



An
Bord
Pleanála

Board Order ABP-307591-20

Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council.

Planning Register Reference Number: 4477/19.

Appeal by Eamon O'Flynn care of Delahunty and Harley of 122 Merrion Road, Ballsbridge, Dublin against the decision made on the 18th day of June, 2020 by Dublin City Council to grant subject to conditions a permission to 1 Merrion Limited care of McGill Planning Limited of 45 Herbert Lane, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing buildings on site including numbers 169, 171, the shed at 173, 175 and 177 Merrion Road (circa 289 square metres) and construction of two number apartment blocks ranging in height from two storeys up to five storeys with a total of 43 number dwelling units comprising: 15 number one-bedroom apartments, 18 number two-bedroom apartments and 10 number three-bedroom apartments with associated north/south/east/west facing balconies/terraces. The development will also include the provision of a communal open space area at ground floor level and 43 number car parking spaces at basement level. All associated site development works, services provision, cycle parking, bin stores, plant stores, open space, vehicular/pedestrian access, landscaping and boundary treatment works; all at Gowan Motors Compound Site, 169-177, Merrion 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 its location within a well-serviced area in proximity to the city centre, public transport facilities and a good local road network, and with a wide range of community and social facilities and to the provisions of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018, the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December, 2018, and the National Planning Framework which seeks to direct new residential development in cities into built-up serviced areas, and having regard to the pattern and character of development in the area and to the design 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 acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would not seriously detract from the character or setting of the adjoining Protected Structures and conservation area, 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 to the planning authority comprising a total of 38 number apartments submitted to the planning authority on the 22nd day of April, 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. 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.

3. 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 interest of public safety and residential 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 water and wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health

6. 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.

7. 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 apartment.

Reason: In the interest of amenity and public safety.

8. Proposals for a development name, 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 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 and to ensure the use of locally appropriate place names for new residential areas.

9. Communal waste storage areas within the basement shall be designed and managed in accordance with the proposals set out in the Outline Operational Waste Management Plan lodged with the planning application. Waste materials shall be transferred to the designated surface level space on the day of collection only.

Reason: To provide for the appropriate management of waste and, in particular, recyclable materials, in the interest of protecting the environment.

10. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

11. Prior to the opening/occupation of the development, a Mobility Management Strategy (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) 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 carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic

Response (May, 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

12. 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 public open spaces, 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.

13. (1) 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.

- (2) Prior to demolition, a full site appraisal shall be undertaken by a specialist contractor to determine the possibility of hazardous material such as asbestos being present and to identify any necessary mitigation measures as indicated in the Outline Construction Management Plan submitted with the application. Any asbestos containing materials identified shall be removed by a licence waste contractor.

Reason: In the interest of sustainable waste management.

14. Opaque glazing to side balconies and side elevations of Building A shall be implemented as indicated in the further information submitted to the planning authority on the 22nd day of April, 2020.

Reason: In the interest of privacy and residential amenity.

15. The development comply with and adhere to the following requirements:
 - (a) the basement level car parking spaces shall be for the sole use of resident/visitor parking and shall not be sold, sublet or leased to third parties,
 - (b) the car park shall be managed in accordance with the Car Park Management Plan submitted to the planning authority on the 22nd day of April, 2020,
 - (c) alterations to the public road and footpath including the interface between the footpath and private property shall be in accordance with the requirements of the planning authority,

- (d) all repairs to the public road and services that may be required shall be carried out to the satisfaction of the planning authority at the applicant's expense.

Reason: In the interests of clarity, public safety and amenity.

16. 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 interests of visual and residential amenity.

17. (1) The London Plane street tree to the front of the site shall be retained and protected from damage during construction.
- (2) 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 street tree on the footpath to the front of the 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 the tree or the replacement of the tree in the event that it dies, is removed or becomes seriously damaged or diseased within a period of three years from the substantial completion of the development with another 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.

- (3) The landscaping scheme shown on the Landscape Plan drawing number PP-13, as submitted to the planning authority on the 22nd day of April, 2020, 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 and tree protection.

18. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

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

19. 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.

20. The following amendments shall be complied with:

- (a) the four proposed visitor cycle spaces shall be relocated to facilitate an increased area of private open space to the front of Apartment A01, and
- (b) the layout of Apartment A01 shall be amended to omit the bedroom containing a single window facing onto the basement ramp. The floor plan shall be amended accordingly to provide a two-bedroom apartment with an improved level of residential amenity.

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.

21. Prior to the commencement of demolition works, the developer shall submit for the written agreement of the planning authority details of the proposed repair/reinstatement works to the adjacent exposed gable following the demolition of Buildings numbers 1 and 2 as shown on drawing number PP-02 submitted to the planning authority on the 15th day of November, 2019.

Reason: In the interest of visual amenity.

22. The measures outlined in the Site Investigations Basement Impact Assessment Report and Outline Basement Construction Method Statement prepared by Punch Engineering, including monitoring measures during construction stage, shall be implemented in full.

Reason: In the interest of orderly development and protecting ground stability.

23. The following transportation requirements shall be complied with:

- (a) balconies shall not over sail and doors facing Merrion Road shall not encroach upon the proposed Core Bus Corridor setback as represented in drawings submitted to the planning authority on the 22nd day of April 2020, and
- (b) a raised pedestrian crossing shall be provided at the vehicular access.

Revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development on site.

Reason: In the interest of traffic safety and free flow.

24. Boundary treatment shall be in accordance with the requirements of the planning authority, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

25. 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 current Development Plan of the area.

26. 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, 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 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 of the development.

