



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 3692/19

Appeal by Robert Healy care of Ceardean Limited of D8 Studios, 9 Dolphins Barn, South Circular Road, Dublin against the decision made on the 1st day of October, 2019 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Demolition of existing dwelling on site and the construction of a five storey mixed used development consisting of: ground floor commercial unit as a crèche - Montessori school, with 24 number apartments (4 number one-bed, 12 number two-bed and 8 number three-bed) which include balconies to the east and west elevations, internal bike storage and refuse store, with revised access to the site, 24 number car parking spaces, communal open space outdoor play area for crèche to rear with associated landscaping and site works to include two new vehicular accesses onto Clonshaugh Road, all at Clonshaugh House, Clonshaugh 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 objectives for the site, under which childcare facilities are permissible and residential uses are open for consideration, and having regard to the provisions of the National Planning Framework, which seeks to deliver more compact and sustainable growth patterns in urban areas in the period to 2040, and having regard to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate development at this location and would be acceptable in terms of design, form and scale. 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 received by An Bord Pleanála on the 25th day of October, 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 proposed development shall be amended by providing high-level windows on the northern and southern elevations of the building at the first, second, third and fourth floor levels. These windows shall serve the kitchen/living/dining room of apartment unit numbers 1, 6, 7, 12, 13, 18, 19 and 24. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

3. Privacy screens shall be provided on the northern and southern sides of the balconies of the centrally located apartment units at each floor level. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

4. A naming/numbering scheme for the residential units and the crèche/Montessori school shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the proposed development.

Reason: In the interest of orderly street numbering.

5. Details of the materials, colours and textures of all the external finishes to the proposed development, including the signage of the proposed crèche/Montessori school, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the site and shall be submitted to, and agreed in writing with, the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed. This plan shall also include details of proposed signage to enforce the one-way traffic system within the site.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed development and in the interests of traffic safety.

7. 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 building, 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 units or the commercial unit 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.

8. 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 noise management measures and off-site disposal of construction/demolition waste.

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

9. Water supply and drainage arrangements, including the 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.

10. 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.

11. The proposed crèche/Montessori school shall not operate outside the period of 0800 to 1900 hours Monday to Friday inclusive, and shall not operate on Saturdays, Sundays or public holidays.

Reason: In the interest of residential amenity.

12. Site development and building works shall be carried out only between the hours of 0700 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.

13. 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.

14. 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 of the area.

15. 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.

16. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of public open space, to be used for upgrading of public open space in the area as determined by the Parks and Landscape Division of the planning authority. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be 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.

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.

Paul Hyde

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

Dated this day of 2020.