

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 2474/21

Appeal by ByrneWallace LLP care of Armstrong Planning of 12 Clarinda Park North, Dún Laoghaire, County Dublin, by IPB Insurance CLG care of BNP Paribas Real Estate of 57 Adelaide Road, Dublin, and by Talcvale Limited care of McGill Planning of 22 Wicklow Street, Dublin against the decision made on the 8th day of December, 2021 by Dublin City Council to grant subject to conditions a permission to Talcvale Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a residential development comprising eight number apartments (four number three beds, four number two beds), a lobby and roof terrace, in a new five-storey building over an existing basement, substation and car lift. The proposal will also provide for 24 number cycle parking spaces within the existing basement. The development will be accessed from Stable Lane to Clonmel Street. The development is within the curtilage of a protected structure (former national hospital, 87-91 Harcourt Street), all on a site of circa 0.03 hectares located at Stable Lane, off Clonmel Street, at rear of 87-91 Harcourt Street, Dublin.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the location of the site on the edge of the city centre and in close proximity to a wide range of public transport options and other services, the provisions of the Dublin City Council Development Plan 2022-2028, including in particular BHA2, BHA7 and Appendix 3, the Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2018, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2020, and the National Planning Framework, which seeks to direct new residential development in cities into built-up serviced areas, the pattern and character of development in the area, and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and quality of residential development in this accessible urban location, and would 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.

In deciding not to accept the Inspector's view regarding Local Authority condition number 6, the Board considered that a separation from the Iveagh Gardens boundary as proposed by the local authority was necessary to ensure that the proposed development would not detract from the character or built heritage of the area and would thus be consistent with the Z8 development plan zoning objective.

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 11th day of November, 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. (a) The eastern building line of the upper five floors (first floor – fourth floor mezzanine inclusive) of the proposed development shall be set back 2.5 metres from the site boundary with the Iveagh Gardens.
- (b) The proposed openings to the southern elevation of apartment number 8 shall be omitted and shall be suitably blocked up.

A set of detailed elevation drawings, visualisations and material samples, showing compliance with the above amendments shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity, in the interest of protecting the amenity value of the adjacent Iveagh Gardens including the mature trees in proximity to the site boundary and the protected boundary wall, and in the interest of protecting the development potential of the adjoining property to the south in accordance with the proper planning and sustainable development of the area.

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

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

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

Reason: In the interest of public health.

6. Proposals for a development 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 signs and apartment numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

7. 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 subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.

8. 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 the maintenance of access to adjoining properties, management measures for noise, dust and dirt, and construction traffic management proposals.

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

9. 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.

10. (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 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) The plan shall provide for screened communal bin stores, which shall be adequately ventilated, drained and illuminated. The design and location of same 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.

11. Prior to the occupation of the development, a Mobility Management Plan/Residential Travel Plan shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-sharing by residents and to reduce and regulate the extent of parking. The plan shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists.

12. Any alterations to the public road shall be in accordance with the requirements of the planning authority and where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the developers' expense.

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

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

14. 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 interests of visual and residential amenity.

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

Reason: In the interests of visual and residential amenities.

16. (a) The historic wall along the eastern site boundary shall be retained and protected from damage during construction in accordance with the specifications, conservation method statement and drawings submitted to the planning authority.
- (b) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the historic fabric during the works. In this regard, all permitted works shall be designed to cause no interference to the boundary wall.
- (c) All works in the vicinity of the boundary wall shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011.

Reason: To ensure that the integrity of the protected structure is maintained and that the structure is protected from any damage or loss of fabric.

17. The existing trees in the Iveagh Gardens property to the east of the site shall be protected from damage. A tree survey shall be carried out by an arborist or landscape architect of the existing trees, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and shall include the following:
- (a) A plan to scale of not less than 1:100 showing the location and crown spread of, and allocating a reference number to, each existing tree adjoining the eastern site boundary.
 - (b) A separate document detailing the following information in respect of each numbered tree –
 - (i) the common and scientific name of the species and variety,
 - (ii) the diameter, measured in accordance with paragraph (a) above,
 - (iii) the approximate height,
 - (iv) the crown spread
 - (v) the condition, including a general statement of health and stability, and
 - (vi) the extent of works, if any, proposed to each tree.
 - (c) Details of any proposed alterations in existing ground levels throughout the site and of the position of any proposed excavation within the crown spread of any existing tree.



- (d) Details of the measures proposed for the protection of each tree from damage before and during the course of construction, as well as ongoing protection measures at operational stage.

Reason: To facilitate the identification and subsequent protection of existing trees on the adjoining property, which represent an important amenity and should be protected and maintained.

18. Details of the full extent of storage provision for each individual apartment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

19. 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.

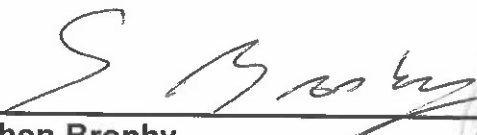
Reason: To ensure the satisfactory completion of the development.

20. 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.

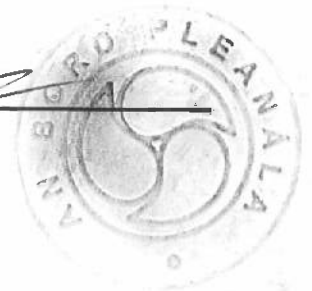
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

21. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City (Saint Stephen's Green to Broombridge Line), 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.



Stephen Brophy
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 25th day of April 2023.