

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Dún Laoghaire-Rathdown County

Planning Register Reference Number: D16A/0602

An Bord Pleanála Reference Number: PL 06D.247514

APPEAL by Hurley Property ICAV care of Tom Phillips and Associates of 80 Harcourt Street, Dublin against the decision made on the 6th day of October, 2016 by Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development.

PROPOSED DEVELOPMENT: Provision of a shop (as defined under Class 1 of Schedule 2, Part 4 of the Planning and Development Regulations 2001-2015), measuring 314 square metres gross floor area, to a maximum height of 7.5 metres. The development will also consist of: signage zones on the southern elevation of the new shop (measuring approximately 6.39 square metres) and on the Retail Park's new eastern boundary wall (measuring approximately 3.24 square metres); alterations to the Retail Park's existing eastern boundary including the partial removal of the existing sound barrier and the provision of a 3.3 metres high boundary wall; alterations to the Retail Park's existing surface car parking layout; associated alterations to the site's hard and soft landscaping; ancillary site servicing (foul and surface water drainage and water supply) and all other associated site excavation and site development works above and below ground. The development will also consist of permission to omit condition number 3(a) of the Retail Park's Parent Permission (Dún Laoghaire-Rathdown County Council planning register reference number D04A/0893; An Bord Pleanála appeal reference number PL06D.210084), which requires the provision of a ten car, left turning, stacking lane into the Park from Nutgrove Avenue and associated amendments to condition number 2(1), which, in part, includes provision to be made for this left turning lane, all on a site of approximately 2.8 hectares at Nutgrove Retail Park, Nutgrove Avenue, Rathfarnham, Dublin, as amended by the revised public notice received by An Bord Pleanála on the 10th day of

April, 2017 as follows: provision of a shop (as defined under Class 1 of Schedule 2, Part 4 of the Planning and Development Regulations 2001-2015), measuring 277 square metres gross floor area, ranging in height from 5 metres to 8 metres. The development will also consist of: signage zones on the southern elevation of the new shop (measuring approximately 4.64 square metres) and on the Retail Park's new eastern boundary wall (measuring approximately 3.24 square metres); alterations to the Retail Park's existing eastern boundary, including the partial removal of the existing sound barrier and the provision of a 3.1 metres high boundary wall; and the provision of tree planting between the new eastern boundary and shop unit and the existing eastern boundary; alterations to the Retail Park's existing surface car parking layout; associated alterations to the site's hard and soft landscaping; ancillary site servicing (foul and surface water drainage and water supply) and all other associated site excavation and site development works above and below ground. The development will also consist of permission to omit condition number 3(a) of the Retail Park's Parent Permission (Dún Laoghaire-Rathdown County Council planning register reference number D04A/0893; An Bord Pleanála appeal reference number PL06D.210084), which requires the provision of a ten car, left turning, stacking lane into the Park from Nutgrove Avenue and associated amendments to condition number 2(1), which, in part, includes provision to be made for this left turning lane.

DECISION

GRANT permission for the above proposed development in accordance with the plans and particulars lodged with the said council, based on the reasons and considerations under and subject to the condition(s) 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 extent of the development proposed, the site's District Centre land use zoning objective in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, the pattern of development in the area and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed amended shop development, as submitted with the first party appeal documentation, would promote the zoning objective "DC" for the site, 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 and would comprise an acceptable design and use in this transitional area. It is, therefore, considered that the amended development submitted with the first party appeal, would 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 received by An Bord Pleanála on the 2nd day of November, 2016, and revised public notices received by An Bord Pleanála on the 10th day of April, 2017, 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 proposed shop shall be provided with a green roof.
 - (b) The existing pipes underneath the site of the proposed shop shall be surveyed by CCTV or other means, as agreed in writing with the planning authority, to the point at which they join the public network.

- (c) Existing cycle stands in the surface car park shall be retained and augmented, as appropriate, under a cycle parking plan for the site.

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 order to promote good site drainage practice and a sustainable mode of transportation.

3. Details of the materials, colours and textures of all the external finishes to the proposed shop and associated new wall 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. 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 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 public safety and residential amenity.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. The landscaping scheme shown on drawing number 1529-A-PL-106 Revision D, as submitted to the An Bord Pleanála on the 2nd day of November, 2016, shall be carried out within the first planting season following substantial completion of external construction works. 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: In the interest of residential and visual amenity.

8. (a) Details of the signage shown indicatively on the plans submitted to An Bord Pleanála on the 2nd day of November, 2016 shall be submitted to, and agreed in writing with, the planning authority, prior to its installation.
- (b) Save for the provisions of (a) above and 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 afford the planning control over such signage in the interest of visual amenity.

9. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

10. 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 2017.