

An
Bord
Pleanála

Board Order
ABP-309931-21

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire Rathdown-County Council

Planning Register Reference Number: D20A/0670

Appeal by Colm and Dominique Carey of 30 Foster's Avenue, Mount Merrion, Blackrock, County Dublin and by Others and by Strand Court Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 18th day of March, 2021 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Strand Court Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of the existing buildings on site consisting of a vacant industrial building and two number dwellings, 24 Foster's Avenue (Glenville) and 28 Foster's Avenue (Sunnyside), removal of front boundary wall, and associated works; construction of 72 number apartments in three number dwellings of part one, part three and part four-storey heights, over basement; Block A comprises 15 number two bedroom units in a part three to part four-storey building, above basement level; Block B comprises six number one bedroom units and 23 number two bedroom units in a part one to part four-storey building, above basement level; Block C comprises four number one bedroom units, 22 number two bedroom and two number three bedroom units in a part one to part four-storey building, above

basement level; balconies and/or private terraces are provided for all apartments; The proposal includes communal open space areas and a single storey communal amenity building of 99 square metres; the basement level contains 85 number car parking spaces, four number motorcycle spaces and 135 number cycle spaces. The basement level also includes bin storage and plant rooms; The proposal includes 36 number cycle parking spaces at surface level, two number set-down car parking spaces at surface level, and associated vehicular, pedestrian and servicing access from Foster's Avenue; and the proposal includes an ESB substation and switchroom, landscaping, boundary treatment, lighting, PV panels to apartment building roofs, site services and all associated site works; all at site at 24-28 Foster's Avenue, Mount Merrion, Blackrock, County Dublin as revised by the further public notices received by the planning authority on the 19th day of February, 2021 and by An Bord Pleanála on the 21st day of October, 2022.

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 condition(s) set out below.



Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, to the 'A' Zoning Objective for the site, and to the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this infill urban location, would respect the existing character of the area, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause serious pollution in respect of air, water, noise, vibration or disposal of waste, would not be prejudicial to public health, would not cause serious injury to biodiversity and the natural environment, 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.

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 19th day of February 2021, and by the further plans and particulars received by An Bord Pleanála on the 14th day of April 2021, the 10th day of October, 2022, and the 13th day of April, 2023, 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. Permission is hereby granted for 68 apartments in accordance with plans and particulars received by An Bord Pleanála on the 10th day of October, 2022 and the 13th day of April, 2023.

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

3. The proposed development shall be amended as follows:
 - (a) Any windows above ground floor level in the eastern elevation of Block A and/or the western elevation of Block B that are less than 10 metres from the boundaries of the respective adjacent properties shall be fitted with permanent obscure glazing/or be high level in design.

Reason: To protect the amenities of adjacent properties.

4. (a) The mitigation measures and monitoring commitments outlined in the Ecological (Biodiversity) Appraisal, Bat Assessment, Arboricultural Assessment, Demolition Management Plan, Construction and Environmental Management Plan, Site Specific Flood Risk Assessment, and other plans and particulars submitted with the application and appeal, shall be carried out in full, except where otherwise required by conditions attached to this permission.
 - (b) Prior to commencement of development, the developer shall:
 - (i) submit a schedule of mitigation measures, monitoring commitments and details of a time schedule for



implementation of same to the planning authority for written agreement,

- (ii) engage the services of an appropriately qualified consultant with ecological and construction expertise as an environmental manager to ensure that the mitigation measures and monitoring commitments identified in the named reports and other plans and particulars are implemented and undertaken in full, and
 - (iii) inform the planning authority in writing of the appointment and name of the consultant.
- (c) Documentary evidence of the satisfactory completion of the mitigation measures and monitoring commitments shall be submitted to the planning authority for written agreement.

Reason: In the interest of wildlife and environmental protection.

5. Prior to commencement of development, the developer shall:
- (a) engage the services of a qualified arborist as an arboricultural consultant for the entire period of works,
 - (b) inform the planning authority in writing of the appointment and name of the consultant,
 - (c) submit to the planning authority for written agreement, an updated Arboricultural Assessment prepared by the arboricultural consultant,



- (d) ensure the implementation of all recommendations in respect of tree removal, retention, protection, pruning, and other measures included in the relevant plans and particulars as submitted with the application and the appeal,
- (e) ensure all such tree felling, surgery and remedial works are undertaken in accordance with the applicable BS standards, supervised by, and to the satisfaction of the arboricultural consultant, and
- (f) ensure that the arboricultural consultant:
 - (i) undertakes a post-demolition tree survey with an assessment of the condition of the retained trees,
 - (ii) authorises a completion certificate when permitted demolition works are completed in line with the recommendations of the relevant tree plans and particulars, and
 - (iii) submits the completion certificate to the planning authority for written agreement.

Reason: In the interest of arboricultural and environmental protection.

6. 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.

The developer shall submit a revised/updated Bat Assessment, Demolition Management Plan, and/or Construction and Environmental Management Plan incorporating, as necessary, the details of any such licence to the planning authority for written agreement.

Reason: In the interests of clarity and wildlife protection.

7. The proposed development shall be managed in accordance with a Construction and Environmental Management Plan, incorporating applicable provisions of the Demolition 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 and location of site offices, staff facilities, site compounds, on-site parking facilities, intended construction practice for the development including noise and dust management measures, a traffic management plan with details on access arrangements, storage locations (for plant, machinery, materials), timing and routing details for deliveries and disposal trips, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, and directional signage, an invasive species management plan, and off-site disposal of construction/demolition waste and/or by products.

Reason: In the interests of amenity and public safety.

A handwritten signature, possibly 'GMB', is written in black ink. Above it is a faint, circular official stamp of the Planning Authority, which is mostly illegible due to fading.

8. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

9. Site development and construction works shall be carried out 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 amenities of properties in the vicinity.

10. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A scheme providing adequate measures for the future management and maintenance of the communal amenity building, open spaces, communal areas, entrances, roads, and footpaths 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.

11. Proposals for an estate/street name, 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 estate and street 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 placenames for new residential areas.

12. 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 addition, details of a maintenance strategy for materials within the proposal shall also be submitted to, and 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.

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. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces. The design of the lighting scheme shall be approved by the project's qualified Bat Specialist. The details of the lighting scheme, including written evidence indicating the Bat Specialist's approval, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. The agreed lighting system shall be fully implemented and operational prior to the proposed development being made available for occupation.

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

15. (a) 87 car parking spaces (including two set down spaces) and four motorcycle spaces, and 171 bicycle parking spaces shall be provided within the scheme (surface and basement levels) for use by residents and visitors. Details of the layout, marking demarcation, management of, and security provisions for these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Prior to the occupation of the development, a Mobility Management Plan, which shall be in line with the Mobility Management Plan (inclusive of mitigation measures) lodged with the application, shall be submitted to, and agreed in writing with, the planning authority. This plan shall provide for incentives to encourage the use of public transport, cycling, walking, and car pooling by residents/staff employed in the development, and to reduce and regulate the extent of parking. The Mobility Management Plan shall be prepared and implemented by the management company for the development with annual updates of same submitted to the planning authority for written approval.

Reason: To ensure that adequate parking facilities are permanently available to serve the residential units, to prevent inappropriate commuter parking, and to encourage the use of sustainable modes of transport.

16. (a) A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Where proposals relating to the installation of electric vehicle ducting and charging stations/points

have not been submitted with this application, details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Electric charging facilities shall be provided for motorbike and bicycle parking. In this regard, proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: In the interest of sustainable transport.

- 17. (a) The areas of open space and boundary treatments shown on the lodged plans and particulars shall be landscaped in accordance with the landscape report and associated plans submitted with this application and appeal. This work shall be carried out within the first planting season following substantial completion of external construction works.
- (b) All planting shall be adequately protected from damage until established. Any plants which are removed, damaged, diseased or die 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.
- (c) The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The Landscape Architect shall certify to the planning authority by letter their opinion on compliance with the completed landscape scheme with the approved landscape

proposal within six months of substantial completion of the proposed development.

Reason: In the interest of visual and residential amenity, and to ensure the satisfactory development and maintenance of the open spaces.

18. 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 and surface water management.

19. Prior to commencement of development, the developer shall enter into water and/ or wastewater connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

20. 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 interest of visual and residential amenity.

21. (a) 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 commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

22. 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 for the area.


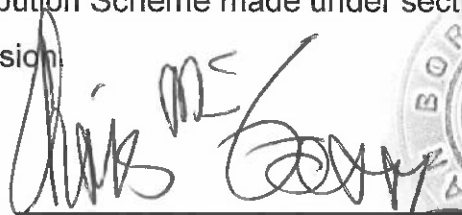
23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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.

24. 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.



Chris McGarry

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 28th day of August 2023.