

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dún Laoghaire-Rathdown County

Planning Register Reference Number: D15A/0036

An Bord Pleanála Reference Number: PL 06D.245945

APPEAL by Noel and Cathy Wall care of Michael PG Wall of 31 Pembroke Lane, Ballsbridge, Dublin and by others against the decision made on the 30th day of November, 2015 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to The Health Service Executive care of MacCabe Durney Barnes of 20 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development consisting of the construction of a residential scheme comprising 10 number four-bedroom two plus dormer storey houses, two number five-bedroom two plus dormer storey houses, six number one-bedroom apartments, 26 number two-bedroom apartments and four number three-bedroom apartments in two three-storey blocks. The gross total floor area of the residential units is 6,097 square metres. The scheme will be accessed via a new vehicular access off Newtownpark Avenue. A total of 81 number car parking spaces at basement and surface level will be provided and an electricity sub-station, bicycle parking spaces, open space, landscaping, boundary treatment works, site development works and other ancillary works. The proposed development is within the curtilage of protected structures on a site of circa 1.27 hectares at Cluain Mhuire, Newtownpark Avenue, Blackrock, County Dublin, as amended by the revised public notice received by the planning authority on the 3rd day of November, 2015.

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

The proposed development is located on lands zoned to protect and/or improve residential amenity, as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and is subject to a site framework strategy in the Blackrock Local Area Plan 2015 to 2021 that supports residential development on the site.

Having regard to this planning policy for the application site, to the pattern of development in the area, and the availability of public transport and community facilities in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not unduly detract from the character or setting of a protected structure, would be in accordance with the provisions of the County Development Plan and Local Area Plan and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered and adopted the Planning Inspector's evaluation, analysis and conclusions in relation to Appropriate Assessment.

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 3rd day of November, 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 north-facing dormer windows to serve town house units number 13 to 16 shall be relocated to face south over the proposed parking area. 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 interest of visual and residential amenity.

3. Each proposed dwelling shall be used as a single residential unit.

Reason: In the interest of orderly development, residential amenity and clarity.

4. The proposals for landscaping shall be substantially increased, in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) a plan to scale of not less than 1:500 showing:

- (i) the species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly indigenous deciduous species,
- (ii) details of screen planting,

- (iii) details of roadside/street planting,
 - (iv) details of dense planting along the boundaries between the proposed access road and the rear of houses on Newtownpark Avenue; the proposed border to the access road shall be increased in width if necessary to meet this requirement, in order to provide appropriate screening for these houses,
 - (v) hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels,
- (b) specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment, and
- (c) a timescale for implementation, including details of any phasing.

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: To compensate for the significant removal of trees, in the interests of residential and visual amenity.

5. The proposed development shall be undertaken under the supervision of a qualified arborist, in accordance with details, including details of all reporting and certification requirements, to be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of the protection of existing trees proposed to be retained.

6. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be 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 and shall be maintained as public open space by the developer until taken in charge by the local authority or the management company as appropriate.

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

7. A Stage 2 independent Quality Audit shall be submitted to, and agreed in writing with, the planning authority in accordance with the Design Manual for Urban Roads and Streets. The recommendations of the Quality Audit shall be implemented to the written satisfaction of the planning authority, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential amenity and accessibility.

8. The design details of the proposed entrance to the yard to the rear of Cluain Mhuire shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of traffic safety.

9. A minimum of one clearly identified car parking space shall be assigned permanently to each residential unit and shall be reserved solely for that purpose.

Reason: In the interest of residential amenity.

10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed standards of the planning authority for such works, to the written satisfaction of the planning authority.

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

11. All car park spaces shall be capable of accommodating electric charging points. Prior to commencement of development, details indicating compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development.

12. 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 dwelling.

Reason: In the interest of amenity and public safety.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television cables) 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 interest of visual and residential amenity.

14. All rear gardens shall be bounded by block walls, 1.8 metres in height, capped and rendered on both sides, to the written satisfaction of the planning authority.

Reason: In the interest of residential and visual amenity.

15. Screen walls shall be provided along the boundary with Cluain Mhuire and the boundary with the rear gardens of houses on Newtownpark Avenue. Prior to commencement of development details of the height, layout, the materials, and external finishes of these screen walls shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of residential and visual amenity.

16. 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.

17. (a) The communal open spaces, including hard and soft landscaping, car and bicycles 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.

18. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and

- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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;

- (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; and
- (n) Details of construction hours.

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.

20. 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. 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.

21. 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.

22. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any trees or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the fine trees on the site.

23. 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, water mains, 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.

24. The developer shall pay to the planning authority a financial contribution of €394,680 (three hundred and ninety four thousand, six hundred and eighty euro) 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. The application of any 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 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.

25. 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, as amended, in respect of the provision of a toucan crossing and associated lighting on Newtownpark Avenue. 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 the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with 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.

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

Dated this day of 2016.