



Planning and Development Acts 2000 to 2018

Planning Authority: Dún Laoghaire Rathdown County Council

Planning Register Reference Number: D17A/0707

Appeal by Winterbrook Homes Limited care of Brock McClure of 63 York Road, Dún Laoghaire, County Dublin against the decision made on the 2nd day of October, 2017 by Dún Laoghaire-Rathdown County Council to refuse a permission to the said Winterbrook Homes Limited for the proposed development.

Proposed Development: Demolition of the existing 'Charleville' building circa 1,006 square metres (currently in use by a charitable organisation and not in residential use), the 'Coach House' (198.5 square metres) (in established residential use), and other ancillary buildings on the site circa 122.6 square metres and the construction of 56 residential units including the replacement of the existing access at Harbour Road with a new, relocated entrance off Harbour Road. The residential development proposed includes four apartment blocks of generally four storeys over basement (plus plant equipment and lift overrun), with four number one-bedroom units, 42 number two-bedroom units and 10 number three-bedroom units all with associated balconies on the north, south, east and west elevations. Garden terraces are

also provided at ground floor level. The development will also include 112 car parking spaces at basement level of the apartment block (circa 3,763 square metres), circa 3,166 square metres of landscaped communal courtyard spaces including a children's play area, boundary treatment works, and all associated site development works above and below ground including site services and landscape works. The existing spy tower is maintained by way of this development proposal. All on a site of circa 0.715 hectares at Charleville, Harbour Road, Dalkey, County 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 design, height, scale and massing of the proposed apartment scheme and the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and the National Planning Framework, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not detract from the character or setting of adjoining Protected Structures, would not have a detrimental impact on the streetscape of Harbour Road and would adequately protect the residential amenity of adjacent properties and of properties within the scheme. 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 and by the further plans and particulars received by An Bord Pleanála on the 31st day of October, 2017 relating to landscaping, access, drainage, traffic management and lighting only, 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. This permission is for 56 apartments.

Reason: In the interest of clarity.

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The site shall be landscaped in accordance with the recommendations from the Survey and Arborist Report received by the planning authority on the 9th day of August, 2017 and with the landscaping and planting plan and details received by An Bord Pleanála on the 31st day of October, 2017. All landscaping 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, 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 interests of residential and visual amenity.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

6. Public lighting shall be provided in accordance with the scheme received by An Bord Pleanála on the 31st day of October, 2017, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment.

Reason: In the interests of amenity and public safety.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water shall be provided in accordance with the scheme received by An Bord Pleanála on the 31st day of October, 2017. This shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Access arrangements shall comply with the detailed standards for planning authorities for such works.

Reason: In the interests of amenity and traffic safety.

9. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) 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 screened 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.

- 10. (a) 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 and dust management measures and off-site disposal of construction/demolition waste.
- (b) Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0800 and 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.
- (c) All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.
- (d) Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details and methodology for the rock extraction and excavation works. This shall include timeframes and proposals to deal with vibration and noise.

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

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (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.

12. (a) Prior to the commencement of development the developer shall carry out a detailed Badger Survey for the site and submit results to the planning authority.

- (b) Detailed measures in relation to the protection of badgers shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support badger setts shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

13. Proposals for building names and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all building signs, shall be provided in accordance with the agreed scheme. 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(s).

Reason: In the interest of urban legibility.

14. No dwelling units within the proposed development shall be sold separately, independent from the associated car parking provision. All the proposed car parking spaces shall be for occupants of the residential units and shall be sold off with the units and not sold separately or let independently from the residential development.

Reason: In the interest of orderly development.

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. A management scheme providing adequate measures for the future maintenance of communal open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

17. 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.

18. 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.

Paul Hyde

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

Dated this day of 2018.