



Planning and Development Acts 2000 to 2019

Planning Authority: South Dublin County Council

Planning Register Reference Number: SD18A/0328

Appeal by Bartra Property (NH) Limited care of BMA Planning of Taney Hall, Eglinton Terrace, Dundrum, Dublin and by Anna Kelly and others care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin against the decision made on the 22nd day of May, 2019 by South Dublin County Council to grant subject to conditions a permission to the said Bartra Property (NH) Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of nursing home building comprising 155 bedrooms and all associated ancillary accommodation (7,741 square metres gross floor area) in a part three, part four-storey building located on the lands to the south and west of the convent building; retirement home building comprising 14 bedrooms and all associated ancillary accommodation (916 square metres gross floor area) in a two-storey wing to the south east of the Convent and internally connected to the nursing home; internal alterations and improvements to part of the existing convent building (Protected Structure) at ground, first and second floor levels which is to be used for nursing home staff accommodation (1,203.3 square metres). The internal reconfiguration and works proposed as part of this application to the remainder of the convent building include the following:

- (a) subdivision of Convent Chapel to provide quiet room (accessed from the adjacent church only) and a new kitchen dining area with the Chapel,
- (b) adjustment, removal and addition of partitions, services and fittings to create en-suite bathroom facilities in 25 number proposed bedrooms at ground, first and second floor levels,
- (c) internal works to facilitate use of rooms as communal living rooms and other ancillary uses,
- (d) sundry internal modifications, refurbishment and improvements to rooms and circulation areas, upgrading of flooring, walls and internal doors to meet fire regulations, draught proofing windows and improving window safety, and
- (e) sundry refurbishment works to allow for conservation and repair of building fabric, roof finishes, structure and retained fixtures.

The existing Parish Offices and meeting rooms within the Convent building are to be retained in their current use and no works are proposed to these rooms which are excluded from the current application. The development will be accessed via a vehicular and pedestrian entrances from New Road and will provide a total of 42 number car parking spaces and 60 number bicycle spaces. Existing vehicular entrances from New Road and Convent Road serving the Church will be retained. Permission is also sought for the construction of a single storey detached substation and switch room (20.5 square metres) and two number single storey detached store building (89.5 square metres), hard and soft landscaping, boundary treatment and all ancillary and associated site and development works. The development will also involve the demolition of existing substation and detached single storey

ancillary store buildings (192.2 square metres), all on site (1.34 hectares) at The Presentation Convent (Protected Structure), Convent Road, Clondalkin, Dublin (lands bounded by Moyle Crescent to the north, New Road to the east, Scoil Mhuire to the south and Convent Road to the west).

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 condition 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

The proposed development is located on lands 'to protect and/or improve residential amenity' in the South Dublin County Development Plan 2016 to 2022. The proposed development comprises nursing home and retirement home accommodation which is permitted in principle on lands so zoned. Having regard to the design, scale and layout of the proposed development, to the pattern of development in the area and subject to compliance with the conditions set out below, it is considered that the proposed development would not detract from the setting or integrity of the Protected Structure on site, would not seriously injure the amenity of adjoining property or the visual amenities of the area, would not give rise to traffic hazard 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 submitted on the 25th day of April 2019, 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. (a) The development shall be carried out on a phase basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. In default of such agreement, the matter shall be referred to An Bord Pleanála for determination.
- (b) The phasing of the carrying out of works to the Protected Structure shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. The works shall be completed no later than 18 months following the first occupation of the nursing home. In default of such agreement, the matter shall be referred to An Bord Pleanála for determination.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed development and to ensure that works to the Protected Structures are carried out in a timely manner as part of the overall development.

3. A full architectural survey of buildings proposed for demolition shall be carried out and shall be submitted to the planning authority prior to commencement of development. Archive standard drawings and a photographic survey shall be prepared in accordance with the requirements of the planning authority and one copy of these shall be submitted to the planning authority, and a further copy shall be submitted to the Irish Architectural Archive.

Reason: In order to facilitate the conservation, preservation and/or recording of the architectural heritage of the site.

4. (a) A conservation architect shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.
- (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic instatement.
- (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

Reason: To ensure that the integrity of the retained structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

5. (a) The proposed plinth wall along Convent Road to the west of the site and along the northern boundary with the existing church car park shall be constructed using stone from the existing western boundary wall along Convent Road.
- (b) The proposed new entrance on New Road and the two vehicle entrances along the southern boundary wall, to the east of the site, shall utilise stone from the existing western boundary wall along Convent Road.

Reason: In the interests of architectural conservation and visual amenity.

6. 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 the visual amenities of the area.

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

Reason: In the interest of public health.

9. The landscaping scheme submitted to the planning authority on the 25th day of April, 2019 shall be carried out within the first planting season following substantial completion of external construction works. 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 five 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 interest of visual amenity.

10. Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.

Reason: To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

11. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

12. Bat roosts shall be incorporated into the site and the recommendation of the Bat Assessment report shall be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to the planning authority on the 14th day of September, 2018.

Reason: To ensure the protection of the natural heritage on the site.

13. 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 measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

14. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays, 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 residential amenities of adjoining property in the vicinity.

15. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

16. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plan, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

17. Details of signage for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity and legibility.

18. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

19. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Public lighting within the proposed development shall be directed and cowled such as to reduce as far as possible the light scatter to adjacent properties and the public road.

Reason: In the interests of amenity and public safety.

20. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for the overall site. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

21. 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 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: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

22. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of any archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

23. The proposed development shall make provision for the charging of electric vehicles. 100% of car parking spaces proposed shall be provided with electrical ducting and termination points to allow for the provision of future charging points, and 10% of car parking spaces shall be provided with electric vehicle charging points initially. Details of how it is proposed to comply with these requirements including details of the design of, and signage for, the electric charging points (where they are not in areas to be taken in charge) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of two years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

25. 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 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.

Terry Prendergast
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board

Dated this day of 2019