



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 2322/19

Appeal by Trevor Plunkett of 30a The Glen, Bettyglen, Raheny, Dublin against the decision made on the 26th day of September, 2019 by Dublin City Council to grant subject to conditions a permission to McGrath Lennon care of Dixon McGaver Nolan Architects of 14 Lower Baggot Street, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: The development will consist of the demolition of remnants of existing buildings (13 square metres), construction of three number three-storey terraced houses (568 square metres) and the construction of a three-storey commercial building comprising a ground floor restaurant (137.5 square metres) and first and second floor medical and related consultants use (329 square metres), (gross 466.5 square metres), internal access road, three number car parking spaces, 10 number cycle spaces, bin storage area, rearrangement of footpath and apron crossing to public road to provide a relocated entrance to the site, (site area circa 1098 square metres) and all associated site works, all at 31 Main Street, Raheny, Dublin as amended by the revised public notice received by An Bord Pleanála on the 3rd day of March, 2020.

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 Z1 zoning objective for the site, as set out in the Dublin City Development Plan 2016-2022, to protect, provide and improve residential amenities, and to the location of the site on Main Street, Raheny, it is considered that the mixed use commercial and infill residential development would be an appropriate redevelopment of a vacant site on the Main Street and that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual or residential amenities of properties in the area, would afford a satisfactory standard and amenity to future residents, would not give rise to an increase in flooding on the site and would be acceptable in 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.

In deciding not to accept the Inspector's recommendation to refuse permission on the basis that the proposed development individually or in combination with other plans or projects would adversely affect the integrity of European sites particularly arising from the spread of invasive plant species, the Board considered the proposals for the eradication of Japanese Knotweed in the report submitted by the developer to the planning authority as further information (dated 30th day of August, 2019) and concluded that Option 4 which comprised the controlled excavation with off-site disposal to a licensed landfill facility could be conditioned on the developer and would ensure that potential impacts on European Sites arising from the spread of invasive plant species was appropriately mitigated.

With regard to potential impacts on water quality, the Board noted the existence of a hydrological pathway between the proposed development site beside the River Santry and the North Dublin Bay Special Area of Conservation (Site Code: 00206) and the North Bull Island Special Protection Area (Site Code: 004006) and considered that the environmental protection mitigation measures set out in the Natura impact statement and those set out in section 4.1.5 of the Construction Management Plan submitted as Appendix J of the further information submitted to the planning authority on the 30th day of August, 2019 would ensure that no contamination by hydrocarbons, wastewater, concrete or siltation of the river occurs during construction thus ensuring the overall protection of the River Santry. The Board was, therefore, satisfied, on the basis of the submissions made in connection with the application and appeal, that the proposed development, individually, or in combination with other plans or projects, would not adversely affect the integrity of the North Dublin Bay Special Area of Conservation (Site Code: 00206) and the North Bull Island Special Protection Area (Site Code: 004006), in view of these sites' Conservation Objectives.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the North Dublin Bay Special Area of Conservation (Site Code: 000206) and the North Bull Island Special Protection Area (Site Code: 004006) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura impact statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for nearby European Sites in view of the sites' Conservation Objectives (North Dublin Bay Special Area of Conservation (Site Code: 00206) and the North Bull Island Special Protection Area (Site Code: 004006)). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment the Board considered, in particular, the

- (i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) mitigation measures to stop the spread of Japanese Knotweed and to protect water quality and which are included as part of the current proposal, and
- (iii) Conservation Objectives for these European Sites,

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites but considered that potential adverse effects on European Sites would be avoided by the implementation of the mitigation measures in the Construction Management Plan and by ensuring that the Invasive Species identified on site was not sprayed or buried on site but was removed in full to an appropriately licensed landfill facility.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' conversation objectives.

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 to the planning authority on the 30th day of August 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and the commercial building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Prior to commencement of development, the developer shall enter into an agreement with the planning authority, pursuant to Section 47 of the Planning and Development Act 2000, as amended, which shall allow for provision of shared access onto the proposed access way onto Main Street, Raheny. This shared access shall make provision for the

possible future development of lands to the south of the proposed development as indicated on the further information submitted to the planning authority on the 30th day of August, 2019.

Reason: In the interest of proper planning and sustainable development.

4. No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The use of the commercial building shall be restricted to uses listed under Class 1, Class 8 and Class 10 of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, with the proposed café/restaurant use restricted to the ground floor area only.

Reason: In the interest of orderly development

6. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual and residential amenities of the area.

7. 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.

8. An Invasive Species Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any works on site. For clarity the management plan shall ensure that no spraying or burial of invasive species shall take place on site and that Option 4 of the Invasive Species Management Plan (submitted as Appendix D of the further information on the 30th August, 2019) which comprised the controlled excavation with off-site disposal to a licensed landfill facility is implemented by the developer.

Reason: To ensure the preservation and protection of the natural heritage of the site.

9. Detailed measures in relation to the protection of bats shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

10. 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 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.

11. The site shall be landscaped 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 1500 showing –
 - (i) the species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder], [which shall not include prunus species]
 - (ii) details of screen planting,
 - (iii) details of roadside/street planting, and
 - (iv) 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; and
- (c) a timescale for implementation

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 or until the development is taken in charge by the local authority, whichever is the sooner, 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 residential and visual amenity.

12. (1) 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.
- (2) 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.

13. 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. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

14. The vehicular entrance including works to the public road and footpath along Main Street and the internal road network serving the proposed development shall comply with the detailed standards of the planning authority for such road works.

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

15. 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.

16. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

17. 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. The proposed name(s) 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(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 and to ensure the use of locally appropriate place names for new residential areas.

18. 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.

19. The construction of the development shall be managed in accordance with a detailed Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate all mitigation measures set out in section 4.1.5 of the Construction Management Plan submitted as Appendix J of the further information submitted to the planning authority on the 30th day of August, 2019 and provide details of intended construction practice for the development, including:

- (a) location of the site and materials compound(s) including area(s) 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;
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;

- (l) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enters the River Santry or other 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 interest of amenities, public health and safety.

- 20. 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.

- 21. Prior to first use and occupation of any commercial floor, the developer shall submit to, and agree in writing with, the planning authority details of opening hours for the commercial building.

Reason: In the interest of residential amenity.

22. 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.

Maria FitzGerald
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2020.