



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 3930/18

Appeal by MKN Property Group care of Downey Planning of 1 Westland Square, Pearse Street, Dublin against the decision made on the 6th day of November, 2018 by Dublin City Council to refuse permission to the said MKN Property Group for the proposed development.

Proposed Development Residential development consisting of 79 number units comprising 71 number apartment units (32 number one-bedroom units, 37 number two-bedroom units, two number three-bedroom units) in three number blocks over a single level basement (including the change of use of the former Holy Faith Convent building from institutional/convent use to residential use) and eight number three-bedroom houses with in-curtilage car parking. The overall proposed development will comprise the following: Block 1 - the change of use to the existing two-storey former Holy Faith Convent building from institutional/convent use to residential use comprising a total of 11 number units (four number one-bedroom units, five number two-bedroom units and two number three-bedroom units), demolition of part of the existing rear returns and existing roof level and provision of a new second floor extension to now provide a part two-storey part three-storey building as well

as associated modifications to elevations and internal modifications/reconfiguration of and refurbishments to the existing building in order to accommodate the provision of the new apartment units. Block 1 will also have terraces/balconies on north, south, east and west elevations. Block 2 - construction of a four-storey (three-storey plus setback level) apartment block comprising 30 number apartments (14 number one-bedroom units and 16 number two-bedroom units) with terraces/balconies on east and west elevations. Block 3 - construction of a four-storey (three-storey plus setback level) apartment block comprising 30 number apartments (14 number one-bedroom units and 16 number two-bedroom units) with terraces/balconies on north and south elevations; construction of eight number three-bedroom, two-storey terrace dwellings in two number blocks of four units with two number in-curtilage parking per unit (16 number spaces in total) with access from Saint Brigid's Road; a basement level comprising a total of 75 number car parking spaces, 70 number bicycle parking spaces; ancillary plant room and refuse storage areas; demolition of two number detached outbuildings to the rear of the former convent; revisions and improvements to the existing vehicular entrance to Saint Brigid's Road; landscaping (including public and private open space and children's play equipment); boundary treatments; and all associated engineering and site development works necessary to facilitate the development, all at Former Holy Faith Convent Building, Saint Brigid's Road, Killester, 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 provisions of the Dublin City Development Plan 2016-2022, the Z15 zoning objective of the site, which supports the delivery of residential development, and the location of the site in a highly accessible serviced urban area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would have due regard to the historic context of the site. 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 3rd 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. The proposed development shall be amended as follows:
 - (a) Proposed dwelling numbers 1 to 4 shall be omitted and the remaining area shall be incorporated into the scheme as public open space.
 - (b) The south-west side of Block 03 at third floor level shall be set back by a minimum distance of 2.4 metres, and a 1.8-metre-high obscured glass screen shall be installed.
 - (c) The balconies serving apartment numbers 57 and 65 in Block 03 shall incorporate a 1.8-metre-high obscured glass screen to the south-west side.
 - (d) Revised drawings for Blocks 02 and 03 shall be submitted which shall ensure that all balconies meet the minimum standards required, as set out in 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.

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

Reason: In the interests of protecting the setting and character of the existing historic building on site and the residential amenity of neighbouring properties.

3. This permission is for 71 apartment units and four houses only.

Reason: In the interest of clarity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development, including boundary treatments, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No entrance gates across the vehicular entrance from Saint Brigid's Road shall be permitted, with entrance gates only permitted at the entrance to the school site positioned at the north-east boundary of the site. A gated pedestrian entrance shall be maintained at the southern pedestrian entrance into the site from Saint Brigid's Road, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

5. The site shall be landscaped, using only indigenous species, in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) The species, variety, number, size and locations of all proposed trees and shrubs to be planted.
 - (ii) Details of screen planting and treatment/finishes of all external ground surfaces and boundaries.
 - (iii) Hard landscaping works, specifying surfacing materials, furniture, and finished levels.

- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation of planting and landscaping.
- (d) Protection and enhancement measures for all existing trees to be retained. Storage of materials shall not be permitted inside the line of tree protection measures. The retention of trees shall be maximised within the site over and above that originally proposed particularly to the north side of the site alongside the access route/right-of-way.
- (e) The areas of open space shown on the lodged plans shall be reserved for such use and the developer shall provide for a small play area (85-100 square metres in area) for the specific needs of toddlers and children up to the age of six, to be located within the open space.

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 three 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 amenity, ecology and sustainable development.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall be erected on the site/within the rear garden area of the houses, without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling.

8. 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.

Reason: In the interests of visual and residential amenity.

9. 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.

10. The developer shall comply with the following road requirements:
 - (a) The car parking spaces shall be permanently allocated to the residential units within the development and shall not be sold, rented or otherwise sub-let or leased to other parties.
 - (b) At the vehicular access point to the development, the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary to facilitate car entry/exit. Measures shall be implemented including contrasting materials, signing and road markings to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of-way.
 - (c) The developer shall comply with the requirements of the planning authority in relation to the design of the individual access points to the proposed dwellings from Saint Brigid's Road.

- (d) All costs incurred by the planning authority, including any repairs to the public road and services necessary, as a result of the development, shall be at the expense of the developer.

Reason: In the interests of traffic safety and orderly development.

11. The attenuation and disposal of surface water, provision of additional comprehensive Sustainable Drainage Systems (SuDS) measures, and permeable paving throughout the development, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

12. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of public health.

13. Site development and building works shall be carried out only between the hours of 0700 and 1800 from 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

14. Proposals for an estate/street name, house 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 numbers, shall be provided in accordance with the agreed scheme. 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.

15. 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.

16. 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 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.

Reason: To provide for the appropriate management of waste and, in particular, recyclable materials, in the interest of protecting the environment.

17. 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:
- (a) location of the site and materials compound including areas identified for the storage of construction refuse;
 - (b) location of areas for construction site offices and staff facilities;
 - (c) details of site security fencing and hoardings;

- (d) details of on-site car parking facilities for site workers during the course of construction;
- (e) details of 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;
- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels;
- (j) 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;
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

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

18. 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.

19. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

20. 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.

21. 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.

Michelle Fagan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.