



Planning and Development Acts 2000 to 2018

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D17A/1135

Appeal by Bartra Property (Dublin) Limited care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, County Dublin against the decision made on the 22nd day of February, 2018 by Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development.

Proposed Development: Demolition and clearance of the existing industrial single storey warehouse and sheds (1,210 square metres) and development of a mixed-use marine commercial, leisure/community and residential based development. The proposal is for the construction of: 1) a craft boat building workshop/craft boat storage facility (416 square metres), 2) a single storey building incorporating relocated marine leisure unit (10 square metres), relocated marine commercial unit (10 square metres) and community water sports changing facility (42 square metres), 3) a three-storey building incorporating a café (108 square metres), apartment entrance hall (44 square metres) and apartment car parking (two spaces, 40 square metres) at ground floor level, a two bed apartment (160 square metres) with associated balcony at first floor level and a two bed apartment (160 square metres) with associated balconies at second floor level, 4) a single storey re-located

seafood sales outlet (26 square metres), 5) four number fisherman's huts, (total area 18 square metres), 6) a new public square fronting on to the harbour (20 metres wide by nine metres deep), 7) three number three-storey detached houses (each 412 square metres) each with roof terraces, and off-street covered parking for two cars, 8) the existing south-western vehicular access from Bullock Harbour will be maintained and upgraded creating a two-way roadway and shared footpath affording access to the proposed dwellings to the rear of the development, 9) five number visitor car parking spaces to the rear of the site, 10) the existing boundary wall will be maintained and repaired with natural coursed granite stone, and 11) the development will also include piped infrastructure and ducting; changes in level; site landscaping and all associated site development and excavation works above and below ground, all at the former Western Marine Building, Bullock Harbour, 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

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

- the location of the site in Bullock Harbour, within an established built-up area on lands with zoning objective W, which seeks to 'To provide for waterfront development and harbour related uses' in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- the policies set out in the development plan;
- the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016;
- the Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Housing and Local Government in November 2009;
- the Urban Development and Building Heights, Guidelines for Planning Authorities, issued by the Department of the Housing, Planning and Local Government in December 2018;

- the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in 2004;
- the nature, scale and design of the proposed development;
- the availability in the area of a wide range of social, community and transport infrastructure;
- the pattern of existing and permitted development in the area;
- planning history within the area;
- the submissions and observations received, and
- the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable mix of community, commercial and residential development in this harbour location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of the residential amenity of future occupants, would not detract from the unique character of Bullock Harbour, would be acceptable in terms of urban design, height and quantum of development 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.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied that the proposed development was in accordance with the zoning objective for the site under which residential development is "open for consideration" and considered that the balance of uses was acceptable and that the proposed development would not injure the character and amenities of the harbour area and would not be contrary to the requirements of Specific Local Objective 22 as set out in the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. Furthermore, the Board considered that the proposed development was designed and detailed to take account of the provisions of the 'Planning System and Flood Risk Management, Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in November 2009.

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 within a zoned and serviced urban area, the Appropriate Assessment Screening Report submitted with the 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.

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. The materials, colours and finishes of the permitted buildings, the treatment of surfaces and boundaries within the development and the landscaping of the site shall be in accordance with the details submitted with the application, unless variations are required in order to comply with the conditions of this permission or the prior written agreement of the planning authority has been obtained for minor departures from the submitted details.

Reason: In the interests of visual and residential amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water and seawater from overtopping in extreme flood events, shall be submitted to and agreed in writing with the planning authority prior to commencement of works.

Reason: In the interest of public health, flood defence and to ensure a satisfactory standard of development.

4. Site development and building works shall be carried out only between 0800 to 1900 hours 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 amenities of property in the vicinity.

5. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

6. 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 carry out site testing and monitor all site investigations and other excavation works,

- (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 (in situ or by record) of any remains that may exist within the site.

- 7. Prior to commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority for agreement 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. This 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.

Reason: In the interest of orderly development and sustainable waste management.

8. A final site-specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least five weeks in advance of site clearance and site works commencing

Reason: To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage and flooding.

9. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 the Board for determination.

Reason: To ensure the satisfactory completion and maintenance of the development.

10. 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 2019.