



An
Bord
Pleanála

Board Order

PL 29S.248501

Planning and Development Acts 2000 to 2017

Planning Authority: Dublin City Council

Planning Register Reference Number: 2326/17

Appeal by Saint Mary's Park Residents Association care of James McInerney of 8 Rochford Park, Kill, Naas, County Kildare against the decision made on the 20th day of April, 2017 by Dublin City Council to grant subject to conditions a permission to On Track Development Limited care of Thornton O'Connor Town Planning of Paradigm House, Dundrum Office Park, Main Street, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: The provision of a four storey mixed-use building (1,890 square metres) which will include one number retail unit (237 square metres) and associated retail back of house accommodation at ground floor level and 14 number residential units at the upper levels comprising two number one bedroom apartments and 12 number two bedroom apartments. The development will also include the provision of balconies and terraces on all elevations; communal open spaces at ground and third floor levels; public open space at ground floor level; 18 number car parking spaces accessed via the laneway to the west; bicycle parking; bin storage facilities; signage; ancillary plant; hard and soft landscaping; bollards and all associated site development and site excavation works above and below ground, all on 0.1386 hectare site approximately at number 119 Drimnagh 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 land use zoning objective for the site, Z4 District Centres where it is the Council's objective 'to provide for and improve mixed services facilities', to the zoning objective of the adjacent lands to the west and south, Z1 Sustainable Residential Neighbourhoods where it is the objective 'to protect, provide and improve residential amenity', and to the nature, scale and layout of development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity 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, 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. Prior to commencement of development, the developer shall submit revised drawings showing the oblique projecting bays on the east elevation replaced by projecting box bays of approximately 1.4 metres in depth (parallel to the east elevation) with full clear glazed panels to the northern and southern faces and fixed timber clad panelling on the eastern faces, to be agreed in writing with the planning authority.

Reason: In the interest of increasing the access to light and improved residential amenity to the apartment units.

3. (a) Prior to the commencement of development, the developer shall submit full details of a traffic management plan for the proposed development, inclusive of access and egress via the adjacent service lane(s) to the west of the site, addressing in particular the presence of uncontrolled on-street parking to the lane(s) which restricts two-way traffic and obstructs access to parking spaces within the development, to be agreed in writing with the planning authority.

- (b) The traffic management plan agreed under part (a) of this condition shall be implemented prior to first occupation of the development.

Reason: To ensure that vehicular access to the development operates in accordance with the plans and details submitted with the application and in the interest of traffic safety.

- 4. (a) Prior to the commencement of development, the developer shall submit revised design proposals in accordance with the Design Manual for Urban Roads and Streets (2013) providing a public footway along the full length of the site's western (lane-side) boundary suitable to a standard suitable to be taken in charge by the local authority, to be agreed in writing with the planning authority.
- (b) The pedestrian footway shall be 1.8 metres in width and shall be continuous (uninterrupted) along the length of the site, finished in a consistent material to clearly distinguish it from the vehicular carriageway. The footway shall be dished at the vehicular entrance to the development and to the retail parking spaces.
- (c) The pedestrian footway between the ground floor (west elevation) and the retail car parking spaces and between the communal open space and the retail car parking spaces shall be omitted. The retail car parking spaces shall be relocated eastwards approximately up to the ground floor elevation of the building. The southernmost retail car parking space shall also be relocated southwards to facilitate access to the side door of the retail unit.
- (d) The entrance to the residential development via the communal open space shall be relocated to the western side (lane-side) boundary and the western boundary of the development site shall be set back from the lane only so far as is necessary to accommodate the 1.8 metres wide pedestrian footway.

- (e) The screen wall to the north of the retail parking spaces shall be extended eastwards up to the side of the ground floor elevation and shall be recessed in its entirety behind the line of bicycle parking bays which shall be accessible from the public space to the north of the site.

Reason: To provide for pedestrian facilities to the standard required under the Design Manual for Urban Roads and Streets, in the interest of traffic safety and in the interest of the proper planning and sustainable development of the area.

5. Prior to the commencement of development, the developer shall submit full details of signage and shopfront to be agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

6. 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.

7. 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 protect the visual amenities of the area.

8. (a) Prior to the commencement of development, the developer shall submit a map of suitable scale delineating those areas which are proposed to be taken in charge by the local authority to be agreed in writing with the planning authority.
- (b) The management and maintenance of the proposed development, other than any such areas agreed to be taken in charge by the local authority, following completion, shall be the responsibility of a legally constituted management company which shall be established by the developer. A management scheme providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this development in the interest of residential amenity and orderly development.

9. (a) All landscaping to communal open space, including roof garden, shall be completed in accordance with the submitted landscaping plans, prior to first occupation of the residential units.
- (b) Prior to the commencement of development, the developer shall submit revised landscaping plans for the public area to the front (north) of the development, which shall provide for permeable, hard landscaping with quality paving, shall exclude soft landscaping or vegetation other than individual trees and shall include details of any bollards and/or other suitable design features (e.g. tree planting), necessary to prevent use of the landscaped areas for vehicular parking.

Reason: In the interests of amenity and the proper planning and sustainable development of the area.

10. Water supply and drainage arrangements, including the 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.

11. Site development and building works shall be carried out only between the hours of 0700 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. The operation of the development shall comply with waste management requirements of the planning authority for such works and services.

Reason: In order to ensure a satisfactory standard of development.

13. (a) During construction and demolition phase, the development shall comply with British Standard 5228 'Noise Control on Construction and Open Sites Part 1, Code of Practice d for Basic Information and Procedures for Noise Control'.
- (b) Noise levels from the development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142 Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas.

Reason: In the interest of residential amenity.

14. 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 (other than a matter to which section 96(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 of the area.

15. 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 roads, footpaths, watermains, drains, public 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 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.

16. 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