



Planning and Development Acts 2000 to 2016

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D16A/0260

Appeal by John and Ann Armstrong care of Diamond Architects of 23 Hainault Drive, Foxrock, Dublin and by Moran Park Homebuilders Limited care of Brock McClure of 68 York Road, Dún Laoghaire, County Dublin and by others against the decision made on the 2nd day of December, 2016 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to the said Moran Park Homebuilders Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of 46 number dwellings in the form of 39 number apartments (Gross Floor Area circa 5,794 square metres) and seven number houses (Gross Floor Area circa 1,508 square metres). The development shall provide for: (a) Apartment Blocks A (18 number units) and B (21 number units), both three-storey with set-back fourth floor level, comprising six number one bed units, 17 number two bed units, 15 number three bed units and one number four bed unit, over basement level, with balconies and roof terraces in each block and (b) seven number four bed house units (three storeys), all with associated rear gardens and balconies. Permission is also sought for 89 car parking spaces (73 at basement level, 16 at surface level); 40 bicycle parking spaces; plant areas; basement storage area; bin storage areas; access via Glenamuck Road North; the routing of new foul and surface water sewers through lands at Carricáil, Glenamuck Road North and 10

Brennanstown Vale, to connect to existing services and all associated site development and landscape works on an overall site of circa 0.90 hectares (circa 0.74 hectares being development area and circa 0.16 hectares being drainage and wayleave area) at Glenamuck Road North, Carrickmines, Dublin (bounded by Tullybeg to the north, Chigwell to the north east, Stafford Lodge to the south and Carricáil to the south-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 provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, to the pattern of existing development in the area and to the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be appropriate in scale and form, would comply with the provisions of the development plan in terms of residential density, would not give rise to undue overlooking or overshadowing of adjoining properties, and would not lead to significant traffic congestion or be unacceptable in terms of pedestrian safety. 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 received by the planning authority on the 25th day of August, 2016 and on the 7th day of November 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) Apartments numbers 19 and 20 on the third floor of proposed Apartment Block B, and their associated balconies/private open space areas, shall be omitted. The area thus released, other than consequential modifications to the stairwell, landing area and lift enclosure to serve the remaining unit (number 18), and the modifications set out in condition 2 (b) below, shall be roofed using sedum or similar material, and shall not be used as a roof garden or amenity area. Access to this area shall be restricted to maintenance purposes only.
 - (b) The balcony/private open space serving bedroom number 1 of apartment number 18 on the third floor of proposed Apartment Block B shall be omitted. An equivalent area, generally corresponding to the former location of bedroom number 1 of former apartment number 19, shall be provided as additional private open space to serve apartment number 18, and may be accessed by an additional window and door on the western side of the living room of this apartment.

- (c) The balcony/private open space serving apartment number 17 on the second floor of proposed Apartment Block B shall be modified so that the balcony does not extend beyond the building line of the northern elevation. The balcony / private open space serving bedroom number 1 in apartment number 14 on the second floor of proposed Apartment B shall be omitted.
- (d) All WCs, bathroom, and en-suite windows within the entire development shall be fitted and permanently maintained with obscured 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 visual and residential amenity.

- 3. (a) The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the basement car park shall be in accordance with the detailed requirements and standards of the planning authority for such works and services.
- (b) The carriageway of the roads to the north and west of the proposed houses shall be extended to the eastern and southern boundaries, respectively, of the site.

Reason: In the interest of amenity and of traffic and pedestrian safety, and to allow for potential future access to adjoining lands, in the event of their development, in the interest of proper development and future permeability.

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. Details of the proposed site boundary treatment shall be submitted to, and agree in writing with, the planning authority prior to commencement of development. All rear gardens shall be bounded internally with block walls, 1.8 metres in height, which shall be rendered and capped. The proposed post and timber panel boundary treatment shall not be used.

Reason: In the interest of visual amenity, and in order to ensure the provision of durable boundary treatment, in the interest of residential amenity.

6. 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. In the case of the proposed houses, roof colour shall be blue-black, black, dark brown or dark grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

7. (a) The proposed open space area between the two apartment blocks, and all other communal and incidental open spaces, together with the basement car parking and the private grouped car parking areas, shall be retained in private ownership and shall be maintained by a properly constituted private 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.

- (b) The access road into the development, together with the shared surface areas / roads to the north and west of the proposed houses (as modified by condition 3 (b) of this permission), shall be maintained by the developer until completion and shall thereafter be made available by the developer for taking in charge by the local authority.

Reason: In the interests of proper development and to facilitate future permeability.

8. Prior to commencement of development or any related construction activity or tree felling on the site, the developer shall lodge a Tree and Hedgerow Bond to the value of €15,000 (fifteen thousand euro) with the planning authority 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/hedgerow or trees/hedgerows on or immediately adjoining the site, or the appropriate and reasonable replacement of any such trees/hedgerows 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 shall be signed off by a qualified Arborist after the period of three years 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. The bond shall only be refunded upon receipt by the planning authority of a satisfactory post-construction arboricultural assessment, carried out by a qualified arborist and provided that the hedges/trees proposed for retention are alive, in good condition with a useful life expectancy.

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

9. Prior to commencement of 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 scrub shall be carried out outside the bird-breeding season (1st March to 31st August inclusive) or as stipulated under the Wildlife Act 1976 and Wildlife (Amendment) Act 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate shall 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 for written agreement 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.

10. Prior to commencement of development, the developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.

Reason: To ensure full and verifiable implementation of the approved landscape design.

11. In line with the national children's play policy 'Ready Steady Play', the developer shall provide suitable play opportunities for the future child population within the proposed development. The developer shall submit an Indicative Play Map showing types of play, age groups catered for and the areas these are to be located. Also, a comprehensive and detailed layout plan, including a play design rationale, shall be submitted for the consideration of the planning authority. The developer shall submit details of all play equipment, and safety surface, along with specifications and proof that all equipment conforms to European Standards EN 1176-1-11 and EN 1177 Playground equipment and surfacing. Post-installation certification by the Royal Society for the Prevention of Accidents will also be a requirement.

Reason: In the interest of ensuring safe, quality play provision and the proper, sustainable development in compliance with best practice guidance.

12. 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. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interests of visual and residential amenity.

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. This shall include lighting along the roadways to the west of proposed house number 1 and in the accessway/open space area to the rear of houses 1 to 5. All 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. Proposals for an estate/street name, house and 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 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.

15. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

16. 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.

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

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 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.

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, 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 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 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.

20. The developer shall pay a financial contribution to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of the shortfall in public open space, which is to be used to fund improvements to Cabinteely Park which is within walking distance of the proposed development. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The amount of the contribution and 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.

21. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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.

