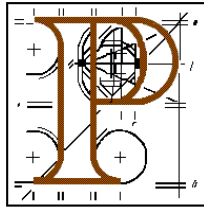


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 4242/15

An Bord Pleanála Reference Number: PL 29N.246250

APPEAL by Seán Ryan of 25 The Meadows, Howth Road, Dublin and by others against the decision made on the 18th day of February, 2016 by Dublin City Council to grant subject to conditions a permission to MKN Developments Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Demolition of three number habitable dwellings at 1, 1A and 1B Sybil Hill Road and the erection of 76 number dwellings consisting of:

- eight number two-storey terraced houses consisting of one number two bedroom and seven number three bedroom houses of between 124.3 and 138.3 square metres each,
- 10 number one bedroom apartments at between 54.9 and 62.9 square metres each, 53 number two bedroom apartments at between 77.1 and 99.6 square metres each, five number three bedroom apartments at between 102.7 and 111.7 square metres each, plus balconies and roof gardens, in two number buildings varying in height from three to five storeys,

- crèche facility of 97.8 square metres and associated play space on the ground floor of Block A,
- community/café of 132.8 square metres and associated garden on the ground floor of Block A,
- a basement car park containing 105 car spaces,
- boiler house, bin store, bicycle storage for 120 bicycles and ancillary facilities,
- the closing of four number existing site entrances and the creation of two number new site entrances on Sybil Hill Road (a ramped entrance to the basement car park and a fire service and pedestrian entrance),
- Electricity Supply Board substation and switch room facility on Sybil Hill Road, and
- associated landscape works.

All on a 0.68 hectare site at number 1, 1A and 1 B (and lands to the rear of same), Sybil Hill Road, Raheny, 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 Z15 institutional zoning objective for the area, as set out in the current Dublin City Development Plan, to the pattern of development in the vicinity and to the planning history of the site, and having regard to policies in the Development Plan to promote sustainable residential densities in appropriate locations, it is considered that, subject to compliance with the conditions set out below, the proposed development would not materially contravene the zoning objective, would constitute an acceptable residential density in this suburban location, would not seriously injure the residential amenities of properties in the vicinity, would not detract from the character and setting of the nearby Protected structure, Sybil Hill House, and would be acceptable in terms of traffic safety and convenience. The proposed development 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 noted that an overall masterplan for the Z15 zoned lands in the area, which had not been submitted in the case of the previous application for residential development of the subject site under file reference number PL 29N.244588, had been submitted with the current proposal. Furthermore, the Board was of opinion that the concerns expressed by the planning authority in relation to deficiencies in this masterplan, as outlined in the authority's request for further information under planning application register reference number 4185/15, could not be resolved in relation to the development of the subject site, but rather to the other residential development proposed on the Z15 zoned lands, and that, therefore, it was of the view that the proposed development on the subject site would not be premature pending resolution of these deficiencies in the masterplan.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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) House number 8 in Block C shall be omitted and the resultant space shall be incorporated into the private open space for the adjoining house, number 7.
 - (b) Any rear rooflights in the proposed houses in Block C shall be not less than 1.8 metres above finished attic floor level.
 - (c) No areas, other than the designated balconies and terraces, and the roof garden of Block A, shall be used, or be made capable of use, as terraces or patios.
 - (d) All landing lights, w.c.'s and bathrooms in the proposed development shall be permanently fitted with opaque 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 interest of protecting the residential amenities of surrounding properties.

3. Prior to commencement of development, the developer shall submit to, and obtain the written agreement of the planning authority, for the following:-
 - (a) The proposed screening treatment to the northern end of the decks of Block A.
 - (b) Any screening measures considered necessary by the authority to avoid potential overlooking of existing houses to the north of the proposed roof garden on Block A.

Reason: In the interest of protecting the residential amenities of surrounding properties.

4. Prior to the commencement of the development, the developer shall submit to, and agree in writing with, the planning authority details of all the materials, textures and colours for the external facades including fenestration. Samples shall be displayed on site to facilitate the planning authority.

Reason: In the interests of visual amenity, clarity and orderly development.

5. Proposals for a development/estate name, house and unit 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 signs, and house 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.

6. Site development and building works shall be carried out between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, excluding bank holidays, between 08.00 to 13.00 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 the interest of protecting the residential amenities of adjoining properties.

7. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place above roof parapet level, other than that specifically included in the development description for the proposed development, including any solar panels, 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 visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

8. 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 in Block C 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.

9. The existing east and north garden wall structures shall be retained and shall be conserved in accordance with Best Conservation Practice. This conservation work shall be carried out under the professional supervision on-site of an accredited Grade 1 Conservation Architect or expert with specialised conservation expertise, in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. Prior to any excavations, vibration monitors shall be provided to measure vibrations and the walls shall be monitored throughout the construction period to ensure that the stability of the walls does not deviate from acceptable norms. Any required underpinning works shall be carried out under the supervision of the Conservation Architect or expert with specialised conservation expertise.

Reason: In order to ensure that the existing garden wall, which is part of the historic fabric of the area, is appropriately conserved and protected.

10. (a) The uses of the community centre building and crèche shall be restricted to Class 8 use and Class 10 use as set out in Part 4 of Schedule 2 to the Planning and Development Regulations, 2001.
- (b) The proposed café shall be operated as an ancillary use to the community centre building and shall not be independently branded from the use(s) of the community centre building.
- (c) Opening hours of these units shall be between 07.00 hours to 22.30 hours only.
- (d) Prior to the first occupation of the community centre building, details of a Special Purpose Vehicle which could take the form of a corporate, charitable or not-for-profit organisation that would hold the freehold/long leasehold interest in the café/community centre to ensure that its purpose is to provide for the greater benefit of the community shall be submitted to, and agreed in writing with, the planning authority.

- (e) No commercial type external extraction or ventilation system shall be erected without a separate grant of planning permission.

Reason: In the interest of orderly development.

11. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess any further signage or other structures through the statutory planning process.

12. If required, any proposed roller shutters and casings shall be recessed behind the glazing and shall be factory finished in a single colour to match the colour scheme of the building prior to their erection. Roller shutters shall be of the open lattice type, and shall not be painted on site or left unpainted or used for any form of advertising.

Reason: To protect the visual amenities of the area.

13. 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 noise management measures and off-site disposal of construction/demolition waste.

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

14. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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

15. 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.

16. 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 works.

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

17. Public lighting shall be provided in accordance with a scheme, to include lighting in the communal open space and along pedestrian routes, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

18. (a) Prior to the first occupation of any residential unit, details of proposals for a play area for younger children which shall be located within the development's proposed shared landscape area, and shall not be located adjacent to proposed vent grilles, shall be submitted to, and agreed in writing with, the planning authority.
- (b) The landscape scheme accompanying the planning application shall be implemented in full in the first planting season following completion of the development and prior to occupation, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. The landscape scheme shall have regard to the planning authority's Guidelines for Open Space Development and Taking in Charge. The developer's Landscape Architect shall certify by letter their opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development.
- (c) The proposed development shall not impact on the existing public street trees along Sybil Hill Road. All trees shown shall be retained on the site and adjacent to the site shall be adequately protected during the period of construction in accordance with BS: 5837. Such measures shall include a protection fence which shall be erected beyond the branch spread, and no construction work or storage shall be carried out within the protective barrier. The tree protection measures shall have regard to the planning authority's Guidelines for Open Space Development and Taking in Charge.

Reason: In the interest of amenity, ecology and sustainable development.

19. (a) Prior to commencement of development, the developer shall delineate on a map those areas which are to be taken in charge for the written agreement of the planning authority. In relation to those areas not to be taken in charge, a Management Company shall be set up. The Management Company shall provide adequate measures for the future maintenance and repair in a satisfactory manner of private open spaces, roads, footpaths, car park and all services, together with soft and hard landscaping areas, where not otherwise taken in charge by the local authority.
- (b) The Management Scheme shall include the café/community centre, such that all residents shall have access to the facilities at times which shall be stated in writing. Any changes to the overall community facility provision shall be agreed in writing with the planning authority prior to the first occupation of the development.

Reason: In the interest of the future maintenance of this development, and in the interests of residential amenity and the adequate provision of community facilities.

20. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, 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: In the interests of residential amenity and proper waste management.

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 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.

22. 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, communal 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 and maintenance of the development.

23. 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 the 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.

24. The developer shall pay the sum of €4,000 (four thousand euro) per residential unit (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), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended in respect of public open space. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. 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.

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

Dated this day of 2016.