



An
Bord
Pleanála

Board Order
ABP-307976-20

Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 19th day of August 2020 by Bartra Property (Castleknock) Limited care of Thornton O'Connor Town Planning of number 1 Kilmacud Road Upper, Dundrum, Dublin 14.

Proposed Development comprises of the following:

The demolition of the existing part one to part two number storey over partial basement public house and restaurant building (1,243 square metres) and the construction of a part one to part five number storey over basement Build-to-Rent Shared Living Residential Development (6,549 square metres) comprising 210 number bedspaces (182 number single occupancy rooms, four number accessible rooms and 12 number double occupancy rooms).

The development also consists of the provision of communal living or kitchen or dining rooms at each floor level to serve the residents of each floor; communal resident amenity spaces for all residents including tv or cinema room at basement level, gymnasium and lounge or reception area at ground floor level, a library or study at third floor level and a private dining room at fourth floor level; external roof terrace at third floor level (78 square metres) facing north-east, north-west and south-west; external communal amenity courtyards at basement (170 square metres) and ground floor level (336 square metres); external amenity space at basement level accessed from the communal living or kitchen or dining room (30

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square metres); balconies at third floor level facing north-east to north-west (14.35 square metres); resident facilities including launderette, linen store, accessible WC and bin store; two number accesses to the public park along the north-eastern boundary; two number car-share parking spaces; a lay-by and delivery bay; emergency gate access to the courtyard (north-west boundary); bicycle parking; boundary treatments; hard and soft landscaping; plant; photovoltaic panels; substation; switch room; generator; lighting; and all other associated site works above and below ground all located at this 0.317 hectare site at Brady's Public House, Old Navan Road, Dublin 15.

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

In coming to its decision, the Board had regard to the following:

- (a) The location of the site in an established urban area, in an area zoned for residential use;
- (b) The policies and objectives of the Fingal County Development Plan 2017-2023;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) The National Planning Framework – Ireland 2040;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018;
- (g) The Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (h) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (i) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;
- (j) The Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009;
- (k) The nature, scale and design of the proposed development and the availability in the area of a wide range of social and transport infrastructure;
- (k) The pattern of existing and permitted development in the area;
- (l) The planning history of the site;

- (l) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;
- (m) The submissions and observations received;
- (n) The Chief Executive's Report from the planning authority; and
- (o) The report of the Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Report submitted by the developer, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended;
- (b) The location of the site on lands zoned to 'provide for residential development and protect and improve residential amenity' in the Fingal County Development Plan 2017-2023, and the results of the Strategic Environmental Assessment of the plan;

- (c) The existing use on the site and pattern of development in surrounding area;
- (d) The availability of mains water and wastewater services to serve the proposed development;
- (e) The location of the development outside of any sensitive location specified in article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as amended;
- (f) The guidance as set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage and Local Government in August 2003,
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- (g) The features and measures proposed by the developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Stage 1 Construction Management Plan, the Stage 1 Method Statement for Demolition of Existing Building, the Demolition and Construction Waste Management Plan, Construction and Demolition Management Plan, the Engineering Services Report, the Site Specific Flood Risk Assessment, and the Operational Waste Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

The Board further notes the Minister's letter dated 23rd November 2020 to all planning authorities in respect of co-living and future proposed amendments to the legislative provisions and guidance (SPPR) relating to this residential typology, and having regard to this, the Board is satisfied that the statutory provisions and standards in place at this time are 'The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government, issued March 2018'.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential amenities of property in the vicinity or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposal would not give rise to flooding in the area and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Fingal County Development Plan 2017-2023 in relation to building height, specifically Objective 'Blanchardstown 1' which states that it is an objective to prepare an Urban Framework Plan for Blanchardstown Village to guide future development including infill development that would not exceed three number storeys. The Board notes that no Urban Framework Plan in accordance with this objective has been prepared to date. However, as there is reference to the preparation of an Urban Framework Plan, where heights in Blanchardstown Village would not exceed 3 number storeys, and as the site of the proposed development lies within the defined boundaries of the Blanchardstown Urban Framework Plan, the proposed development, which provides a maximum height of five number storeys (ranging in height from part one to part five storeys), materially contravenes an objective of the Development Plan.

The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Fingal County Development Plan 2017-2023 would be justified for the following reasons and considerations.

In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

In relation to the matter of strategic or national importance, the current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature. National policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness 2016 and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development, such as that proposed on this site. In particular Pillar 4: 'Improve the Rental Sector of Rebuilding Ireland – Action Plan for Housing and Homelessness 2016' states that a key objective is addressing obstacles to greater private rented sector delivery and improving the supply of units at affordable rents. In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended:

The Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy 2019-2031, seeks to increase densities on appropriate sites within Dublin City and suburbs. In relation to Section 28 Guidelines, of particular relevance are the Urban Development and Building Height Guidelines for planning authorities issued in December 2018 which state that inter alia building heights must be generally increased in appropriate urban locations, subject to the criteria as set out in Section 3.2 of the Guidelines. The proposal has been assessed against the criteria therein. The proposal also complies with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018, as relates to shared accommodation proposals, subject to conditions being imposed requiring the omission of the basement units and the provision of additional living or kitchen or dining floorspace and additional recreational amenity floorspace.

In relation to section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended):

In relation to the pattern of development or permissions granted in the area since the adoption of the Development Plan of particular relevance, the Board has previously approved a four-storey development on this site (ABP Ref PL06F.248037). As such, precedent for higher buildings than currently exist has been established on this site.

DECISION QUASHED

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The 14 number units at basement level (Units 01 to 14) shall be omitted from the scheme;
 - (b) Additional communal living or kitchen or dining facilities and additional recreational amenity floorspace shall be provided at basement level;
 - (c) The cycle parking provided within the scheme shall be covered and weatherproof;
 - (d) The pedestrian access to the area of open space from the north-east elevation shall be omitted from the scheme and this access utilised for emergency purposes only;
 - (e) A total of 184 number shared living rooms are permitted.

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.

Reason: In the interests of providing a satisfactory standard of residential amenity for occupants of the development.

3. Revised plans and particulars shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development which detail the following:

- (a) Correlation between the proposed floorplans and the proposed elevations. In this regard, it is reiterated that no above ground external terrace or balcony is permitted save for the single external amenity area at third floor level as indicated on Drawing number 18038-30-200-101.
- (b) Details of the proposed emergency access gate to the ground floor courtyard, including elevations of same.

Reason: In the interests of clarity and in the interests of proper planning and development.

4. The Shared Accommodation units hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018.

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

5. Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of fifteen years shall be from the date of occupation of the first 'shared living units' within the scheme.

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

6. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a Shared Accommodation Scheme. Any proposed amendment or deviation from the Shared Accommodation model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

7. Prior to commencement of development on site, the developer shall submit for the written agreement of the planning authority, details of the management company, established to manage the operation of the development together with a detailed and comprehensive Shared Accommodation Management Plan which demonstrates clearly how the proposed Shared Accommodation scheme will operate. This Shared Accommodation Management Plan shall also include proposed access times for the external terrace area at third floor level with a view to limiting such access after an appropriate hour in the evening and before an appropriate hour in the morning.

Reason: In the interests of orderly development and the proper planning and sustainable development of the area, and in the interests of residential amenity.

8. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

9. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs or materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of street trees and additional street trees at appropriate intervals, other trees and other landscape planting within the development, including details of proposed species and settings;
- (c) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, and

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

10. The developer shall enter into water and or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. 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 interests of public health and to ensure a satisfactory standard of development.

12. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

- (a) The roads and traffic arrangements serving the site, including signage, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (b) The materials used in any roads or footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (c) All bicycle parking shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

13. Prior to the opening of the development, a Mobility Management Strategy 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 and walking. 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

14. The landscaping scheme submitted shall be carried out within the first planting season following substantial completion of external construction works, details of which shall be submitted to the planning authority for written agreement prior to the commencement of development. 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 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 interests of residential and visual amenity.

15. 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.

16. 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 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. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. 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.

18. 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 the commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

19. 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.

20. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise and vibration management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction or demolition waste and or by-products.

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

21. Proposals for the development name and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs 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 or 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 placenames for new residential areas.

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 reinstatement of public roads which may be damaged by the transport of materials to the site, 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.

DECISION QUASHED

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 commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions for Dublin City Council 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.



Terry Prendergast

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 3rd day of December, 2020