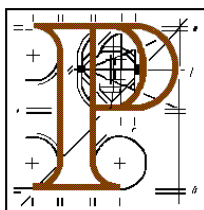


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dún Laoghaire-Rathdown County

Planning Register Reference Number: D15A/0405

An Bord Pleanála Reference Number: PL 06D.245456

APPEAL by Andrew and Delyth Parkes and others care of Kiaran O'Malley and Company Limited of Saint Heliers, Saint Heliers Copse, Stillorgan Park, Blackrock, County Dublin and by Targeted Investment Opportunities PLC care of Stephen Little and Associates of 6 Upper Mount Street, Dublin against the decision made on the 14th day of August, 2015 by Dún Laoghaire-Rathdown County Council to refuse permission to the said Targeted Investment Opportunities PLC in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development consisting of 114 number dwellings located within the grounds of Herbert Hill (a protected structure) comprising of (i) 105 number apartments in a building ranging in height from five to eight stories consisting of 31 number 1 bedroom units, 67 number two bedroom units and seven number three bedroom units, including balconies or terraces, and solar panels on the roof; (ii) three number one bedroom apartments and three number two bedroom apartments arranged in a terrace of three storey duplex blocks, including balconies/terraces (six number dwellings in total) including solar panels on the roof; (iii) conversion of existing Herbert Hill House to two number two bedroom two storey houses by modifications to the interior including the removal of single storey ancillary accommodation to the house and replacement with a single storey extension of approximately 10 square metres to the side of one house, extending a new roof to link with the retained outbuildings; alterations to internal layouts including installation of new bathrooms and kitchens; comprehensive repair and refurbishment throughout; installation of fire compartmentation; repair/replacement of all windows; removal/repair of external render, national slate roof, rainwater goods; replacement of polycarbonate sheeting to veranda with glass; replacement of all services, installation of flues and vents; full

re-decoration; all associated conservation and site works; (iv) conversion of existing outbuildings and stores to provide general storage, bicycle parking and bin storage, including reinstatement of derelict lean-to roof to existing covered area; repair/replacement of all windows/doors; replacement of all services; (v) internal and external modifications to the existing Gate Lodge including the provision of a single storey extension of approximately 16 square metres to provide a single storey one number bedroom dwelling (circa 59 square metres in total); alterations to internal layouts including installation of new bathrooms and kitchens; reconstruction of single storey return of approximately 6 square metres, comprehensive repair and refurbishment throughout; repair/replacement of all windows; removal/repair of external render, natural slate roof, rainwater goods; replacement of all services, installation of flues and vents; full re-decoration; all associated conservation and site works; (vi) site development and landscape works, including a sub-station and switch room (circa 25 square metres); provision of bin stores, the relocation of an existing hexagonal glasshouse, relocation and re-use of garden walls, the demolition of glasshouse (25 square metres), the widening of the entrance to 9.1 metres to allow for footpaths and carriageway involving the removal of existing piers, gates and wheel guards, the lowering of a length of wall to Sandyford Road to provide sightlines, and the provision of new stone splay walls and piers; (vii) vehicular access is provided via the existing access to Herbert Hill off Sandyford Road which is to be widened to 9.1 metres, car parking on site is provided within a basement under the apartment building (105 number spaces) and on surface spaces at a variety of locations within the site (22 number spaces); 131 number bicycle parking spaces; all on a site of approximately 1.07 hectares within the grounds of Herbert Hill (a protected structure), Sandyford Road, Dundrum, 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 residential zoning of the site, to the pattern of development in the area, to the proximity of the site to means of public transport and to the revised proposals submitted with the appeal, the Board considered that the proposed development, subject to compliance with the conditions attached hereto, would not seriously injure the amenities of the area or of properties in the vicinity, would not adversely affect the setting of a protected structure, 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.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the revised proposals submitted with the appeal and considered that , with conditions attached removing Block B to the south-east of Herbert Hill House, the proposal would not have an adverse effect on the setting of a protected structure.

CONDITONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as modified by drawings and documents lodged with the appeal on the 10th day 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. The proposed Block B, to the South-East of Herbert Hill shall be omitted. The area thus released shall be incorporated into the communal open space serving the scheme. Drawings showing this revision shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: To protect the setting of a protected structure and to provide for additional communal open space.

3. Prior to commencement of development, a full delineation of communal open space areas including the proposed play area to the west of Block A and including the area released as a result of condition number 2 above shall be submitted for the written agreement of the planning authority. In the event of a shortfall in communal open space below the provisions of the development plan, the developer shall pay a contribution to the planning authority by agreement as provided for in the development plan.

Reason: To provide for adequate open space to serve the development.

4. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

6. 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.

7. 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.

Reason: In the interests of visual and residential amenity.

8. Proposals for an estate/street name, house 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 house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

9. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

Reason: In order to ensure the development of the public open space areas, and their continued use for this purpose.

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

11. 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 social and affordable housing in accordance with the requirements of section 96 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.

12. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 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.

13. 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.

14. 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.

15. (a) 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, in particular, recyclable materials for each apartment unit and house unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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:
 - (a) Location of the site and materials compound(s) including area(s) 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 on-site car parking facilities for site workers during the course of construction.
 - (e) Details of the 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 the closure of any public road or footpath during the course of site development works.
- (i) Provision of parking for existing properties during the construction period.
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (m) 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. 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.

18. 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.

19. 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.

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

Dated this day of 2016.