



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 2424/19

Appeal by The Pembroke Road Partnership care of John Spain Associates of 39 Fitzwilliam Place, Dublin and by Olive Moran and Philip Dunne of 3 Pembroke Park, Ballsbridge, Dublin and by Others against the decision made on the 4th day of July, 2019 by Dublin City Council to grant subject to conditions a permission to The Pembroke Road Partnership in accordance with plans and particulars lodged with the said Council:

Proposed Development: (1) Demolition of non-original extensions to Saint Mary's Home and ancillary structures on site; (2) Alterations to and change of use of the existing Saint Mary's Home (nursing home) building to residential use, including internal and external alterations, elevational alterations, provision of terraces at second floor level and balconies at first floor level, to provide nine number residential units; (3) Construction of new two, three and four-storey structures to the north and east of the existing Saint Mary's Home, including balconies and private open space, to provide 15 number residential units; (4) The proposed development will provide a total of 24 number residential apartment units comprising of three number one bed apartments,

16 number two bed apartments and five number three bed apartments; (5) Provision of a basement level to accommodate car parking (25 number spaces, including car stacker system), bin storage areas, plant, and service cores; (6) two number accessible parking spaces are provided at ground floor level, along with cycle parking (46 number spaces); (7) The development includes all associated site development works, solar panels at roof level, bin store, hard and soft landscaping, boundary treatments, widening of vehicular access from Pembroke Park, pedestrian access from Clyde Lane and Pembroke Park, foul and surface water drainage, and all other ancillary works, including temporary site hoarding and marketing signage on a site of circa 0.34 hectares, Saint Mary's Home, Pembroke Park and 28A Clyde Lane, 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 nature and scale of the proposed development, the pattern of development in the vicinity and the policies of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the character of the area, would not seriously injure the amenities of adjacent residential neighbourhoods or of property in the vicinity, would not be prejudicial to public and environmental health and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development 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 7th day of June 2019, and by the further plans and particulars received by An Bord Pleanála on the 30th day of July 2019 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 development shall be revised as follows:
 - (a) The third floor of Block B shall be omitted from the scheme.
 - (b) The terraces at roof level in the original building shall be reduced in width to a maximum of five metres.
 - (c) Privacy screens shall be provided on the southern side of the Clyde Lane block.

Revised plans, drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and such works shall be fully implemented prior to occupation of the buildings.

Reason: In the interest of visual amenity and in the interest of residential amenity.

3. Details, including samples, of the materials, colours and textures of all the external finishes shall be submitted to the planning authority and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Prior to commencement of development, the developer shall provide the following information to the planning authority for their written agreement:
 - (a) The detailed design of the 1.5 metre ground level opening in the front boundary wall to accommodate an overland flow route.
 - (b) Revised drawings showing the width of the permitted opening in the boundary wall along Clyde Lane limited to 1.5 metres.

- (c) 1:20 details of all proposed railings and gates.
- (d) Full drawing survey including photographic record of all existing boundary walls. Detailed schedules of any repair and reinstatement works that are required to the walls should be fully detailed. A method statement for the raking out and re-pointing of the stonework and associated repair details are to be provided. Details of the historic stone coursing, sizes of stone as well as mortar composition and colour shall be provided.
- (e) Full details of all proposed new elements, such as tothing-in and repair work that shall be required. All new elements shall match the historic walls.

Reason: In the interest of preserving the architectural integrity and heritage value of the retained structures.

- 5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
 - (a) notify the planning authority in writing at least four weeks prior to commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

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 amenities of property in the vicinity and the visual amenities of the area.

7. Prior to commencement of development the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. 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 and all surface water shall be treated within the site.

Reason: In the interest of public health

9. (a) All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties.
- (c) Cycle parking shall be secure, conveniently located, sheltered and well lit. Key/fob access shall be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.
- (d) Vehicular access shall not have outward opening gates.

Reason: In the interest of sustainable transportation.

10. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive and 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.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. The landscaping scheme shown on drawing number DN1805-RFIPP-Planting Plan, submitted to the planning authority on the 7th day of June 2019 shall be carried out within the first planting season following substantial completion of external construction works. 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.

Reason: In the interest of residential and visual amenity.

13. Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

14. 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the 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 for the area.

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

16. The construction of the development shall be managed in accordance with a construction and demolition 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:
- (a) Location of the site and materials compound including area identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of parking / transport facilities for site workers during the course of construction;

- (e) Details of timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels;
- (j) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

17. 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 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.

18. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

19. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of public open space. The amount of the contribution 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 for determination. 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 updated at the time of payment in accordance with the changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the central statistics office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

20. 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.

Stephen Bohan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this day of 2020