



An
Bord
Pleanála

**Board Direction
PL06D.247822**

The submissions on this file and the Inspector's report were considered at a Board meeting held on May 11th 2017.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, to the pattern of existing development in the area and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be appropriate in scale and form, would comply with the provisions of the Development Plan in terms of residential density, would not give rise to undue overlooking or overshadowing of adjoining properties, and would not lead to significant traffic congestion or be unacceptable in terms of pedestrian safety. 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 received by the Planning Authority on the 25th day of

August, 2016 and on the 7th day of November 2016 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 proposed development shall be amended as follows:-
 - (a) Apartments numbers 19 and 20 on the third floor of proposed Apartment Block B, and their associated balconies/private open space areas, shall be omitted. The area thus released, other than consequential modifications to the stairwell, landing area and lift enclosure to serve the remaining unit (no. 18), and the modifications set out in condition 2 (b) below, shall be roofed using sedum or similar material, and shall not be used as a roof garden or amenity area. Access to this area shall be restricted to maintenance purposes only.
 - (b) The balcony / private open space serving bedroom number 1 of apartment number 18 on the third floor of proposed Apartment Block B shall be omitted. An equivalent area, generally corresponding to the former location of bedroom number 1 of former apartment number 19, shall be provided as additional private open space to serve apartment number 18, and may be accessed by an additional window and door on the western side of the living room of this apartment.
 - (c) The balcony / private open space serving apartment number 17 on the second floor of proposed Apartment Block B shall be modified so that the balcony does not extend beyond the building line of the northern elevation. The balcony / private open space serving bedroom number 1 in apartment number 14 on the second floor of proposed Apartment B shall be omitted.

- (d) All WCs, bathroom, and en-suite windows within the entire development shall be fitted and permanently maintained with obscured glazing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. (a) The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the basement car park shall be in accordance with the detailed requirements and standards of the planning authority for such works and services.
- (b) The carriageway of the roads to the north and west of the proposed houses shall be extended to the eastern and southern boundaries, respectively, of the site.

Reason: In the interest of amenity and of traffic and pedestrian safety, and to allow for potential future access to adjoining lands, in the event of their development, in the interest of proper development and future permeability.

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. Details of the proposed site boundary treatment shall be submitted to, and agree in writing with, the planning authority prior to commencement of development. All rear gardens shall be bounded internally with block walls,

1.8 metres in height, which shall be rendered and capped. The proposed post and timber panel boundary treatment shall not be used.

Reason: In the interest of visual amenity, and in order to ensure the provision of durable boundary treatment, in the interest of residential amenity.

6. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In the case of the proposed houses, roof colour shall be blue-black, black, dark brown or dark grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

7. (a) The proposed open space area between the two apartment blocks, and all other communal and incidental open spaces, together with the basement car parking and the private grouped car parking areas, shall be retained in private ownership and shall be maintained by a properly constituted private 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.

(b) The access road into the development, together with the shared surface areas / roads to the north and west of the proposed houses (as modified by condition 3 (b) of this permission), shall be maintained by the developer until completion and shall thereafter be made available by the developer for taking in charge by the local authority.

8. As PA condition no 10 (amend "DLR Parks and Landscape Services" to read "planning authority")
9. As PA condition no. 11 (amend "DLR Parks and Landscape Services" to read "planning authority")

10. as PA condition no. 12 (amend “DLR Parks and Landscape Services” to read “planning authority”)
11. as PA condition 13 (amend “DLR Parks and Landscape Services” to read “planning authority”)
12. All service cables associated with the proposed development (such as electrical, telecommunications and communal 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 crossing or bounding the site shall be relocated underground as part of the site development works, at the developer’s expense.

Reason: In the interests of visual and residential amenity.

13. 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. This shall include lighting along the roadways to the west of proposed house number 1 and in the accessway/open space area to the rear of houses 1 to 5. All such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

14. Proposals for an estate/street name, house and apartment numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, all estate and street signs and 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 interests of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

15. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

16. 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 and noise management measures.

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

17. 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 96(4) and 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 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.

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 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.

20. The developer shall pay a financial contribution to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of the shortfall in public open space, which is to be used to fund improvements to Cabinteely Park which is within walking distance of the proposed development. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The amount of the contribution and the application of indexation required by this condition 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.

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.

21. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Note 1: The Board concurred with the Inspector in relation to the first party appeal, and agreed with her recommendation that the developer should pay the full amount required by the planning authority in respect of the shortfall in open space. However, it decided not to specify the amount at €48,000, having regard to the omission of two apartments by condition 2 of the Board Order, but concurred with the planning authority regarding the amount of the shortfall in open space, and did not accept the applicant's calculations in this regard.

Note 2: The Board agreed with the Planning Authority with regard to the need to provide for future potential access, through the proposed development, to the adjoining property to the south (as had been proposed by the planning authority), but considered that a similar provision should be made in relation to the property to the east of the site. This is achieved by condition number 3 (b) of the Board's order. However, the Board also considered it appropriate, in the light of such provision, that the roads within the proposed development, including those extending to both boundaries, should be taken in charge by the local authority and not vested in a private management company, and hence incorporated this in condition number 7 (b) of the Board's order.

[Please issue a copy of this Direction with the Board Order to the parties and observers.]

Board Member

Date: 12 May 2017

Philip Jones