



Planning and Development Acts 2000 to 2019

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D18A/1009

Appeal by Colin and Jennifer O’Gara of “Rowan Park”, Glenageary Road Upper, Glenageary, County Dublin and by Others against the decision made on the 9th day of July, 2019 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Victoria Homes Limited care of MacCabe Durney Barnes of 20 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of 27 residential units in two apartment blocks, four-storey high over basement car park. Block A consists of four number one-bed units, six number two-bed units and four number three-bed units. Block B consists of three number one-bed units, seven number two-bed units and three number three-bed units. A new pedestrian access is to be provided between the site and the linear park to the west. All associated site development, landscape, boundary treatment works, services provisions and ancillary site works will also be provided, all on a site of circa 0.27 hectares known as Arva, 137 Glenageary Road Upper, Glenageary, County Dublin. The proposed development was revised by further public notices received by the planning authority on the 12th day of June, 2019.

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 location of the site in an established suburban area on lands zoned for residential use in the Dún Laoghaire-Rathdown County Development Plan 2016 - 2022, to the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, and to the provisions of the National Planning Framework 2040, the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009 and the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing, Planning and Local Government in March, 2018, 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 respect the character of the area, would not be prejudicial to public health or give rise to an undue risk of flooding, and would be acceptable in terms of pedestrian and traffic safety. 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 12th day of June 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. The developer may discharge an attenuated excess of surface water into the nearest combined sewer, through a flow limitation device which shall be set at 1.5 l/s and with a head of 0.7m. For this discharge, the developer shall replace, at its own cost and in consultation with Irish Water, the whole of the existing 150 millimetres diameter combined pipe with a minimum 300 millimetres diameter pipe, to the point where it connects to the existing 300 millimetres diameter pipe. Alternatively, a new 300 millimetres diameter pipe may be laid to the point of connection. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development, and the works on the pipe shall be carried out and completed, to the written satisfaction of the planning authority and Irish Water, prior to the making available by the developer for occupation of any of the apartments.

Reason: In the interest of public health, and to prevent flooding.

3. Prior to commencement of development, details of the opening hours of the proposed gate to provide access to/from the green space to the north-west of the application site, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of orderly development, permeability and residential amenity.

4. Prior to commencement of development, the developer shall retain the professional services of a qualified Landscape Architect, as his/her Landscape Consultant, throughout the course of the development works; and shall notify the planning authority of that appointment in writing prior to commencement. 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 prepare, sign and submit a Practical Completion Certificate (PCC) to the planning authority, as verification that the approved landscape plans and specification have been fully implemented.

Reason: In the interest of visual amenity and to ensure full and verifiable implementation of the approved landscape design.

5. (a) Prior to commencement of development, the developer shall appoint a qualified arborist as an arboricultural consultant for the entire period of construction. Such consultant shall ensure that all of the trees that are identified in the submitted documentation as to be retained are protected, and are retained.

- (b) Prior to commencement of any works on site, the developer shall erect protective fencing around all trees to be retained along the northern boundary and as indicated on drawing titled "Tree Protection" (drawing number 103, submitted to the planning authority on the 26th day of October, 2018). Such protective fencing shall be maintained on site until all construction works have been completed. No plant or machinery shall be parked, and no storage of materials, spoil or soils shall take place, within the area thus delineated by such fencing.

Reason: In the interest of visual amenity and to protect and preserve trees on site.

6. Prior to commencement of development and related tree felling on site, the developer shall lodge a tree bond with the planning authority, as security for tree protection and a deterrent to wilful or accidental damages during construction. The bond shall be based on a notional estimate of the combined value - amenity and ecosystems services - of retained trees; and taking account of the percentage tree loss(es) due to direct impacts on healthy trees. The minimum value of the tree bond shall be €15,000 (fifteen thousand euro).

Lodgement of the bond shall be part of an Arboricultural Agreement signed by the developer, empowering the planning authority to apply the tree bond, or part thereof, for satisfactory protection of all retained trees on and immediately adjoining the subject site, or the appropriate and adequate replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of one year from the substantial practical completion of the development. Sequestration of all or part of the bond shall be based on an estimate of the total costs of appropriate, compensatory tree planting at semi-mature sizes.

Replacement planting shall be of the same or similar species/varieties as those lost, or as may be specified by planning authority.

Note: Bond release: one year – inclusive of at least one full growing season - after post practical completion the developer shall submit an Arboricultural Assessment Report and Certificate, signed by a qualified arborist, to the planning authority. Any remedial tree surgery, tree felling works recommended in that report shall be undertaken by the developer at his/her expense, under the supervision of a qualified arborist. The tree bond shall not be released until the report, certificate and any remedial works have been fully undertaken, to the satisfaction of the planning authority.

Reason: In the interest of visual amenity and to protect and preserve trees on site.

7. A specification and layout for public lighting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In particular, the specification and layout shall include:
 - (a) Proposals for the relocation of the ESB Network column, which currently has a public light on it. The developer shall demonstrate detailed proposals for moving this pole, including how the removal of this pole will impact on light levels on Glenageary Road Upper. Details of agreement with ESB Networks to move this pole shall be submitted.
 - (b) A revised lighting design which shall provide a minimum of 1 lux on all areas. Any existing or potential obstacles shall be taken into account in the revised lighting design which is to meet the minimum 1 lux standard. In particular, light levels of the access road and ramp into the basement car park shall be clearly indicated.

The agreed lighting shall be provided in full prior to the making available by the developer for occupation of any of the apartments.

Reason: To ensure a satisfactory standard of public lighting in the interest of public safety.

8. The proposed red brick finish, as indicated on submitted drawings, shall be replaced by a light buff coloured brick finish. Apart from this stipulation, all of the other materials and finishes of the proposed apartment buildings, and, the treatment of boundaries within the development shall generally be in accordance with the details submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. The proposed render finish on the northern and eastern elevations, as submitted to An Bord Pleanála on the 26th day of August 2019, shall not be carried out.

Reason: In the interest of visual and residential amenity, and in the interest of clarity as to what forms and colours of finishes are considered to be acceptable, and what are not permitted.

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, and to allow the planning authority to assess the impact of any such structures solely through the statutory planning process.

10. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

11. Drainage arrangements, including those for the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services, and as required by condition number 2 of this Order.

Reason: In the interest of public health, and to prevent flooding.

12. All of the proposed basement car parking spaces shall be provided by the developer with functioning electric vehicle charging points. Details of these charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provision shall be carried out and completed prior to the making available by the developer for occupation of any of the proposed apartments.

Reason: In the interest of facilitating the use of electric vehicles.

13. (a) One number car parking space shall be allocated to each apartment.
- (b) The two number surface visitor car parking spaces along the access road before the signal-controlled barrier system shall be clearly designated and reserved for visitor car parking.

- (c) The proposed one-way signal-controlled ramp, as described in the Corrigan Hodnett Consulting Further Information Response Letter (Feb 2019), shall be operational at all times.
- (d) In the event of damage/breakdown/failure of the proposed signal-controlled barrier system, the proposed signal-controlled barrier system shall be repaired immediately or as soon as possible thereafter

Reason: In the interest of pedestrian and traffic safety.

- 14. Proposals for a naming and numbering scheme and associated signage for the permitted development 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. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 and to ensure the use of locally appropriate place names for new residential areas.

- 15. 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 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 the course of construction and the prohibition of parking on neighbouring residential streets;
- (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;
- (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.

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. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

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

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

17. 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 interest of visual and residential amenity.

18. (a) 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 for each apartment unit 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.

- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

19. 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.

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of shared internal areas, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

21. 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 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.

22. 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, communal open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

23. 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.

24. The developer shall pay the sum of €1,500 (one thousand, five hundred 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 provision of the new footpath proposed from the new pedestrian entrance gate to the north-western boundary leading to the existing pathway in the adjoining public green space. This contribution shall be paid prior to commencement of 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.

Philip Jones
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2020.