floor level of Block A shall be omitted in its entirety thereby reducing the height of the apartment block by one floor.

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

3. The internal layout of the residential units in Blocks A and B shall be re arranged to fully comply with the Quality Housing for Sustainable Communities: Best Practice Guidelines issued by the Department of the Environment, Heritage and Local Government in 2007.

**Reason:** In the interest of the residential amenity of future occupants.

4. Details of the external finishes of the proposed development (including samples of the proposed materials where required) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. The applicant shall agree in writing with the planning authority details of all high quality boundary treatments with specific regard to the proposed stone wall boundary treatment along Church Avenue which will require the input from a conservation expert with relevant expertise. The boundary treatments between properties shall consist of solid block walls with a rendered finish including refurbishment of existing walling where necessary to include their height and finish.

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

6. No further structures, plant or antennas, including satellite dishes, shall be erected on the roofs of the proposed development without a prior grant of planning permission.

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

7. The car park shall be retained for ancillary and associated use by the occupants of the premises and shall not be sold, rented or otherwise sub-let or leased to other parties.

**Reason:** In the interest of sustainable transportation.

8. The following requirements of the planning authority shall be complied with:

- (a) prior to commencement of development, details and specifications of the public lighting system necessary to serve the development and access thereto shall be submitted to, and agreed in writing, with the planning authority. For the avoidance of doubt, the proposed lighting system shall comply with the requirements set out in the General Specifications for Public Lighting Design and Installation in Housing, Industrial and Commercial Developments (copies available from the Public Lighting Services Division of Dublin City Council). The proposed lighting system shall, if necessary, provide for the attachment of lanterns and fixtures to buildings in the development;
- (b) the agreed lighting system shall be fully implemented prior to the first occupation of the development, or if the permission relates to a phased development, prior to the first occupation of each phase.

**Reason:** In the interest of proper planning and sustainable development and in the interest of public safety and convenience.

9. 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.

10. 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.

11. The development shall be comply with the following requirements:
- (a) the developer is required to comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from [www.dublincity.ie](http://www.dublincity.ie) Forms and Downloads).
  - (b) Dublin City Council's Drainage records are indicative and must be verified on site. The Developer must carry out a comprehensive site survey to establish all drainage services that may be on the site. If drainage infrastructure is found that is not on Dublin City Council's records, the developer must immediately contact Dublin City Council's Drainage Division to ascertain their requirements. Detailed "as-constructed" drainage layouts for all diversions, extensions and abandonment of the public drainage network, in both hard and soft copy in an approved format, shall be submitted to the Drainage Division for

written agreement. See section 5 of the afore-mentioned Code of Practice for more details;

- (c) proposals for sewer diversion shall be submitted to Dublin City Council Drainage Division for written agreement prior to commencement of development. Details shall be submitted in relation to the following:
- sizing of proposed public sewer so that the hydraulic capacity of sewer is not adversely affected,
  - pipe and manhole location and construction material,
  - any existing connections live or currently unused drainage to existing public combined sewer must be accommodated and reconnected to active diverted sewer,
  - abandoned sewer shall be grubbed up or filled with concrete and disused connections sealed to the satisfaction of Drainage Division of Dublin City Council,
  - a new head manhole on the existing combined sewer shall be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works;
- (d) the drainage for the proposed development shall be designed on a completely separate system with a combined final connection discharging into the public combined sewer system;
- (e) the development shall incorporate Sustainable Drainage Systems in the management of stormwater, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of construction;
- (f) the outfall manholes from this development shall be constructed in accordance with the Code of Practice for Development Works – Drainage.
- (g) All surface water discharge from this development shall be attenuated to two litres per second per hectare.

**Reason:** In the interest of the proper planning and sustainable development of the area.

12. 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, sewers, watermains, drains, car parks, 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.

- 13 (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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, 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.**