

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Dún Laoghaire-Rathdown County

Planning Register Reference Number: D15A/0839

An Bord Pleanála Reference Number: PL 06D.246304

APPEAL by C. and A. O'Sullivan of 1 Barnagh Lane, Torquay Road, Foxrock, Dublin and by others against the decision made on the 22nd day of February, 2016 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Targeted Investment Opportunities ICAV care of Stephen Little and Associates of 6 Upper Mount Street, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Demolition of existing 'Rockall' dwellinghouse (circa 215 square metres) and single storey outbuilding (circa 51 square metres) on site and the construction of a roughly 'L' shaped building (circa 3,916.7 square metres gross floor area) arranged in two blocks linked above ground level accommodating 35 number apartments in total with associated balconies/terrace on the south-east, south-west, north-east and north-west elevations and green roofs and roof mounted solar panels also proposed on both blocks: Block A – (three-storeys) accommodates six number two-bed apartments; Block B – (part two-storey, part-three-storey, part four-storey) accommodates seven number one-bed apartments, 15 number two-bed apartments and seven number three-bed apartments; all ancillary site development and landscape works, including provision of amenity open space and children's play space; the existing vehicular entrance to the property onto The Birches will be widened and improved and will serve the entire development; construction of a single level basement car park (circa 2,321,7 square metres gross floor area) with 53 number residential car parking spaces which includes three number universal access car parking spaces and 36 number bicycle spaces, bin store area (circa 34.9 square metres), together with ancillary space; at ground level five number visitor spaces, which includes one number universal access car parking space and 10 number visitor bicycle spaces are provided; one number ESB substation (circa 14

square metres). Permission is also sought for a new pedestrian access on the southern boundary of the site where it adjoins The Birches, all on lands measuring approximately 0.643 hectares at 'Rockall', The Birches, Torquay Road, Foxrock, 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 provisions of the Dún Laoghaire-Rathdown County Development Plan 2016–2022, and in particular the objectives of this Plan that seek to promote infill residential development and increased residential densities, and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, as modified, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of pedestrian and traffic safety, and would not lead to a risk of flooding of the subject site or adjacent properties. 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 submitted to An Bord Pleanála on the 20th day of April, 2016 and on the 5th day of September, 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. This permission relates to the construction of 28 apartments only, in accordance with the revised plans and particulars submitted to An Bord Pleanála on the 5th day of September, 2016. No additional residential units or apartments, in excess of the 28 apartments hereby permitted, shall be constructed on this site.

Reason: In the interest of clarity and in order to limit the extent of residential development on this site in the interests of pedestrian and traffic safety, and to protect the residential amenities of adjoining properties.

3. The proposed development shall be amended as follows: -
 - (a) The extent of the proposed basement, as indicated on drawing number 2129 XXX-CA-00-B1-DR-A-0511, revision P-5, submitted to An Bord Pleanála on the 5th day of September 2016, shall be modified by the omission of proposed car parking spaces numbers 8 to 17 inclusive. The number of cycle spaces shall not be reduced as a result of this modification. The south-western extent of the basement shall therefore be a wall running between the sides of proposed car parking spaces 7 and 18.

- (b) The proposed pedestrian footpath and new gate/pedestrian access from the site to the cul-de-sac in the “The Birches” estate, at the south of the site, shall be omitted, and the existing stone wall shall be retained in full. The trees at this location shall be fully retained, except where their removal is necessitated by public safety considerations.
- (c) The balustrades of the balconies of apartments numbers 11 and 21, and the side (facing south-west) balustrades of the balconies of units 12 and 22, shall be glazed with opaque glass.
- (d) All windows serving landings, WCs 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 interests of protecting the residential amenities of adjoining properties, and to limit the extent of underground construction in the interests of avoiding the risk of flooding to the subject site and to adjoining properties.

- 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. The site access arrangements (as modified by condition 2 (b) of this permission), and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the basement car park (as modified by condition 2 (a) of this permission), shall be in accordance with the detailed requirements of the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points.

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

6. Details of all boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development (including any demolition works) on the site.

Reason: In the interests of visual and residential amenity.

7. Prior to commencement of any permitted development or any related construction activity or tree felling on the site, the developer shall lodge a Tree Bond to the value of €30,000 with the planning authority. This is to ensure the protection of trees on and immediately adjacent to the site to make good any damage caused during the construction period. The bond lodgement shall be coupled with an Arboricultural Agreement, with the developer, empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on or immediately adjoining the site, or the appropriate and reasonable 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. Any replacement planting shall use large semi-mature tree size(s) and species or similar as may be stipulated by the planning authority. An Arboricultural Assessment Report and Certificate is to be signed off by a qualified Arborist after the period of three months of completion of the works. Any remedial tree surgery, tree felling works recommended in that Report and Certificate shall be undertaken by the developer, under the supervision of the Arborist.

Reason: To ensure the protection, safety, prudent retention and long-term viability of trees to be retained on and immediately adjacent to the site.

8. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the Arboricultural Method Statement and Tree Protection Plan in the submitted tree report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

9. The proposed communal open spaces, grouped car parking areas and access road within the site shall be retained in private ownership and maintained by a properly constituted 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.

Reason: To ensure a proper standard of residential development and maintenance of communal facilities.

10. Proposals for an estate/development name, 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/development signs, and 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 interests of urban legibility, and to ensure the use of locally appropriate place names for new residential developments.

11. Site development and building works shall be carried out only between 08.00 hours and 18.00 hours Mondays to Fridays excluding bank holidays and between 08.00 hours and 13.00 hours on Saturdays. Deviation from these times will 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.

12. 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.

13. 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 interest of visual and residential amenity, and of sustainable development.

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 (which shall not be within the areas designated for tree protection) and for storage of deliveries to the site.

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

15. 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.

16. 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. Such lighting shall be provided prior to the making available for occupation of any unit.

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

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 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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, communal open spaces 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.

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 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.

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

Dated this day of 2017.