



An
Bord
Pleanála

Board Order

PL 06F.248037

Planning and Development Acts 2000 to 2017

Planning Authority: Fingal County Council

Planning Register Reference Number: FW16A/0079

Appeal by Absainte Limited care of Hughes Planning and Development Consultants of The Mash House, Distillery Road, Dublin and by Leo Varadkar TD and Councillor Eithne Loftus of The Department of Social Protection, Aras Mhic Diarmada, Store Street, Dublin and by others against the decision made on the 23rd day of January, 2017 by Fingal County Council to grant subject to conditions a permission to the said Absainte Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of existing two-storey over partial basement public house and restaurant building (1,243 square metres) and construction of a residential development consisting of four number four storey (with set back second and third floors) over basement apartment blocks comprising 41 number apartments (34 number two bedroom and seven number three bedroom units); private balconies and communal open spaces; 69 number underground car parking spaces, new vehicular entrance from Old Navan Road, 50 number bicycle parking spaces, landscaping, SuDS drainage, ESB substation, boundary treatments, public lighting and all other associated development works necessary to facilitate the development at Brady's Public House, Old Navan Road, Dublin.

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 following:

- The residential zoning objective for the site, as set out in the Fingal County Development Plan 2017-2023;
- The established pattern of development in the area, including the public park to the north of the subject site;
- The location of the site within circa 600 metres of Castleknock rail station, and proximate to other public transport facilities;
- The provisions of the Fingal County Development Plan 2017-2023 regarding infill development, and the sustainable use of urban land, in particular Strategic Policy 5 which seeks the consolidation of the growth of the major centres of Blanchardstown and Balbriggan through the encouragement of infill development, Objective SS08 relating to infill development and urban consolidation, Objective SS15 relating to urban consolidation and the efficient use of infrastructure and services and Objective PM44 which encourages the development of underutilised infill, corner and backland sites in existing residential areas;

- The provisions of the ‘Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) - Guidelines for Planning Authorities’, issued by the Department of Environment Heritage and Local Government in May 2009, and accompanying best practice Design Manual;
- The provisions of the ‘Sustainable Urban Housing; Design Standards for New Apartments (Guidelines for Planning Authorities)’, issued by the Department of Housing, Planning, Community and Local government in December 2015; and
- The provisions of the Design Manual for Urban Roads and Streets.

it is considered that, subject to compliance with the conditions set out below (including those requiring modifications to the development), the proposed development would represent an appropriate level of residential density on this infill site, would conform to the provisions of the Development Plan and of Departmental Guidance, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health or lead to a risk of flooding, and would be acceptable in terms of pedestrian and traffic 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 submitted on the 26th day of September, 2016 and on the 21st day of December, 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 second floor of Blocks A and C, comprising apartment numbers 5A, 5C and 6C, and the second floor of Block D to the east of the service core, comprising apartment numbers 11D and 12D, as indicated on drawing number PP.07 received by the planning authority on the 25th day of May, 2016, together with their associated balconies, shall be omitted from the development.
- (b) All windows serving landings/stair lobbies above ground floor level, and all WCs and bathrooms, in the proposed development shall be permanently fitted with opaque glazing.
- (c) All roof areas indicated on submitted drawings, together with the additional roof areas created by the modifications required under condition 2 (a) herein, shall not be used as roof gardens and shall not be open to access other than for maintenance purposes.
- (d) All residential parking spaces shall be so constructed so as to be capable of accommodating future electric vehicle charging points.

Revised drawings showing compliance with this requirement 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. The landscaping scheme shown on drawing number PP.11, as submitted to the planning authority on the 26th day of September, 2016 shall be carried out within the first planting season following substantial completion of external construction works. In addition to the proposals in the submitted scheme, the following requirements shall be complied with:

- (i) Prior to the commencement of development, the developer shall contact the planning authority to agree final details of the construction of the proposed path across the public open space located to the north of the site, and shall provide this path before any of the apartments authorised by this permission are made available for occupation.
- (ii) The boundary between the site and the public amenity space to the north shall comprise a railing in addition to the hedgerow proposed. This railing shall consist of a sold bar bow top railing, a minimum of 1.5 metres in height, which shall be painted or coated in a black or dark green colour. Details of this boundary shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (iii) The proposed grass margin along the Old Navan Road shall be omitted from the development and the area hard surfaced.
- (iv) The replacement tree planting along the Old Navan Road and along Talbot Downs, as indicated on submitted documentation, shall be provided before any of the apartments in Blocks A and C are made available for occupation.

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.

4. 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 adjoining the site, which are indicated on submitted documentation will be retained, 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.

5. 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.

6. 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.

7. Prior to the commencement of development, details of the cross section of the kerb, footpath and future cycle path on the Old Navan Road frontage of the site shall be submitted to, and agreed in writing with, the planning authority,

Reason: To protect the residential amenities of the area and to provide for the provision of a cycle route in this location as indicated in the development plan.

8. All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

9. Each apartment shall be used as a single apartment unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations, 2001, as amended. The apartments shall not be used for multiple occupying living units/non-residential uses, except where otherwise permitted by way of a separate grant of planning permission.

Reason: In the interests of clarity and to delimit the form and extent of development authorised by this permission.

10. Proposals for a naming and apartment unit numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and unit 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 interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

11. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

12. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and for storage of deliveries to the site (which shall not be located on the public open space to the north of the site).

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

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

14. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. Detailed proposals in this regard, including a management scheme providing adequate measures relating to the future maintenance of the development and associated services, including the communal open space, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

15. (a) A plan containing details for the management of waste 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 apartment 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 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.

- 16. The developer shall submit a construction method statement for the construction of the permitted basement car parking area. This statement shall set out the proposed method of excavation for the basement and measures to ensure the protection of surrounding third party properties during the construction process. Details shall be agreed in writing with the planning authority prior to the commencement of development. The number of car parking spaces within the basement car parking area shall not be reduced as a result in the reduction in the number of apartments required by condition number 2(a) of this permission.

Reason: To protect the residential amenity and condition of surrounding residential properties during the construction process, and to ensure that adequate car parking is provided to service the development.

- 17. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. 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, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site,
and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements including, if necessary, archaeological excavation prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

18. 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 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.

19. 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, communal open spaces 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 and maintenance of the development.

20. 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 the 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.

21. 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, in lieu of the provision on-site of public open space, towards specific exceptional costs in respect of the provision of open space and amenity works in the area, which will benefit the proposed development. 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, having regard to the lack of public open space provided within the proposed development, and having regard to the provisions of the current Fingal County Development Plan.

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

Dated this day of 2017