



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 3047/18

Appeal by Anne Mandal of 12 Vergemount Park, Clonskeagh, Dublin and by others against the decision made on the 22nd day of January, 2019 by Dublin City Council to grant subject to conditions a permission to The Donnybrook Partnership care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development will consist of:

- (1) Demolition of existing six number two-storey dwellings and ancillary structures.
- (2) Construction of a residential development of 94 number apartments comprising 15 number one-bedroom apartments, 62 number two bedroom apartments and 17 number three bedroom apartments (all apartments to have balconies or roof terraces), with an overall height of seven storeys (over basement/part second basement level) at the junction of Eglinton Road and Donnybrook Road, reducing in height to

five and four storeys along Eglinton Road and (five-seven storeys) along Donnybrook Road, and three storeys along Brookvale Road.

- (3) Provision of ancillary areas (residents meeting room/lounge with terrace, management area) at ground floor level.
- (4) Ground floor cafe of circa 67 square metres at ground floor level onto Donnybrook Road with terrace and signage zone of circa two square metres.
- (5) Vehicular access will be provided from Brookvale Road into basement levels which will provide 100 number car parking spaces (including car stacker system), five number motorcycle spaces and 94 number cycle spaces and all ancillary areas (to include plant, storage and attenuation).
- (6) The development includes all associated site development works, hard and soft landscaping (to include 20 number cycle spaces at ground floor level) and all other ancillary works to include provision of an internal communal landscaped open space area at ground floor and deck area at fourth floor level on western boundary.
- (7) Provision of hoarding around site boundary (with scheme advertisement zone circa 302.25 square metres along Eglinton Road and Donnybrook Road) during construction phase.

All on a circa 0.38-hectare site located at numbers 1, 3, 5, 7, 9 and 11 Eglinton Road, Donnybrook, 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:

- (a) the provisions of the Dublin City Development Plan 2016-2022,
- (b) the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (March, 2018),
- (c) the Urban Development and Building Heights - Guidelines for Planning Authorities (December, 2018),
- (d) the existing pattern of development at this location,

(e) the design, scale and layout of the proposed development, and

(f) the submissions and observations on file,

it is considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance with current development plan policy, would not detract from the visual amenities of the area, would not adversely affect the architectural heritage of the area, would be acceptable in the context of the amenities of adjoining properties and would be acceptable in the terms of pedestrian and 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 17th 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. 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 the commencement of development.

Reason: In the interest of visual amenity.

3. Details of works to footpaths and at the vehicular access point to the subject site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interests of traffic and pedestrian safety.

4. Prior to commencement of development and subsequent to consultation with the National Transport Authority, the developer shall liaise with Dublin City Council regarding the interaction of the proposed development and the Dodder Greenway proposal.

Reason: in the interest of the proper planning and sustainable development of the area.

5. Car parking spaces provided within the development shall be permanently allocated to residential units, and not be sold, rented or otherwise sub-let or leased to any other parties.

Reason: in the interests of residential amenity and sustainable transport.

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 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.

8. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual 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. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development and to prevent pollution.

11. Site development and building works shall be carried out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

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 traffic management measures and noise management measures.

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. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services shall be submitted to, and agreed in writing with, the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interests of residential amenity and orderly development.

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.

18. The developer shall pay the sum of €4,000 (four thousand euro) (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), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of the upgrading of public open space in the area, as determined by the planning authority. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

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.

Chris McGarry
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.