



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 2001/18

Appeal by Jim and Colm McBride and others care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin and by Thomas McMullan care of Tom Phillips and Associates of 80 Harcourt Street, Dublin and by others against the decision made on the 19th day of June, 2018 by Dublin City Council to grant subject to conditions a permission to the said Thomas McMullan in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition and removal of all existing buildings and associated structures above and below ground (total 1,311 square metres) and the construction of a five-storey apartment building (with setbacks at third and fourth floor levels) (accommodating 90 number apartments - 23 number one-bed units, 53 number two-bed units, and 14 number three-bed units) over single basement level (accommodating 90 number car parking spaces, four number motorbike parking spaces, 90 number bicycle spaces, together with circulation, plant, attenuation, waste management, storage areas and service areas). Vehicular and pedestrian access to the site will be from Beach Road with additional pedestrian access also from Church Avenue; (the total gross floor area of the proposed development is 11,527 square

metres - including a basement level 2,889 square metres and a detached ground floor ESB substation/switch room of 23 square metres). The development will also consist of the provision of: private and semi-private open spaces in the form of balconies and terraces (on the Beach Road, Church Avenue frontages and to the rear of the building on the north-western, south-eastern and south-western facades), and ground level courtyards including a children's play area; all hard and soft landscaping including boundary treatments; changes in level; plant; PV panels; SUDs' measures including green roof; eight number bicycle spaces at ground level; waste collection area; and all other associated site excavation and site development works above and below ground, all on a site of circa 0.385 hectares. The site is bounded by Church Avenue to the north; existing education (Saint Matthew's National School) and residential development to the south and west; the junction between Cranfield Place and Beach Road to the south; and Beach Road to the east. All at Maxol Petrol Filling Station and Michael grant Motors, Beach Road, 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 Dublin City Development Plan 2016-2022, according to which the location is subject to the zoning objective Z1: to protect, provide for and/or improve residential amenities,
- “The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of Housing, Planning and Local Government in March 2018,
- The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018 according to which new residential development in cities should be directed into locations within the existing built-up serviced areas,
- The location within a well serviced, inner suburban area in close proximity to the city centre, public transport facilities and a good local road network, and a wide range of community and social facilities,
- The size and configuration of the site which has the capacity to accept a stand-alone development of individual character and higher density that is compatible with the established development in the area, and
- The site layout, footprint, scale, mass, height and design of the proposed block and to the internal layout and configuration of the proposed dwelling units,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities and value of property in the vicinity, would not adversely affect the safe and efficient operation and amenities of Saint Mathew's School, or the development potential of the school on the site, would be acceptable in terms of traffic and pedestrian safety and convenience, would not endanger public health and 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 the planning authority on the 23rd day of May, 2018 and the further plans and particulars received by An Bord Pleanála on 15th day of August, 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. The layout and footprint, total number of units, dwelling mix, setback of the block from the northern boundary, amendments to the northern elevation and extension to the public open space adjacent to the northern boundary shall be in accordance with the details, as set out in the “Alternative Option Scheme” shown on Sheets 1-3 in the further plans and particulars received by the An Bord Pleanála on the 16th day of July, 2018. A detailed site layout, landscaping scheme, floor plans, elevation and section drawings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The remaining courtyard area shall be designated as communal open space accessible to the occupants of the development.

Reason: In the interest of public, visual and residential amenities and clarity.

3. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

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

4. Details of the following shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development:

- Materials, colours and textures of all the external finishes which should be low maintenance self-finish surfaces and a panel shall be displayed on the site to facilitate the planning authority.
- Scaled drawings for the proposed balustrades and privacy screens for balconies to include details of materials, colours and finishes.
- External lighting throughout the development.

Reason: In the interests of visual and residential amenities of the area.

5. The following requirements shall be provided for, and adhered to, in the development:

- The vehicular exit onto Beach Road shall be 'Left Turn' only for which signage and line markings shall be provided to the satisfaction of planning authority, in consultation with the Environment and Transportation Department, prior to occupation of the development.
- The basement level car parking spaces shall be for the sole use of residents, and visitor parking and shall not be sold, sublet or leased to third parties.
- Alterations to the public road and footpath including the interface between the footpath and private landing shall be in accordance with the requirements of the Environment and Transportation Department.

- All repairs to the public road and services that may be required shall be carried out to the satisfaction of the planning authority at the developer's expense.

Reason: In the interests of clarity, public safety and amenity.

6. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

7. 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.

8. Communal waste storage areas within the basement shall be designed and managed in accordance with the proposals within the operational waste management plan lodged with the planning authority. Waste materials shall be transferred to the designated surface level space on the day of collection only.

Reason: In the interests of residential and public amenities.

9. The landscaping plan and boundary treatment, incorporating amendments to the screen planting and to the layout and to public and communal space provision provided for in the “Alternative Option” in the submission lodged with An Bord Pleanála on 15th day of August, 2018 and which shall be subject to agreement in writing with the planning authority prior to the commencement of the development, shall be fully implemented within the first planting season following completion of construction.

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

10. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interests of visual and residential amenities.

11. Arrangements for clearance and decontamination of the site and for construction of the development shall be managed in accordance with a Construction and Waste and Construction Traffic Management Plan, based on the details in the Outline Construction and Waste Management Plan lodged with the planning authority on the 2nd day of January, 2018 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:
- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse, areas for construction site offices and staff facilities, site security fencing and hoardings and on-site car parking facilities for site workers during construction;
 - (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site, measures to obviate queuing of construction traffic on the adjoining road network and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels. Noise levels shall be managed to accordance with the standards in BS 5228: Noise Control on Construction and Open Sites Part 1 Code of Practice for Basic Information and Procedures for Noise Control and shall not result in grounds for complaint as provided for in BS 4142. "Method for rating industrial noise affecting mixed residential and industrial areas";

- (d) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (f) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority;
- (g) The plan shall be 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.

Reason: In the interests of amenities, public health, safety and sustainable development.

12. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between the hours of 0800 and 1400 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 residential amenities of property in the vicinity.

13. 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.

14. 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.

15. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of works to improve the junction between Carnlough Road and Cabra Road. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

16. 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.