

An
Bord
Pleanála

Board Order ABP-311287-21

Planning and Development Acts 2000 to 2020

Planning Authority: Dún Laoghaire-Rathdown County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 3rd day of September 2021 by Pembroke Partnership Limited care of Tom Phillips + Associates of No. 80 Harcourt Street, Dublin.

Proposed Development comprises of the following:

Demolition of No. 97A Highfield Park and annexed structures associated with Frankfort Castle including Frankfort Lodge, the construction of a residential scheme comprising 115 number units (45 number one-bedroom apartments and 70 number two-bedroom apartments) arranged in three number blocks (Block A – a four storey block over two number basement levels comprising 35 number units, Block B – a four to five storey block comprising 54 number units and Block C – a three storey block comprising 22 number units) and within the refurbished two storey No. 2 Frankfort Castle (Block D – comprising four number units). Vehicular access will be provided via a new access at Old Frankfort with emergency vehicle access only provided via the existing Frankfort Court access.

The development will also consist of the provision of ancillary residential amenity areas within Block D, a crèche measuring circa 80 square metres at ground floor level of Block A including associated external play space, bicycle parking at surface and ground floor level including sheltered and secure parking, car parking at surface and two number basement levels, electric vehicle charging points, attenuation storage system, waste storage facilities, two number substations, ancillary service and plant areas, hard and soft landscaping, boundary treatments, upgrades to road and pedestrian infrastructure along Old Frankfort and all other site development and drainage works above and below ground all located at No. 97A Highfield Park and No. 1 Frankfort Castle, No. 2 Frankfort Castle and Frankfort Lodge, Old Frankfort, Dublin 14.

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 on lands with a zoning objective for residential development;
- (b) The policies and objectives as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (c) The nature, scale and design of the proposed development;
- (d) The pattern of existing development in the area;
- (e) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) The provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;
- (g) The provisions of Project Ireland 2040 National Planning Framework;
- (h) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;
- (i) The provisions of 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;
- (j) The provisions of 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;
- (k) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020;
- (l) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;

- (m) The provisions of 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;
- (n) The Chief Executive's Report of Dún Laoghaire-Rathdown County Council;
- (o) The submissions and observations received; and
- (p) The Planning Inspector's report.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises of a built-up urban area, the distances to the nearest European Sites, and the hydrological pathway considerations, the submissions on file, the information submitted as part of the applicant's Screening Report for Appropriate Assessment and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development plans and projects 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 a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Statement submitted by the applicant, identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect Class 10(b)(i) and Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- The location of the site on lands zoned Objective A: to protect and or improve residential amenity in the Dún Laoghaire-Rathdown Development Plan 2016-2022. The development plan was subject to a strategic environmental assessment in accordance with the Strategic Environmental Assessment Directive (2001/42/EEC).
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- The location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001, as amended.
- The guidance 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 (2003).
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and



- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Waste Management Plan, Outline Method Statement for Demolition of Existing Buildings, Outline Construction and Environmental Management Plan and Operational Waste Management Plan, Specific Flood Risk Assessment, Screening Report for Appropriate Assessment and Ecological Impact Assessment.

In conclusion, having regard to the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development

The Board considered that the proposed development is compliant with the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted and agreed with the Inspectors conclusion that there would not be a material contravention in respect of car parking or unit mix

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 the matter(s) in dispute shall 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 4.2 metre wide internal carriageway proposed around Block D and the centre of the site shall be permanently omitted. The proposed internal vehicular access route shall be approximately 40 metre in length from the junction with Old Frankfort, to allow vehicular access to the basement level car park beneath Block A and to the surface car parking spaces at the southern boundary of the area of public open space. Access beyond this point shall be for emergency vehicles only.
 - (b) The four number disabled car parking spaces proposed at the sites southern boundary shall be permanently omitted. Two number additional surface level car parking spaces shall be provided at the revised western boundary of the internal road, adjacent to Block A. The final location and quantity of dedicated surface level disabled car parking spaces shall be agreed in writing with the planning authority.
 - (c) Open space, paved and landscaped areas shall be provided in lieu of the internal road to be omitted. Communal open space which incorporates an active play area shall be provided to the south of Block D, adjacent to the area of internal residential amenity space.

- (d) The proposed access ramp to the entrance of Block A shall be revised to ensure it provides efficient access to Block A and does not cause an obstruction to the footpath provided immediately adjacent to Block A.
- (e) The creche unit shall be relocated to apartment unit BA.007 at the north eastern corner of the ground floor of Block A. The area of open space to the east of Block A, shall be incorporated into the creche unit as an outdoor play space.
- (f) Subject to Condition Number 2(e), the bicycle parking storage area at the ground floor of Block A shall be extended into the vacated creche unit.
- (g) High level windows and or obscure glazing shall be provided to habitable rooms with north facing windows at first, second and third floor levels in Block B, in this regard units BB.017, BB.018, BB.029, BB030, BB041 and BB.042 as indicated on the architectural drawings submitted, to prevent undue overlooking of rear amenity space of dwellings on Highfield Park.
- (h) High level windows and or obscure glazing shall be provided to habitable windows on the southern elevation of Block B, in this regard units BB.012, and BB.023 at first floor level and the units that sit directly above them at second floor level, to prevent undue overlooking of properties in Frankfort Court.

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 residential and visual amenity.



3. Prior to commencement of development a detailed structural survey of the existing bridge and Old Frankfort over the River Slang shall be submitted for the written agreement of the planning authority, unless otherwise agreed with the planning authority.

Reason: In the interest of public safety.

4. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

5. The external treatment of the development shall include a variety of high quality brick finishes, roofing materials, windows and doors and the internal access route shall be paved in a high quality material. A schedule of all materials shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The metal cladding at top floor levels of the Blocks and the metal design feature indicated on balconies in Block B shall be permanently omitted. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of visual amenity and to ensure an appropriate high standard of development.

6. The boundary planting and open spaces shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application and all incorporate formal and informal seating areas, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the units are made available for occupation. Access to roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

7. Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential units. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.

Reason: To promote biodiversity.

8. Prior to the occupation of the residential units, 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, 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.



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

10. Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

Reason: In the interests of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.

11. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development or installation of lighting. 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.



12. 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.

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. Proposals for a naming and 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 names 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(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 interests of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

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. The internal road network serving the proposed development, turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in 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. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of amenity and of traffic and pedestrian safety.



17. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 - Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interests of public health and surface water management.

18. Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

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. 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.

21. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

22. 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 and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

23. Prior to commencement of development, the developer 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.

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 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.

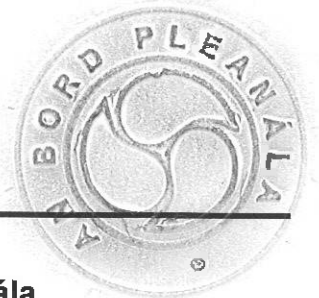
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission



Terry Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.



Dated this 20th day of December, 2021