



An
Bord
Pleanála

Board Order PL 29S.248958

Planning and Development Acts 2000 to 2017

Planning Authority: Dublin City Council

Planning Register Reference Number: 2869/17

Appeal by Midgard Construction Limited care of Downey Planning of 1 Westland Square, Pearse Street, Dublin against the decision made on the 3rd day of July, 2017 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: A mixed-use residential development of 171 number apartments and a childcare facility over a single level basement. The proposed development will consist of: (a) the demolition of the existing former Faulkners Industries Factory complex along with the two number two storey semi-detached dwellings known as 'Beann', 38 Chapelizod Hill Road and 'Clarevill', 38D Chapelizod Hill Road; (b) the construction of 171 number apartments (53 number one bedroom units, 92 number two bedroom units and 26 number three bedroom units) in two number five storey apartment blocks over a single level basement comprising: Block A – five storey (part three storey) block comprising of 93 number residential units (34 number one bedroom units, 50 number two bedroom units and nine number three bedroom units) with balconies/terraces on the north, east, south and west elevations. Block A will also comprise one number concierge office ancillary to the apartments (74 square metres gross floor area) and one number childcare facility (291 square metres gross floor area) with ancillary outdoor play area, all of which will be at ground floor level. Block B – five storey apartment block over lower ground floor

level, comprising 78 number residential units (19 number one bedroom units, 42 number two bedroom units and 17 number three bedroom units) with balconies/terraces on all elevations; (c) a total of 205 number car parking spaces (172 number resident parking spaces and 17 number visitor parking spaces and 10 number disabled parking spaces at basement level and six number surface level visitor car parking spaces and two number surface level drop-off spaces at the childcare facility); (d) 13 number motor cycle parking spaces at basement level; 188 number bicycle parking spaces (176 number spaces at basement level and 12 number spaces at surface level); (e) ancillary plant room and bin storage areas at basement level; (f) one number ESB sub-station; (g) modification to the existing vehicular entrance to the former Faulkners Industries Factory on Chapelizod Hill Road and provision of a new fire tender access to Chapelizod Hill Road; (h) landscaping (including public, communal and private open space and play equipment; (i) boundary treatment including new low wall and railing boundary to Chapelizod Hill Road and (j) all associated engineering works (including plant and solar panels at roof level) and site development works necessary to facilitate the development on lands at the former Faulkner Industries Factory, Chapelizod Hill Road, 'Beann', 38 Chapelizod Hill Road and 'Clarevill', 38D Chapelizod Hill Road, Chapelizod, 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 provisions of the:

- Rebuilding Ireland: Action Plan for Housing and Homelessness, 2016,
- Sustainable Urban Housing Design Standards for Apartments - Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December, 2015,
- Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport in April, 2013,
- Sustainable Residential Development in Urban Areas (Cities, Town and Villages) Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- Planning System and Flood Risk Management issued by the Department of the Environment, Heritage and Local Government in November, 2009,
- Architectural Heritage - Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government 2004,
- Dublin City Development Plan 2016 to 2021, and
- to the nature, and scale of the proposed development,

it is considered that, subject to compliance with the following conditions, the proposed development, as amended by way of the appeal submission, would not seriously injure the amenities of the area or of property in the vicinity and would not give rise to a traffic hazard. 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 appeal submission that was received by An Bord Pleanála on the 31st day of July, 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. For the avoidance of doubt, the development shall be constructed in accordance with plans and particulars that were received by An Bord Pleanála on the 31st day of July 2017, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

The development shall be amended as follows:

3.
 - (a) The projecting balconies on the west facing three-storey side elevation of Block A shall be omitted and relocated to the rear south facing elevation for apartment numbers 5, 8 and 9, and the internal layout of these apartment units shall be reconfigured accordingly.
 - (b) The projecting balconies on the south facing rear elevation of Block B and the south facing rear elevation of Block C shall be omitted and replaced with internal “winter gardens” which should not project beyond the side and rear elevations of Block B and Block C respectively.

The developer shall submit revised drawings, to include floor areas and elevations, to the planning authority for written agreement before development commences.

Reason: In the interests of orderly development, residential and visual amenity, and in the interest of clarity.

4. Details, including samples 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 the visual amenities of the area.

5. The developer shall comply with the following requirements in relation to the childcare facility:

- (a) Not more than 75% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed.
- (b) The proposed childcare facility shall not operate outside the period of 0800 to 1900 hours Monday to Friday inclusive and shall not operate on Saturdays, Sundays or public holidays.

Reason: In the interest of residential amenity and to ensure that childcare facilities are provided in association with residential units.

6. The development shall comply with the following tree protection requirements:
- (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.

7. The development shall comply with the following environmental requirements:

- (a) The tree planting and landscaping schemes for the public and communal open spaces 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 or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (b) The mitigation measures contained in the Bat Assessment report shall be implemented in full.

Reason: In the interest of residential and visual amenity and to protect wildlife and biodiversity.

8. 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 in the site.

9. The developer shall comply with the following road requirements:
 - (a) Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, noise management measures and off-site disposal of construction/demolition waste.

- (b) Prior to commencement of development, the developer shall agree details of the materials proposed in public places with the Council's Roads Maintenance Division.
- (c) The car parking spaces shall be permanently allocated to the residential units within the development and shall not be sold, rented or otherwise sub-let or leased to other parties.
- (d) Cycle parking shall be secure, conveniently located and well lit.
- (e) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- (f) The developer shall be obliged to comply with the requirements set out in the Dublin City Council's Code of Practice for such works.

Reason: In the interest of traffic safety and orderly development.

10. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

11. The management of waste during the construction and operational phases of the development, shall comply with the requirements of the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

12. An asbestos survey shall be carried out on the factory building to be demolished. Any asbestos containing materials (ACM) identified shall be removed by a licenced waste contractor.

Reason: In the interest of public health and to ensure a proper standard of development.

13. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

14. The site works, building works and deliveries of materials, plant or machinery required to implement the development shall be carried out only between 0700 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

15. 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.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard 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.

17. 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. The application of any 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 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.

