



Planning and Development Acts 2000 to 2018

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D17A/0950

Appeal by Margaret Foley care of Architects Workshop of Suite 1, 20 Harcourt Street, Dublin and by others against the decision made on the 19th day of December, 2017 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to IMRF II Frascati Limited Partnership acting through its general partner Davy IMFR II GP Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: An appeal has been made to An Bord Pleanála against the decision made on the 19th day of December, 2017 by Dún Laoghaire-Rathdown County Council bearing the above planning reference number which decision was to grant permission with conditions to IMRF II Frascati Limited Partnership acting through its general partner Davy IMFR II GP Limited for development at Frascati Shopping Centre, Frascati Road, Blackrock, County Dublin. The application to the planning authority, received on the 25th day of October, 2017, was described as an application for permission for a residential development of 45 number apartment units over three number storeys, from second to fourth floor level, over the permitted

ground and first floor levels of retail/restaurant floorspace and permitted lower ground floor car park. The proposal will be an extension of the Rejuvenation Scheme permitted under planning register reference number D14A/0134, as amended by planning register reference number D16A/0235 (An Bord Pleanála appeal reference number PL 06D.246810), planning register reference numbers D16A/0798, D16A/0843 and D17A/0599. The proposed apartment mix consists of three number one bedroom units, 36 number two bedroom units and six number three bedroom units. Balconies are provided for the residential apartments on the north-eastern, north-western, south-eastern and south-western elevations. Access to the residential units will be provided via a stair and lift core from lower ground and ground floor level. 51 number car parking spaces within the lower ground floor car park will be allocated to the residential units. The development includes 54 number bicycle parking spaces for the apartments, located at lower ground floor level and proposed first floor level podium car park. The development also includes a bin store and plant area at lower ground level, two communal terrace areas at second floor level and roof level and plant enclosures at roof level. The development includes an associated reduction to the permitted footprint of the lower ground floor level. The proposal will result in the omission of the second floor level restaurant unit and storage floorspace permitted under the Rejuvenation Scheme. The proposal includes a first floor level podium car park, over the permitted podium car park, located at the north-west of the site, which will provide 81 number car parking spaces. The total car parking provision for the scheme as amended by this permission will be 604 number spaces, which comprises 51 number spaces for the proposed residential units and 553 number spaces for the permitted retail and restaurant floorspace.

It is considered that an Environmental Impact Assessment Report is required because the development results in an increase in size greater than 25% of the development already authorised and being executed on the site under planning register reference number D14A/0134 at Frascati Shopping Centre, Frascati Road, Blackrock, 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.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions from the planning authority, the observers and the prescribed bodies in the course of the application, and

(d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- Potential impacts on population and human health as a result of noise, dust and traffic during the construction phase. The potential impacts would be mitigated by mitigation measures outlined in the Environmental Impact Assessment Report and by a Construction Management Plan.
- Landscape and Visual impacts would arise on the landscape from the changing built form. Given the design, height, massing and scale of the proposed development, this effect would not have a significant negative impact on the environment.
- Positive significant impacts would arise during the operational phase, including employment and economic benefits.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself or in combination with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the planning application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Reasons and Considerations

Having regard to the zoning objective for the site as set out in the Dún Laoghaire-Rathdown County Development Plan 2016 - 2022, the National Planning Framework, the Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities (2009) and to the overall scale, height, massing and design and of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity 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 received by An Bord Pleanála on the 26th day of February 2018, the 25th day of October, 2018 and the 14th day of December, 2018, 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. Mitigation and monitoring measures outlined in the Environmental Impact Assessment Report submitted with this application shall be carried out in full, except where otherwise required by condition attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. The proposed development shall be modified as follows:

The boundary screen to the south facing balconies on the proposed second floor level (apartments numbers 201 – 205 inclusive) and the south facing balconies on the third-floor level (apartments numbers 301 – 305 inclusive) shall be 1.5 metres in height and shall be finished in obscure glazing.

Revised drawings showing compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of protecting established residential amenities.

4. 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.

5. 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 and to ensure a proper standard of development.

6. Proposals for an 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 apartment numbers, 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.

Reason: In the interest of urban legibility.

7. The proposed car parking spaces for the residential units shall be reserved for use by the residents of the development and shall be demarcated as being separate from, and not be available for use by customers or employees of the retail and commercial uses on the site. The residential car parking spaces shall be sold or leased solely to the occupants of the proposed apartments. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason; In the interests of residential amenity and sustainable transport.

8. The remainder of flat roof areas, for example, around the proposed 'roof terrace' and roof 'plant' enclosures, shall not be used as balconies, roof terraces or similar amenity areas, and shall be accessed for maintenance purposes only.

Reason: In the interest of residential amenity.

9. Each proposed apartment unit shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

10. Prior to the 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.

11. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works.

Reason: In the interest of residential amenity.

12. 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.

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. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

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 for the area.

16. 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.

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 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.

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

Dated this day of 2019.