



Planning and Development Acts 2000 to 2016

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: DZ16A/0587

Appeal by The Toal Family care of Gregory Toal of Woodhaven, Bray Road, Cabinteely, Dublin and by O'Flynn Capital Partners care of Tom Phillips and Associates of 80 Harcourt Street, Dublin against the decision made on the 21st day of December, 2016 by Dún Laoghaire-Rathdown County Council to grant permission to the said O'Flynn Capital Partners for development comprising the demolition of six number residential units and ancillary structures and construction of 34 number residential units (comprising 16 number three-storey, semi-detached, four-bedroom houses (House Type A), four number two-storey, semi-detached, four-bedroom houses (House Type A1), six number two-storey, semi-detached, three-bedroom houses (House Types C and C2) and eight number two-storey, terraced, three-bedroom houses (House Type C1)). The development will also consist of the construction of part of the Cherrywood Strategic Development Zone Planning Scheme's Druid's Glen Road (also known as P to Q) from its connection with the western boundary of the subject site for a distance of approximately 160 metres to its connection to the N11 and all associated development and infrastructural works, including the part-provision of the Druid's Glen Road bridge, with two options proposed: (Option 1) up to 27.6 metres of the bridge comprising one number complete abutment and one number partial bridge pier, to the western boundary of the subject site (the three-span Druid's Glen Road bridge will have an overall span of 46 metres approximately with two number abutments and two number piers, with the

balance to be built as part of a subsequent permission yet to be secured on the lands to the west of the subject site), and (Option 2) up to 23.2 metres of the bridge comprising one number partial abutment and one number partial bridge pier, to the western boundary of the subject site (the three-span Druid's Glen Road bridge will have an overall span of 41.8 metres, with two number abutments and two number piers, with the balance to be built as part of a subsequent permission yet to be secured on lands to the west of the subject site). Works providing for the connection of the Druid's Glen (P to Q) Road to the N11 are also included in the development proposal. The development will also include the construction of waste storage facilities, associated car parking spaces and bicycle parking spaces, respectively, vehicular, pedestrian and cycle access and egress, provision of electric vehicle charging points, provision of boundary treatments including associated lighting, alterations to existing site services, changes in levels including associated retaining features, associated hard and soft landscaping including a playground and all other associated site excavation and infrastructural works above and below ground. Works to the N11 (external to the application site) to facilitate the construction of the junction with the Druid's Glen Road will be undertaken by Dún Laoghaire-Rathdown County Council in its capacity as Roads Authority for the area. It is proposed not to operate the road infrastructure, the subject of this application, until such time as the Council has permitted and constructed that element of the works on the N11 to facilitate development of this complementary junction. Development is all on a site of 2.79 hectares approximately at Beech Park, Bray Road, Cabinteely, Dublin/Loughlinstown, County Dublin on lands of six number existing houses: Silver Slope (Bray Road, Dublin), El Dorado (Bray Road, Dublin), Greenhills (Bray Road, Dublin), Capard (Bray Road, Dublin), The Galliard (Bray Road, Dublin) and Teely Lodge (Bray Road, Dublin) and, for the purposes of providing drainage connections, part of the rear gardens of Dún Baoi (number 4 Beech Park, Bray Road, Dublin), Corrente (number 5 Beech Park, Bray Road, Dublin), Lynwood (number 6 Beech Park, Bray Road, Dublin), Foinavan (number 7 Beech Park, Bray Road, Dublin) and Woodbrook (number 8 Beech Park, Bray Road, Dublin). The site includes some 0.78 hectares forming part of Development Area 5 (Druid's Glen) of the Cherrywood Strategic Development Zone Planning Scheme (April 2014). The site is principally bounded by an ESSO fuel filling station (Centenary Service Station) to the north, the

N11 to the east, Dún Banoi (number 4 Beech Park, Bray Road, Dublin) to the south and partly by the Cabinteely Stream and open space to the west. (The property identified as Woodhaven (Bray Road, Dublin) located between Silver Slope and El Dorado, does not form part of this development), in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for the construction of part of the Cherrywood Strategic Development Zone Planning Scheme's Druid's Glen Road, together with works to provide for Option 1 of the Druid's Glen Bridge in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for demolition of six dwellinghouses and construction of a residential development of 34 residential units, together with associated site works, including the construction of a road from the proposed Druid's Glen Road to serve the residential development based on the reasons and considerations marked (2) under

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 (1)

Having regard to the Cherrywood Strategic Development Zone Planning Scheme and to the planning history of the northern portion of the site, it is considered that, subject to compliance with the conditions set out below, the construction of the initial part of the proposed Druid's Glen Road would be consistent with the provisions of this Planning Scheme and 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 the planning authority on the 25th 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 development hereby permitted comprises only the construction of Phase 1 Druid's Glen Road and all associated works and Phase 2 - the Druid's Glen Road Bridge Option 1 and all associated works. The remainder of the overall proposed development, including the residential development and the construction of a road, footpath and other services connecting the residential development to the proposed Druid's Glen Road, through lands zoned Objective F in the current development plan for the area, shall not take place.

Reason: In the interest of clarity, and for the reasons and considerations set out in the refusal element of this order.

3. (a) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority detailed drawings of Druid's Glen Road and Druid's Glen Road Bridge Option 1 and all associated works. These drawings shall reflect the provisions of Section 4.2.7 of the Cherrywood Strategic Development Zone Planning Scheme. They shall include surface water infrastructure and landscaping proposals, which shall be fully consistent with one another.

(b) The extent of the Druids Glen Road proposed is in excess of the needs of the proposed development and is designed to cater for the development of adjoining lands. The local authority will enter into an agreement with the developer for the purpose of agreeing the cost of the additional works for the taking in charge of this or otherwise enter into agreement with the developer in respect of provision of these public facilities. The extent of the works that are considered to be in excess of the immediate needs of the developer are the lanes in addition to a two lane road in phase 1 and the works described in Phase 2 in drawing number D1792-FI-01 / Date: Oct. '16 Rev.: B' received by the planning authority on the 25th day of November, 2016. If agreement cannot be reached between the developer and the planning authority the matter may be referred to An Bord Pleanála for determination.

Reason: In order to ensure a satisfactory standard of road and bridge construction, to allow for future development, and in the interests of proper development, sustainability and 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. (a) The developer shall implement the mitigation measures recommended by the Ecological Impact Assessment submitted to the planning authority on the 25th day of November 2016, in so far as they relate to the site for which permission is granted.

(b) All tree removal indicated on drawing number 6116-300 revision 01 submitted to the planning authority on the 25th day of November 2016 shall only be undertaken between 1st September and 28th/29th February.

Reason: In the interest of safeguarding and promoting indigenous flora and fauna and in order to avoid the bird nesting season, in the interest of nature conservation.

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site of the proposed Road and Bridge works. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

7. 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.

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 noise management measures and off-site disposal of construction waste.

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

9. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the 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 with others of similar size and species. 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 secure the protection of the trees on the site.

11. 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 the proposed road works and associated, footpaths, watermains, drains, landscaping and other services comprised in the development of the Road and Bridge works, 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.

Reasons and Considerations (2)

1. The proposal would entail the construction of a new road within lands that are the subject of Zoning Objective F “to preserve and provide for open space with ancillary active recreational uses”, in the Dún Laoghaire-Rathdown County Development Plan 2016–2022. This road would afford access to a proposed area of residential development and so it would be ancillary to this residential development. As such it would constitute a residential use of these lands, a use which is neither permitted in principle nor open for consideration under this zoning objective. Accordingly, the proposed development would contravene materially this development objective indicated in this development plan and would also be at variance with the overall concept for green infrastructure on these and adjoining lands, as set out both in the development plan and in the Cherrywood Strategic Development Zone Planning Scheme. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. By reason of its proximity to the N11 Quality Bus corridor and to the Luas Green Line, the site lies within a public transport corridor. Under 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, the net residential density of new housing schemes within such corridors should be a minimum of 50 dwellings per hectare. The proposal would entail the construction of 34 dwelling houses that would exhibit a net density of 32 dwellings per hectare. Having regard to this proposed density, it is considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage and so it would be contrary to these Ministerial Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The construction of the proposed new road from the proposed Druid's Glen road to the residential area would be elevated above a proposed area of public open space and the proposed associated retaining measures would dominate this space, and would present an unattractive interface between the built environment and open space areas. Furthermore, it is considered that the design and layout of the proposed development would entail an excessive loss of specimen trees and the resulting layout would be of a poor design quality that would fail to respect the site's context. Consequently, the proposal would fail to afford a satisfactory standard of amenity to future users and occupiers of the site and would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Dated this day of 2017