

Planning and Development Acts 2000 to 2021

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Register Reference Number: D21A/0051

Appeal by The Embassy of the Kingdom of the Netherlands care of Feargal Kenny of 45 Hainault Drive, Foxrock, Dublin and by The Brighton Road Partnership care of Thornton O'Connor Town Planning Limited of 1 Kilmacud Road Upper, Dundrum, Dublin against the decision made on the 20th day of September, 2021 by Dun Laoghaire Rathdown County Council to grant subject to conditions a permission to the said Brighton Road Partnership in accordance with plans and particulars lodged with the said Council:

Proposed Development: Development consisting of:- demolition of the existing non-habitable outbuilding (44 square metres) and construction of a part four to five storey apartment block (4,022 square metres) over basement (2,072 square metres) comprising 37 number apartments (four number one bed units, 31 number two bed units and two number three bed units) with balconies/terraces facing north, south, east and west and 21 number two-storey dwellinghouses (17 number three bed and four number four bed units) ranging in size from 117.5 square metres to 142.7 square metres. The development will also comprise repositioning and upgrade of the existing entrance laneway between Fairholme and Craughwell to form access and egress to the development with an internal spur providing new access and

egress to Craughwell, extinguishment of one number existing access from Craughwell to Brighton Road; 100 number car parking spaces (58 number at basement level and 42 number at grade level), bicycle parking, bin storage, plant and generator room, all at basement level; substation, sedum roofs, solar photovoltaic panels, boundary treatments, lighting, hard and soft landscaping, changes in levels, and all other associated site works above and below ground; all at 1.27 hectares site generally to the rear of 'Craughwell', 'Fairholme', and 'St. Benedict's, Brighton Road, Foxrock, Dublin, access/egress and works to 'Craughwell' , Brighton Road, Foxrock, Dublin, Harcourt Street tramline and Leopardstown Racecourse to south Brighton Wood, north by 'Goleen'; as amended by the revised public notices received by the planning authority on the 14th day of June, 2021 and the 25th day of August, 2021.

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.

Reasons and Considerations

Having regard to zoning objective A pertaining to the site in the Dun Laoghaire-Rathdown County Development Plan, 2022 – 2028 and the policies and provisions contained in the National Planning Framework, Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities issued by the Department of the Environment, Heritage and Local Government in 2007, Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December, 2018, and 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, it is considered that the proposed development, subject to compliance with the conditions set out below, would not adversely impact on the character or setting of the Foxrock Architectural Conservation Area, would not restrict the potential future development of the lands to the north of the site, would not seriously injure the amenities of the area or of property in the vicinity in terms of visual impact, overlooking or overbearing impacts, would not cause adverse daylight/sunlight or overshadowing impacts on neighbouring properties, and would generally be acceptable in terms of 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 14th day of June 2021 and the 25th day of August, 2021, 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. This permission is for 36 apartment units and 21 houses.

Reason: In the interest of clarity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and apartment block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. (a) The landscaping scheme as submitted on the 14th day of June, 2021 shall be implemented 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.
- (b) Prior to the commencement of development, the applicant shall submit detailed landscaping and screening plans to ensure appropriate privacy is provided to future residents of the proposed ground floor level apartment units for the written agreement of the planning authority.
- (c) Prior to the commencement of development, the applicant shall submit elevations and sections showing accurate dimensions and levels of the western boundary treatment proposed for the written agreement of the planning authority.
- (d) Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing.

- (e) When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, a Practical Completion Certificate shall be submitted for the written agreement of the planning authority, as verification that the approved landscape plans and specifications have been fully implemented.

Reason: In the interest of residential and visual amenity.

5. The mitigation measures outlined in the Arboricultural Assessment submitted with the application shall be carried out in full, except as may otherwise be required in order to comply with the attached conditions

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

6. 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 no misconnections or damage to storm water drainage infrastructure occurred during construction, shall be submitted to, and agreed in writing with, the planning authority.

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

7. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of orderly development.

8. The internal road and vehicular circulation network serving the proposed development, including 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 DMURS. 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 interest of amenity and of traffic and pedestrian safety.

9. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of permeability and proper planning and sustainable development.

10. The applicant shall ensure that a 24 hour ungated and unimpeded permeability linkage is provided for pedestrians/cyclists from Brighton Road to the adjacent greenway on completion of both the development and the greenway scheme.

Reason: In the interest of permeability and connectivity.

11. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has 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, in the interest of sustainable transportation.

12. Electric charging facilities shall be provided for cycle parking and proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: In the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric cycles in the interest of sustainable transportation.

13. No additional development shall take place above the apartment block's 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. The development 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.

15. The mitigation measures outlined in the Bat Assessment submitted to the planning authority on the 14th of June 2021, shall be carried out in full, except as may otherwise be required in order to comply with conditions attached to this permission.

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

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 overground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

17. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation and shall comply with the requirements of the Bat Assessment submitted to the planning authority on the 14th day of June 2021.

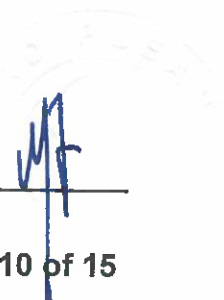
Reason: In the interests of amenity and public safety.

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 and house plot 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.

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

19. Proposals for an estate/street name, house and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house and apartment numbers, shall be provided in accordance with the agreed scheme. 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.

A handwritten signature in blue ink is written over a circular stamp. The stamp contains the text 'AN BORD PLEANÁLA' around the perimeter and '12 FEBRUARY 2017' in the center. The signature is a stylized, cursive 'MT'.

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To ensure the satisfactory completion and maintenance of this development.

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 noise management measures and off-site disposal of construction/demolition waste.

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

22. 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 provisions of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

23. 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.

24. 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 for the area.

25. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the Planning and Development Act, 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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.

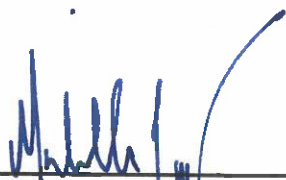
27. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood namely Luas Line B1 in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

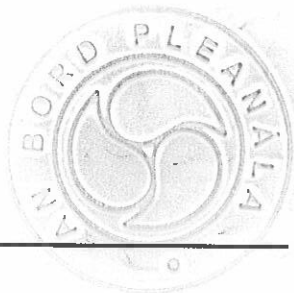
28. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination.

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.



Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 19th day of May 2022.