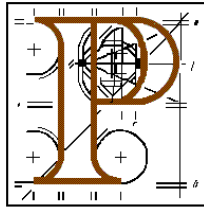


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dún Laoghaire-Rathdown County

Planning Register Reference Number: D15A/0191

An Bord Pleanála Reference Number: PL 06D.245621

APPEAL by Clonskeagh Residents' Association care of Diarmuid Ó Gráda of 16 Louvain, Roebuck Road, Dublin and by Darragh Graham and Joanne McBreen care of 33 The Maples, Clonskeagh, Dublin against the decision made on the 18th day of September, 2015 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Devondale Limited care of McCutcheon Halley Walsh of 23 Pembroke Street Upper, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: A development of a total of 54 number residential units including six number detached houses, 18 number semi-detached houses, six number terraced houses, 12 number townhouses and 12 number own-door ground-floor apartments, all situated around a central public space. The proposed development comprises the following residential units:-

House Type A - 18 number four-bedroom semi-detached two to three-storey dwellings, each with private rear gardens backing onto the northern and eastern boundaries of the site,

House Type B - six number four-bedroom terraced three-storey dwellings with private rear gardens backing onto the eastern boundary,

House Type C - three number four-bedroom detached three-storey dwellings with private rear gardens backing onto the southern boundary,

House Type D - three-storey building containing eight number two-bedroom apartments at ground floor and eight number three-bedroom townhouses at first and second-floor level with roof terraces at first-floor level facing west onto the mature tree line along the western boundary with the CUS Sports Grounds,

House Type D1 - three-storey building containing four number two-bedroom apartments at ground floor and four number three-bedroom townhouses at first and second-floor level with roof terraces at first-floor level facing south onto the boundary with the Church of the Immaculate Virgin Mary of the Miraculous Medal, and

House Type E - three number four-bedroom detached two to three-storey dwellings with private rear gardens fronting onto the proposed access road serving the site.

The proposed development includes a new vehicular access to serve the development off the existing entrance to the CUS Sports Pavilion grounds on Bird Avenue. Off-street parking is proposed for dwellings (Types A, B, C and E) and a total of 35 number car parking spaces are proposed along the internal estate road. Open space is proposed centrally within the site and along a western boundary landscaped walkway. The proposed development includes all connections to environmental services including a six-metre wide wayleave to be provided to facilitate connection to drainage infrastructures from Churchfields Estate, bin storage area at street level off the main service road, boundary treatments and site development works, all on a site measuring circa 1.43 hectares at Bird Avenue, Clonskeagh, Dublin. The site is generally bound to the north by amenity space associated with Churchfields residential estate, to the east by the rear of properties and amenity space in The Maples residential estate, to the south by the grounds of the Church of the Immaculate Virgin Mary of the Miraculous Medal and to the west by the CUS Sports Pavilion (Marist Fathers) grounds.

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 land use zoning objective for the site, as set out in the current development plan for the area, to the pattern of development and the prevailing density of housing in the vicinity, and to the constrained nature and characteristics of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would not seriously injure the amenities of the area or of property in the vicinity and would represent a reasonable density of residential development. 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 plans and particulars submitted to the planning authority on the 7th day of July, 2015 and the 24th day of August, 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 development shall be amended as follows:
 - (a) The junction at Bird Avenue providing access to the site shall be revised to comply with visibility standards as outlined in Section 4.4.5 of the Design Manual for Urban Roads and Streets.
 - (b) The proposed house on site number 25 (House Type F) shall be modified so that the roof is fully hipped on both sides, and the first floor window on the eastern gable is omitted.

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, and of pedestrian and traffic safety.

3. The proposed development shall be amended by the omission of the proposed houses on sites numbers 9 and 10. The area of land thus released shall be reserved for the provision of a single detached house, similar to House Type A1, and for the continuation of the proposed estate road and footpath to the northern boundary of the estate, thereby making provision for a pedestrian connection into the adjoining open space area of the Maples housing estate. Such development shall be the subject of a separate application for planning permission.

Reason: In the interest of encouraging pedestrian permeability within the wider area, in accordance with the provisions of the current development plan for the area and the Design Manual for Urban Roads and Streets.

4. The provision of the proposed sewers from the sewer connection within the Churchfields estate to the site of the proposed development shall take place, and the open space in the Churchfields estate shall be reinstated, to the written satisfaction of the planning authority, in advance of the construction of any of the houses or roads within the proposed development.

Reason: To ensure the timely provision of this sewer construction/connection and to minimise the impact of construction works on Churchfields estate.

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

Reason: In the interest of visual amenity.

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. Provision shall be made by the developer for electrical connections outside all of the proposed houses and apartments, to facilitate electrical charging of vehicles.

Reason: In the interest of visual and residential amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

9. The trees and hedgerow identified for retention shall be protected during construction in accordance with the tree protection measures outlined in the plans and particulars submitted. All service pipes shall be so routed as to avoid the root spreads of the trees identified for retention.

Reason: In the interest of orderly development, and to prevent damage to those trees identified to be retained, having regard to the policies set out in the current development plan for the area.

10. All boundary treatments shall be in accordance with those indicated in submitted documentation, with the exception that block walls, 1.8 metres in height, capped, and rendered on both sides, shall be provided instead of the proposed timber panel fencing bounding the rear gardens of all houses within the overall development.

Reason: In the interests of residential and visual amenity, and to ensure the provision by the developer of durable boundary treatment.

11. 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 for taking in charge by the local authority.

Reason: In the interest of amenity and of traffic and pedestrian safety, and to facilitate the eventual taking in charge of the development, following its completion, by the local authority.

12. 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. The lighting scheme shall include for public lighting to be provided along the access road from Bird Avenue, and at the junction of the road with Bird Avenue. All lighting, as approved by the planning authority, shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interest of amenity and public safety.

13. The areas of public open space shown on the lodged plans shall be reserved for such use, and shall be maintained by the developer as such until taken in charge by the local authority. These areas shall be landscaped in accordance with the landscaping scheme in the plans and particulars submitted. The landscaping scheme shall be implemented 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.

14. Proposals for an estate name, house/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 house/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.

15. The main sewers, watermains and public lighting conduits shall be located under roads/footpaths as far as practically possible, and not through private areas. Wayleave documentation shall be submitted to the planning authority for written agreement prior to commencing works on site granting Dún Laoghaire-Rathdown County Council all necessary rights for future maintenance of any sewers, watermains or public lighting conduits which are to be taken in charge and which are to be laid through private areas.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

16. Prior to commencement of development, (or any construction or tree felling connected with the development), the developer shall lodge a Tree Bond to a minimum value of €10,000 (ten thousand euro) with the planning authority. The bond lodgement shall be coupled with an Arboricultural Agreement, empowering the planning authority to apply such security, or part thereof, to the protection of any tree or trees on or adjoining the site, or the appropriate replacement of any such tree(s) which die, are removed or seriously damaged or diseased within one year after completion of the development. Any replacement planting shall use large semi-mature tree size(s) and species or similar as may be stipulated by the planning authority. After the expiry of the one year's post completion period, the developer shall submit an Arboricultural Assessment Report and Certificate, signed by a qualified Arborist, to the planning authority. Any remedial tree surgery, tree felling works recommended in that Report shall be undertaken by the developer at the developer's expense, under the supervision of an Arborist. The Tree Bond shall not be released until the Report, Certificate and any remedial works have been undertaken, to the satisfaction of the planning authority.

Reason: To ensure the satisfactory protection and long-term viability of all trees that are to be retained on the site.

17. Prior to commencement of development, the developer shall appoint and retain the professional services of a qualified Landscape Architect (or a qualified Landscape Designer) as a Landscape Consultant, for the duration of the development works; and shall notify the planning authority in writing of the name and contact details of the appointed consultant, prior to commencement of development. As soon as possible thereafter, that consultant shall agree in writing with the planning authority details of revised requirements for additional tree planting in the south-western corner of the site and any related requirements of the planning authority regarding planting details. The Landscape Consultant shall sign a Practical Completion Certificate when all landscape works are, in his/her opinion, fully completed and in accordance with the permitted landscape proposals. That Certificate shall be submitted to the planning authority for assessment.

Reason: To ensure verifiable implementation of approved landscape design.

18. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed houses.

19. 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, and
 - (h) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.

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 interests of amenities, public health and safety.

20. 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 for the area.

21. 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.

22. 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.

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

Dated this day of 2016.