An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 3666/15

An Bord Pleanála Reference Number: PL 29N.246373

APPEAL by David Rouse on behalf of the Royal Canal Park Community Association of the Management Suite care of Royal Canal Park, Dublin and by Capel Developments Limited (in receivership) care of Stephen Little and Associates of 6 Upper Mount Street, Dublin against the decision made on the 29th day of February, 2016 by Dublin City Council to grant subject to conditions a permission to the said Capel Developments Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of 318 number dwellings comprising 176 number apartments (including duplex units) in three number buildings ranging in height from five to six storeys comprising 16 number one bed apartments, 132 number two bed apartments and 28 number three bed apartments each served by a balcony/terrace and solar panels on the roof; 142 number houses comprising 55 number three bed houses and 87 number four bed houses in the form of terraced, semi-detached and detached houses, ranging in height from two to three storeys; all houses have private gardens and solar panels at roof level; a crèche facility (circa 397 square metres) and associated play space (circa 138 square metres); all associated site development and landscape works and boundary treatments including: public open space (circa 5,433 square metres) including a public park with active play area; communal open space (circa 2,329 square metres) including podium courtyards and communal gardens; 577 number car parking spaces including surface car spaces in a variety of on-curtilage and on-street conditions and undercroft car spaces located at ground floor level within the

three number apartment blocks and under podium open spaces; 226 number bicycle parking spaces, bin stores and plant areas within the three number apartment blocks; an Electricity Supply Board substation (circa 25 square metres); six number vehicle accesses and one number dedicated pedestrian/cycle access to the site from Rathborne Avenue, one number vehicle access to the site from Royal Canal Way and individual dwelling accesses from Rathborne Avenue; associated road improvement works including provision of a raised table, traffic island, new road markings and kerbing on Rathborne Avenue; and provision of a traffic island on Royal Canal Way, all at site (circa 5.1 hectares) known as the 'Capel' Site, Pelletstown, Ashtown, Dublin. The site is bounded generally by Rathborne Avenue to the North, the Royal Canal to the South, Rathborne Avenue and Ashtown Village Centre to the West and existing residential development adjoining Rathborne Drive and Royal Canal Way to the East.

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 Z14 Strategic Development and Regeneration Area zoning objective for the site, and its location within Pelletstown which is designated as a Key Developing Area in the Dublin City Development Plan 2011-2017, to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in May 2009, together with the design, layout and scale of the proposed development and the pattern of development 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 amenities of the area or the residential amenities of property in the vicinity 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.

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 the 2nd day of February 2016 and by the further plans and particulars received by An Bord Pleanála on the 29th day of March, 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. The proposed development shall be amended as follows:
 - (a) Dwelling number 114 shall be omitted and dwellings numbers 112 and 113 shall be relocated northwards to form a fourdwelling terrace at this location. The vacated area shall be incorporated into adjoining public or communal open space.
 - (b) Block J shall be five storeys in height with a set back fifth storey as illustrated on drawings submitted with the first party appeal to An Bord Pleanála on the 29th day of March, 2016. The second floor plan shall be identical to the third floor plan, that is, the three one bed units shown on the second floor shall be replaced by two number two bed units.

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 traffic safety and convenience.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

5. Prior to commencement of development, the developer shall delineate on a map those areas which are to be taken in charge, which shall include the main central open space, for the written agreement of the planning authority. In relation to those areas not 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. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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 within each phase and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

7. All planting/landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority shall be maintained, and if any tree or plant dies or is otherwise lost within a period of five years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss. Landscaping plans shall include for street furniture within the central open space area and shall make provision for bicycle stands serving this area.

Reason: In the interest of visual amenity.

8. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Phase 1 shall include the central open space including the area between blocks H 1 and H2 as far as the canal towpath.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

9. The proposed crèche/childcare facility shall comply with the Childcare facilities Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June 2001.

Reason: In the interest of orderly development.

10. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses 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 dwellings.

- 11. (a) The internal road network and external access junctions serving the proposed development, including turning bays, junctions, parking areas, footpaths, pedestrian crossings, cycleways and kerbs shall comply with the detailed standards of the planning authority for such road works.
 - (b) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority details of design and completion dates of proposed and permitted pedestrian crossings in the immediate vicinity of the proposed development.
 - (c) The works set out at (b) above shall be carried out by the developer or the planning authority at the developer's expense.

(d) If the works set out at (b) above are to be carried out by the planning authority, 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 works set out at (b) above. 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 An Bord Pleanála for determination. The contribution shall be paid prior to commencement of 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, and in the interest of orderly development.

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

12. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

13. 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 interest of amenity and public safety.

14. 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 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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

15. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

16. Proposals for an estate/street 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(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].

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 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.

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 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.

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 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 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.

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

Dated this day of 2016.