



An
Bord
Pleanála

Board Order

PL 06D.249248

Planning and Development Acts 2000 to 2017

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D17A/0337

Appeal by Maureen O'Driscoll on behalf of Tudor Lawns Residents Association of 7 Tudor Lawns, Foxrock, Dublin and by others and by Homeland Silverpines Limited care of Brock McClure of 63 York Road, Dun Laoghaire, County Dublin against the decision made on the 24th day of August, 2017 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to the said Homeland Silverpines Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: A seven year permission for a development on an overall site of circa 1.65 hectares at 'Annaghkeen' and 'Dalwhinnie', Leopardstown Road (R113) and Saint Joseph's House for the Adult Deaf and Deaf Blind (a Protected Structure) and adjoining lands including 'Marian Villa' and Brewery Road (N31), Stillorgan, County Dublin. The proposed development shall provide for the demolition of three number existing residential dwellings known as 'Annaghkeen', Dalwhinnie' and 'Marian Villa' and associated outbuildings (combined demolition circa 662.2 square metres gross floor area) and the material change of use of Saint Joseph's House from residential care facility to residential use to provide for an overall development of 139 number residential units (133 number apartments and six number houses) all in a scheme of two-five storeys partly over dual access basement level. The proposal shall provide for a new residential scheme (Blocks A-E) including: (a) the construction of Blocks A-C (three-five storeys) over dual access basement level (circa 4,311 square metres) comprising 122 number apartment units;

(b) the construction of six number townhouses in the form of Block D; (c) the refurbishment and separation of Saint Joseph's House (two storeys) into 11 number residential units to form Block E, which shall include the demolition of a single storey extension and associated outbuildings (demolition total circa 172.82 square metres gross floor area), the removal of external gates, modifications to elevations including new windows, doors and glazed balcony, new external steps and ramps, modifications to internal layout including the removal of walls and partitions and the addition of new dividing walls and part new roof. Block A (five storeys) shall provide for 53 number apartment units (13 number one beds, 37 number two beds and three number three beds); Block B (five storeys) shall provide for 58 number apartment units (7 number one beds, 49 number two beds and two number three beds); Block C (three storeys) shall provide for 11 number apartment units (seven number one beds, three number two beds and one number three beds); Block D (2-3 storeys) shall provide for six number townhouses (five number three bed terrace houses - Type T1 and one number four bed detached house - Type T2) and Block E (2 storeys) shall provide for 11 number apartment units (eight number two beds and three number three beds) in the former Saint Joseph's House building all with associated balcony/terrace/private garden areas. The development shall also consist of the amalgamation of three number existing access points along Leopardstown Road (R113) to provide for one number vehicular and pedestrian access point. The existing access point from Brewery Road (N31) to Saint Joseph's House via Silverpines will be maintained and the existing access serving the Anne Sullivan Centre for the Deaf Blind will be maintained with minor revisions to the point of access. Permission is also sought for 166 number car parking spaces (139 number at basement level, 27 number at surface level); 200 number bicycle parking spaces; bike stores (at basement and surface level); bin storage areas (at basement and surface level); plant areas; circa 5,960 square metres of public open space (including new tree walk, courtyard spaces and new play area); new boundary treatment; green roofs associated with Blocks A-C; provision for pedestrian connections to the adjoining park; site services and all associated site development service connections and landscape works. (As amended by the further public notice received by the planning authority on the 28th day of July, 2017).

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

In coming to its decision, the Board had regard to the following:

- the policies and objectives in the Dún Laoghaire-Rathdown County Development Plan 2016-2022,
- the nature, scale and design of the proposed development,
- the availability in the area of a wide range of social and transport infrastructure including LUAS and QBC connections,
- the pattern of existing and permitted development in the area,
- the submissions and observations received, and
- the report of the Planning Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the character of Saint Joseph's House, a Protected Structure, (RPS reference number 1548), would respect the character of the wider area, would be acceptable in terms of traffic and pedestrian safety and convenience and would provide greater permeability and connectivity in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board concurred with the analysis of the planning authority and was satisfied that sufficient separation distance was established between the proposed apartment Blocks A and B from the Protected Structure and Leopardstown Lawn respectively to protect visual and residential amenity and that the character and setting of the Protected Structure was adequately protected. Furthermore, the Board agreed with the planning authority that the height of the proposed Blocks A and B was justified in the context of the Building Height Strategy contained in the in the Dún Laoghaire-Rathdown County Development Plan and was also in accordance with the Ministerial Guidelines. It was, therefore, considered that the proposed development would not injure the residential or visual amenities of the area and would 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 28th 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. Details and samples of the materials, colours and textures of all the external finishes to the proposed development including pavement finishes 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.

3. The vehicular access to the scheme shall be provided via both the Brewery Road and Leopardstown Road with double ramped basement car parking. Ramp access A and Ramp access B to the basement car park shall be operational and available for use prior to occupation of any of the proposed Blocks (A-C). Only left in/left out movements shall be permitted at the Leopardstown Road Access.

Reason: In the interest of traffic safety.

4. The works to the protected structure at Saint Joseph's shall be completed prior to the occupation of Blocks A-C.

Reason: In the interest of the protection of the Built Heritage of the County.

5. The developer shall relocate the direct pedestrian accesses to the existing open space along the northern boundary so that they are located away from the existing trees. The developer shall submit revised plans for the written agreement of the planning authority that address this matter.

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

6. Proposals for an estate/street name, house/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 house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

7. 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.

8. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

9. 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. In addition, prior to commencement of development mitigation measures against the risk of flooding shall be agreed with the planning authority including measures to address egress of occupants from the building in the case of flooding of surrounding land.

Reason: In the interest of public health.

10.
 - (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
 - (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

11. 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.

12. Prior to the commencement of any permitted 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 minimum on a monthly basis to ensure the implementation of all of the recommendations in the tree reports and plans. The arborist shall include secondary tree protection fencing around all root protection areas of trees to be retained. All works within these areas shall be supervised at all times by the project arborist and the fencing can only be temporarily removed to undertake works under the supervision of the arborist. The arborist shall agree the exact location and detail of the secondary fencing in writing with the Parks and Landscape Services prior to the commencement of any permitted development. 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 - 31st August inclusive) or as stipulated under the Wildlife Acts, 1976 and 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 Dún Laoghaire-Rathdown County Council's Parks and Landscape Services for written agreement upon completion of the works. The developer shall also be made aware of their obligations to constantly assess and survey the trees after construction because of the potential impact and the age/condition of these trees as outlined in the tree and hedgerow survey.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

13. Dual vehicular access (Preferred Vehicular Access Strategy of ILTP Consulting Report) only left in/left out movements shall be permitted at the Leopardstown Road access. Prior to commencement of development, full details of the proposed works to be carried out at the developer's expense at Leopardstown Road shall be submitted for the written agreement of the planning authority. Works shall include:
 - (a) left in/left out only vehicular access at Leopardstown Road;
 - (b) two metres minimum width footpath on both sides of vehicular entrance to the proposed development;
 - (c) relocated Bus Stop with kassel kerbs and provision for future bus shelter for proposed bus priority route;

- (d) close off of other existing access points at Leopardstown Road Development frontage;
- (e) reinstatement of grass verge, footpath and cycle track; and
- (f) bollards, road marking, signage and public lighting.

Reason: In the interest of traffic safety.

14. The developer shall ensure provision of electric vehicle charging points for minimum number of car parking spaces in accordance with Section 8.2.4.12 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022.

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

15. Prior to commencement of development, details of an appointed Travel Plan (Mobility Management Plan) Manager shall be provided to the planning authority. The developer shall ensure in accordance with Dún Laoghaire-Rathdown County Development Plan 2016-2022, Section 8.2.4.3 that the recommended initiatives and monitoring of a Travel Plan (Mobility Management Plan) are implemented as outlined in the submitted Mobility Management Plan by ILTP Consulting dated July, 2017.

Reason: In the interest of traffic safety.

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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

17. 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. Such lighting shall be provided prior to the making available for occupation of the proposed development.

Reason: In the interests of amenity and public safety.

18. The mitigation measures in relation to bats set out in the Ecological Impact Assessment by Scott Cawley submitted in support of the application shall be followed. Bat activity surveys consisting of dusk emergence and dawn re-entry surveys of the existing trees and building identified as having potential features suitable as bat roosts shall be carried out in the May-August Period. If a bat roost is identified, a derogation licence shall be applied for to National Parks and Wildlife Services it is intended to remove or otherwise interfere with it.

Reason: To prevent any injury occurring to bats or their breeding or resting places which are afforded protection under the Habitats Directive 1992.

19. Prior to commencement of development, the developer shall submit full details of a properly constituted Private Management Company for the written agreement of the planning authority. This shall include a layout map of the development showing any areas to be taken in charge and those areas to be maintained by the 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. All roads and services within the privately managed areas shall be completed to the Council's taking in charge standards. Details shall also include management details of the community room.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

20. 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.

21. 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.

22. 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.

