



Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 4364/19

Appeal by Celine Dwyer of 8 Balfe Road, Walkinstown, Dublin and by others against the decision made on the 17th day of April, 2020 by Dublin City Council to grant permission to Canmar Properties Limited care of Simon Clear and Associates of 3 Terenure Road West, Terenure, Dublin for development comprising (1) The demolition of all existing buildings on site. (2) The construction of a mixed use commercial and residential development in six number blocks accommodating two number commercial units, a communal meeting space and 70 number residential units comprising 29 number one bed units (apartments), 30 number two bed units (apartments), five number three bed units (townhouses) and six number four bed units (townhouses). (3) The proposed blocks consist of the following: (i) Block 1: part three-storey/part five-storey (three-storey plus two set back levels) mixed-use block fronting onto Walkinstown Road accommodating two number ground floor retail/non-retail services units addressing Walkinstown Road, ground floor communal meeting area, and 26 number apartments comprising of 13 number one bed units and 13 number two bed units with associated balconies/terraces; (ii) Block 2: part three-storey/part four-storey (three-storey plus set back level) residential block fronting onto Balfe Road accommodating 25 number apartments comprising 12 number one bed units and 13 number two bed units with associated balconies/terraces; (iii) Block 3: two-storey plus attic level

residential block fronting onto the central communal amenity area accommodating five number three bed townhouses; (iv) Block 4: two-storey residential block accommodating four number apartments comprising two number one bed units and two number two bed units with associated balconies/terraces; (iv) Block 5: two-storey residential block accommodating four number apartments comprising two number one bed units and two number two bed units with associated balconies/terraces; (v) Block 6: two-storey plus attic level residential block at the southern end of the site accommodating six number four bed townhouses. (4) Vehicular access from Walkinstown Road and realignment/widening of existing public laneway off Walkinstown Road including removal of existing boundary wall along the laneway. (5) Internal access road and 38 number car parking spaces. (6) Associated signage, bicycle parking, refuse stores, landscaping, boundary treatments, and all site development works and services, all at a site bounded and accessed by both Walkinstown Road and Balfe Road, comprising of Balfe Road Industrial Estate (2-4 Balfe Road), Walkinstown Road Surface Car Park and lands and industrial building (5 Walkinstown Road) to the rear of houses on Walkinstown Road and Thomas Moore Road, Dublin in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for (1) The demolition of all existing buildings on site. (2) The construction of a mixed use commercial and residential development in three number blocks accommodating two number commercial units, a communal meeting space and 56 number residential units comprising 25 number one bed units (apartments), 26 number two bed units (apartments) and five number three bed units (townhouses). (3) The proposed blocks consist of the following: (i) Block 1: part three-storey/part five-storey (three-storey plus two set back levels) mixed-use block fronting onto Walkinstown Road accommodating two number ground floor retail/non-retail services units addressing Walkinstown Road, ground floor communal meeting area, and 26 number apartments comprising of 13 number one bed units and 13

number two bed units with associated balconies/terraces; (ii) Block 2: part three-storey/part four-storey (three-storey plus set back level) residential block fronting onto Balfe Road accommodating 25 number apartments comprising 12 number one bed units and 13 number two bed units with associated balconies/terraces; (iii) Block 3: two-storey plus attic level residential block fronting onto the central communal amenity area accommodating five number three bed townhouses; (4) Vehicular access from Walkinstown Road and realignment/widening of existing public laneway off Walkinstown Road including removal of existing boundary wall along the laneway. (5) Internal access road and associated car parking spaces. (6) Associated signage, bicycle parking, refuse stores, landscaping, boundary treatments, and all site development works and services in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for Block 4: two-storey residential block accommodating four number apartments comprising two number one bed units and two number two bed units with associated balconies/terraces, **Block 5: two-storey residential block** accommodating four number apartments comprising two number one bed units and two number two bed units with associated balconies/terraces, and **Block 6: two-storey plus attic level residential block** at the southern end of the site accommodating six number four bed townhouses, and associated parking based on the reasons and considerations marked (2) under.

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 (1)

Having regard to the Z1 and Z4 zoning of the site, as set out in the Dublin City Development Plan, 2016 - 2022, to the character, scale, mass, height, layout and design of the proposed development and to the character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or other amenities of the area, would be acceptable in terms of traffic safety and convenience and would 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 10th day of March, 2020, 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. Block 4, Block 5 and Block 6 and associated car parking shall be omitted.

Reason: In the interests of residential amenity and orderly development

3. 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 commencement of development.

Reason: In the interest of visual amenity.

4. 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.

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

Reason: In the interest of public health.

6. 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.

7. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

8. 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.

9. 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, noise management measures and off-site disposal of construction waste.

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

10. 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.

11. A Mobility Management Plan for the development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development and the commitments contained therein shall be complied with during the operational phase of the development.

Reason: In the interest of sustainable travel.

12. The Developer shall comply with the following Transportation Planning Division issues of the planning authority:

- (a) Details of the materials proposed in public areas and areas to be taken in charge shall be submitted to, and agreed in writing with, the planning authority and shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in writing with the Environment and Transportation Department prior to commencement of development.
- (b) A Parking Management Plan shall be prepared for the site and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. This Plan shall indicate how spaces will be assigned and how use of the car parking will be continually managed. Parking shall be allocated by way of a parking space lease agreement. No vehicles shall overhang the public laneway and shall not obstruct access to the public laneway.
- (c) All car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented, or otherwise sub-let or leased to other parties.
- (d) Cycle parking shall be secure, conveniently located, sheltered and well lit. Shower and changing facilities shall also be provided as part of the development. Key/fob access shall be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.
- (e) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.

Reason: In the interests of traffic safety and the proper planning and sustainable development of the area.

13. Prior to commencement of development, the applicant shall submit a revised road and parking layout plan for written agreement with the planning authority detailing the following design specifications and amendments, designed in accordance with the Design Manual for Urban Roads and Streets (DMURS) in the context of ensuring speeds of 30km/h per hour throughout the residential development:
- (a) Traffic calming and management measures for the laneway including a pedestrian priority design for the junction with Walkinstown Road.
 - (b) Increased setback from the junction with Walkinstown Road, removal of car parking on the right-angle bend along the laneway.
 - (c) One number dedicated service bay/set down area to serve the commercial components of the development and facilitate occasional servicing and deliveries to the proposed residential units. This service bay shall be located within Block 1 parking bays.
 - (d) Four number Sheffield type cycle stands shall be provided to serve the commercial units.

Reason: In the interests of pedestrian and traffic safety and the proper planning and sustainable development of the area.

14. Public lighting shall be provided in accordance with a scheme, 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 residential unit.

Reason: In the interests of amenity and public safety.

15. 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.

Reason: In the interests of visual and residential amenity.

16. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points and ducting shall be provided for all remaining car parking spaces, to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

Reason: In the interest of sustainable transport.

17. Proposals for an estate/street name, house and 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 signs, and house and apartment 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.

18. (a) All areas not intended to be taken in charge by the local authority shall be maintained by a legally constituted management company.
- (b) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a properly constituted Owners' Management Company. Membership of this company shall be compulsory for all purchasers of property in the proposed development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

19. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

20. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified landscape architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the proposed development or each phase of development and any plants that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interests of residential and visual amenity.

21. 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.

Reason: In the interest of sustainable waste management.

22. (a) A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each 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) The submitted details shall include details for refuse collection arrangements within the site to include provisions for refuse vehicles to enter and manoeuvre within the site and to exit the site in the forward direction.

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

23. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

24. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge.

25. 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 the provision of public open space within the site. 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.

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.

Reasons and Considerations (2)

1. Having regard to the narrow configuration, back land and isolated nature of the area of the site in which Blocks 4, 5 and 6 are to be located, the predominance of end on parking to the front, poor outlook from the dwelling units to the front and rear to either side towards boundaries and the rear of existing residential properties and their lack of linkage or visual connectivity with the community amenity space serving the development, it is considered that the proposed development of Blocks 4, 5 and 6 would seriously injure the residential amenities of the future occupants, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the proposed continuous end on parking provision directly off the access road serving the proposed development and adjoining developments on Walkinstown Road, including locations close to the right angled bend and close to the junction with Walkinstown Road, the Board is not satisfied, on the basis of the information available in connection with the application and the appeals, that the proposed development would not lead to obstruction and conflicting traffic movements that would endanger public safety by reason of traffic hazard.

In deciding not to accept the Inspector's recommendation to refuse permission for the construction of Block 1, Block 2 and Block 3, the Board had regard to the pattern of permitted and existing development in the area and considered that the proposed development would not undermine or be overbearing relative to the adjacent properties, or that it would fail to satisfactorily integrate into the established form and character of the streetscape, and was satisfied that the proposed development would be acceptable in terms of qualitative standards. The Board concurred with the planning authority that the issues pertaining to Block 1, Block 2 and Block 3 have been adequately addressed in the Additional Information submitted by the applicant on 10th day of March, 2020, subject to conditions.

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

Dated this day of 2020.