

An Board Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 3389/15

An Bord Pleanála Reference Number: PL 29S.246625

APPEAL by Rathmines Initiative care of 49 Lower Mountpleasant Avenue, Dublin and by others and by Blackberry Fair Co-Ownership care of Brock McClure Planning and Consultants of 63 York Road, Dun Laoghaire, County Dublin against the decision made on the 26th day of April, 2016 by Dublin City Council to grant subject to conditions a permission to the said Blackberry Fair Co-Ownership in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Demolition of number 46 Lower Rathmines Road (circa 596.1 square metres gross floor area (gfa)) and a derelict mews building (circa 66.2 square metres gross floor area) on Fortesque Lane, to the rear of number 36 Lower Rathmines road and the refurbishment of existing numbers 40, 42 and 44 Lower Rathmines Road (protected structures) and the construction of two new additional buildings creating a student residential complex, comprising the following: Building A: (circa 2,547.6 square metres gross floor area), located to the east of the site, is a new four storey building over basement level comprising of 74 student residential units with associated communal living accommodation over a single basement level comprising of associated common room, storage spaces, gym and laundry facilities; Building B: (circa 478.5 square metres gross floor area), located to the west of the site, includes the demolition of number 46 and the construction of a new three storey building over ground floor level fronting onto Lower Rathmines Road comprising of eight student residential units with associated communal living room, kitchen dining areas and laundry facilities with caretaker accommodation located at ground floor level; Building C: (circa 1,215.6 square metres gross floor area), located to the west of the site, comprises of numbers 40, 42 and 44 Lower Rathmines Road (Protected Structure) and will include the refurbishment and restoration of the existing Georgian terrace and the provision of 24 student residential units with associated communal living

room, kitchen dining areas and laundry facilities; - works to number 40 will include the removal of the existing bedsit accommodation at all levels and the reinstatement of the original room layout with all associated sanitary facilities located into a new rear return (50.4 square metres over three levels) access of the stair landings, - works to number 42 and 44 will include the removal of the existing bedsit accommodation at all levels and the reinstatement of the original room layout with all associated sanitary facilities located into the existing rear returns accessed off the stair landings. A sunken landscaped well is proved at basement level of Block A with landscaped courtyard at lower ground floor level and terrace at third floor level. It is also proposed to reinstate the original boundary walls and gardens (including provision of double gates, and the repair and refurbishment of existing entrance steps, railings and balustrades) to the front of numbers 40, 42 and 44 Lower Rathmines Road, and the provision of one number car parking space per unit garden. The scheme provides for four number car parking spaces, 42 number bicycle parking spaces, residential refuse storage to the eastern boundary, and associated plantrooms at basement level including all associated landscaping, boundary treatment, site development and service works. Pedestrian access to the site is provided via the existing archway from Lower Rathmines Road and a secondary pedestrian access onto Fortesque Lane, all on site of circa 0.2585 hectares at 'Blackbery Fair', and within the curtilage of numbers 40, 42 and 44 (Protected Structures) and 46 Lower Rathmines Road, Rathmines, Dublin. The site is bounded by number 34 Lower Rathmines Road (Protected Structure to the north, number 48 Lower Rathmines Road and Mary Immaculate Refuge of Sinners Church to the south (a Protected Structure); numbers 36 and 38 Lower Rathmines Road to the west and Fortesque Lane and three number dwellings (Bessborough Court) accessed via Bessborough Parade 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 nature and scale of the proposed development, the planning history of the site, to the 'Z2' zoning of the site in the Dublin City Council Development Plan 2016–2022 the objective of which zoning is 'to protect and/or improve the amenities of residential conservation areas' and to the existing character and pattern of development in the vicinity of the site, 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 or of dwellings in the vicinity of the site, would be acceptable in terms of architectural heritage and conservation and its impact on Protected Structures including those incorporated with the proposed development and those on adjoining and adjacent sites, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and 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 considered that subject to the amendments made by conditions including requiring the omission of a floor from proposed Block A, the proposed would not seriously injure the amenities of dwellings adjoining and adjacent to the site and would represent an acceptable use and form and scale of development within an area zoned as a residential conservation area in the Dublin City Development Plan 2016–2022.

In not accepting the Planning Inspector's recommended second reason for refusal, the Board considered that the proposed development had merit in that it provided for the conservation of Protected Structures at Numbers 40, 42 and 44 Lower Rathmines Road in a satisfactory manner which will contribute to the long terms survival of these buildings and a replacement building at Number 46 Lower Rathmines Road of suitable design and scale in keeping with the character of the streetscape at this location. The Board had regard to the limitations imposed on the redevelopment of Numbers 40, 42 and 44 by reason of their status as Protected Structures and concluded that the proposed development would provide for a satisfactory standard of accommodation for future residents of proposed Buildings B and C.

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 30th 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) The floor indicated as 'first floor' on drawing number PL.20 received by the planning authority on the 30th day of March, 2016 and indicated at level 23.85 on drawing number PL.31 (Block A) received by the planning authority on the 30th day of March, 2016 shall be omitted in its entirety. The proposed sedum roof shall be extended to cover the entire roof of the proposed ground floor as indicated on drawing number PL.18 received by the planning authority on the 30th day of March, 2016.
 - (b) The front elevation to the proposed replacement building at Number 46 Lower Rathmines Road shall incorporate a front entrance door onto Lower Rathmines Road as indicated per drawing number PL.29 received by the planning authority on the 7th day of August, 2015 and the layout of the ground floor of this building as indicated on the further information received by the planning authority on the 30th day of March, 2016 shall be modified, as appropriate, to accommodate this front entrance door.

Details of these amendments and modifications shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In order to protect the amenities of adjoining dwellings at Bessborough Court.

3. The proposed units shall be used as student accommodation only and shall not be leased or sublet for any other use unless a prior grant of

planning permission has been obtained from the planning authority or An Bord Pleanála on appeal.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

5. 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.

6. The use of the residential accommodation hereby permitted shall be restricted to Student Accommodation (as specified in the lodged documentation and description of proposed development), and shall not be occupied for any other purpose without a prior grant of planning permission for a change of use. The student accommodation complex shall be operated and managed in accordance with the measures indicated in the Student Management Plan submitted to the planning authority with the planning application. Any changes in the operation and management of the complex shall be the subject of a new planning application.

Reason: In the interest of the proper planning and sustainable development of the area and to limit the scope of the proposed development to that for which the application was made.

7. The landscape scheme accompanying the application shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed

within three years of planting shall be replaced in the first planting season thereafter.

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

8. 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.

9. (a) 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 for each unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

10. All works to the interior of the existing buildings at numbers 40, 42 and 44 Lower Rathmines road and all conservation works to the exterior, including roof and fenestration, shall be carried out under the

supervision of a suitably qualified Historic Building Fabric Consultant/Accredited Conservation Architect, who shall certify in writing to the planning authority upon completion that the permitted works have been carried out in accordance with good conservation practice.

Reason: In order to ensure that the proposed works are carried out in accordance with good conservation practice.

11. (a) The access to the site from Fortescue Lane shall not be used for vehicular access and deliveries or bin collection.
- (b) The arrival and departure of students associated with the moving into and vacating of units shall be managed so as to minimise the impact on the adjoining road network and other road users.

Reason: In the interest of traffic safety.

12. Cycle parking provision within the site shall be secure, sheltered, well-lit and shall be designed so that both the frame and wheels of each bicycle can be secured to the bicycle stand. Details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In order to provide for suitable bicycle facilities to serve the proposed development in accordance with Development Plan standards.

13. 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 amenity and public safety.

14. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area.

15. 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.