



Planning and Development Acts 2000 to 2018

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D18A/0551

Appeal by Cara and David Toner of An Gleann Mór, Old Bray Road, Cabinteely, Dublin and by Jane and Michael Culligan of Little Acre, Old Bray Road, Cabinteely, Dublin against the decision made on the 23rd day of January, 2019 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Castlethorn Management Services UC care of Stephen Little and Associates of 26/27 Upper Pembroke Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Permission for 72 number dwellings comprising 46 number apartments (16 number one-bedroom, 29 number two-bedroom and one number three-bedroom units) accommodated in two number three-five-storey buildings and including balconies or terraces on north, east, south and west elevations and solar panels on the roof, 22 number two-storey terraced semi-detached and detached houses and four number two-storey plus attic semi-detached houses (18 number three bedroom and eight number four-bedroom units), including solar panels on the roof. All associated site development, landscape and boundary treatment works including demolition of two number existing habitable houses, 'Cartref' (circa 206.5 square metres)

and' Ards' (circa 263 square metres) and associated outbuildings, main vehicular access and egress to scheme via the existing 'Cartref' site onto the Old Bray Road, to provide two-way carriageway and a footpath, existing vehicular driveway to 'Ards' to serve as private driveway to one number dwelling within the proposed scheme, 103 number car parking spaces (32 number semi-basement and 71 number surface), 109 number bicycle spaces located in external shelters and semi-basement to serve apartment units and visitors, pedestrian link to existing linear open space alongside Cabinteely stream to the west of the site and an Electricity Supply Board sub-station (circa 8.2 square metres). This application relates to a proposed development within the Cherrywood Strategic Development Zone but is outside the boundary of the Cherrywood Strategic Development Zone Planning Scheme. All on a site of circa 1.46 hectares at 'Ards', 'Cartref' and lands to the rear of 'Foxley', Old Bray 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 zoning objective for the site, the pattern of existing and permitted development in the area, the density, scale and layout proposed, the site's accessibility and proximity to good public transport infrastructure, and the desirability of maximising the use of such land, 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, would not adversely impact on the character of the area and would be acceptable in terms of traffic safety and convenience. 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 submitted on the 18th 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. 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 take place within the rear garden area of houses numbers 1, 2, 5, 6, 7, 8, 9, 10, 11 and 12 or within the curtilage of house number 13, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

3. 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 satisfactory standard of development.

4. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
 - (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.

- (c) Pedestrian crossing facilities shall be provided at all junctions.
- (d) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.
- (f) Electric Vehicle Charging Point provision shall be as per item number 5(V) Transportation in the response to the planning authority, dated the 18th day of December, 2018.
- (g) At least one car parking space shall be allocated to each residential unit within the scheme. Car parking spaces shall be sold off in conjunction with the units and shall not be sold or let separately.
- (h) The proposed three car parking spaces on the northern side of the entrance road shall be omitted. Total car parking space provision shall not exceed 101 number spaces.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

5. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interests of residential and visual amenity.

6. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
 - (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
 - (b) Trees which are agreed in writing with the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Reason: In the interests of amenity, ecology and sustainable development.

7. Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species.

Reason: In the interests of amenity, ecology and sustainable development.

8. Mitigation and monitoring measures relating to biodiversity outlined in the plans and particulars, including the ecological impact assessment, bat survey and the Construction Environmental Management Plan submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission. In this regard:
 - (a) The developer shall make available a single document of the mitigation measures/recommendations relating to biodiversity that are outlined in the various documents that form part of the application, for the written agreement of the planning authority. This document shall include a programme for the implementation of the mitigation measures including any monitoring requirements by a suitably qualified ecologist shall accompany this document for written agreement at least five weeks in advance of site clearance works.
 - (b) Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1st to August 31st).

- (c) All buildings proposed for demolition and all mature trees proposed for felling shall be examined for evidence of bats, prior to any works by a bat specialist, including an examination of internal roof features. If required, a National Parks and Wildlife Service derogation licence shall be obtained.
- (d) Prior to commencement of development, the developer shall submit a letter from their bat consultants, stating that they are satisfied that the final design of the external illumination proposed will be to the required specification and that the proposed roosts and important bat corridors are not illuminated.
- (e) After installation of the external lighting, a report shall be submitted, prepared by the bat specialist, for the written agreement of the planning authority, confirming that it is operating according to specification.

Reason: In the interest of protecting the environment and to address any potential impacts on biodiversity.

- 9. Details 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.

10. No additional development shall take place above roof parapet level of the apartment blocks, 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 amenity of property in the vicinity and the visual amenity of the area.

11. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 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 amenities of property in the vicinity.

12. Prior to commencement of development, proposals for an apartment and house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development.

13. 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.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. All works shall be undertaken in accordance with section 5.2 of the Archaeological Assessment Report submitted to the planning authority on the 8th day of June, 2018. 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, following demolition, 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 (in situ or by record) of any remains that may exist within the site.

15. Prior to commencement of development, a phasing programme for the development shall be submitted to, and agreed in writing with, the planning authority.

Reason: To provide for the orderly development of the site.

16. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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. A Final Site Specific detailed Construction and Environmental Management Plan shall be submitted to, and agreed in writing with, 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.

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 96(4) and 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 97(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.

19. 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 local authority of roads, footpaths, watermains, drains, public 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 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 An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

20. 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.

21. The developer shall pay to the planning authority a financial contribution in respect of Luas Line B1 – Sandyford to Cherrywood’) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

Dated this day of 2019.