

An
Bord
Pleanála

Board Order ABP-313252-22

Planning and Development Acts 2000 to 2022


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 7th day of April 2022 by Cairn Homes Properties Limited care of McCutcheon Halley Planning Consultants of 6 Joyce, Barrack Square, Ballincollig, Cork.

Proposed Development comprises of the following:

1. Demolition of the non-original fabric of Chesterfield House (210 square metres Gross Floor Area) and its reconstruction to accommodate three number Build to Sell apartments, resulting in a change of use from office and caretaker residence to residential use;
2. Change of use of the existing 'Summer House' (59.3 square metres Gross Floor Area) to caretaker's maintenance and storage, including alterations and internal modifications;
3. Demolition of three number derelict sheds (combined 113 square metres Gross Floor Area) and decommissioned water tank;
4. The construction of 366 number residential units, with a cumulative gross floor area of 34,109 square metres comprising;

- (a) 355 number Build-to-Rent apartments across six number blocks in the southern portion of the site ranging in height from three storeys to eight storeys over basement incorporating 26 number studio, 138 number one-bed, 163 number two-bed and 28 number three-bed units, all with private amenity space;
 - (b) three number Build-to-Sell apartments (referred to above, comprising one number two-bed and two number three-bed units) contained within a re-constructed Chesterfield House, all with private amenity space; and
 - (c) eight number Build-to-Sell, two and a half-storey, four-bedroom semi-detached houses to the north of Chesterfield House, all with private amenity space;
- 5. The construction of a childcare facility at ground floor level in Block Number 2 with a gross floor area of 532 square metres, with associated outdoor play area of 201 square metres and two number designated staff car-parking spaces located at basement level;
 - 6. The provision of a build to rent residents' services and amenities hub (combined 906 square metres) located at basement level to accommodate a range of uses including a gym, aerobics room, residents' lounge, cafe, co-working area, chef's kitchen, two number meeting rooms, and multipurpose/media/presentation space;
 - 7. The provision of build to rent residential support facilities (with a combined gross floor area of 429.3 square metres) comprising concierge, parcel room, bin stores, cleaner's rooms, and caretaker's maintenance and storage (former 'Summer House');
 - 8. The provision of 5,260 square metres of public open space and 11,260 square metres of communal open space;
 - 9. The construction of one number bin and bike store with a combined gross floor area of 27.8 square metres to serve Chesterfield House and four number bike stores with a cumulative gross floor area of 119 square metres in the southern part of the site;



10. The provision of 644 number bicycle parking spaces (540 number long stay, 90 number visitor and 14 number for use by the childcare facility);
11. The provision of a total of 290 number car parking spaces comprising 22 number surface level and 268 number basement level car parking spaces. Car parking on site will include 56 number electric vehicle spaces, 12 number universal access spaces, eight number visitor spaces, two number car-sharing spaces and two number car parking spaces designated for the childcare facility;
12. 11 number motor-cycle parking spaces at basement level;
13. Two number pedestrian paths and access gates for potential future access (subject to agreement) at the boundary with Clonfadda to the south and Cherbury to the west;
14. Access will be via the existing access on Cross Avenue and improvement works are proposed to this entrance including the construction of an ornate patterned steel panel (30 metres by 3.7 metres) incorporating signage (2.6 metres by 0.3 metres) to the east of the existing entrance and signage (2.2 metres by 1.5 metres) on the existing wall to the west;
15. Works to the public footpath in the form of a raised table pedestrian crossing, waste layby area, drop-off and set down spaces, improvements to and realignment of the existing internal vehicular access road from the Cross Avenue entrance to provide for a road of 5.5 metres in width and two metres wide footpath;
16. Realignment and enlargement of the existing on-site ornamental pond to facilitate surface water attenuation;
17. Installation of infrastructure along Cross Avenue to facilitate connections to the municipal potable water supply at the junction of Cross Avenue and Booterstown Avenue and the surface water sewer at the junction of Cross Avenue and Mount Merrion Avenue;
18. The construction of two number single-storey ESB sub-stations with a combined gross floor area of 51 square metres; and



19. All ancillary site development works including plant, waste storage areas, landscaping, green roofs, boundary treatment, outdoor lighting, and solar PV panels.

The 355 number 'Build-To-Rent apartments will be constituted as a long-term rental housing scheme, and this planning application is accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such.

The proposed development also consists of the carrying out of works to a protected structure, 'Original Drawing Room' (RPS number 171) which is contained within Chesterfield House. The protected structure will be retained within the proposed re-constructed Chesterfield House.

All on a site of circa 3.4 hectares located at Chesterfield, Cross Avenue, Blackrock, County Dublin. The subject site encompasses an area of circa 3.17 hectares and the balance of circa 0.23 hectares incorporates the public road, Cross Avenue, which is included to accommodate works to facilitate connections to surface water and potable water supply services.

Decision

GRANT permission for:

1. **Demolition of the non-original fabric of Chesterfield House (210 square metres Gross Floor Area) and change of use of the remaining structure from office and caretaker residence to residential use;**
2. **Change of use of the existing 'Summer House' (59.3 square metres Gross Floor Area) to caretaker's maintenance and storage, including alterations and internal modifications;**
3. **Demolition of three number derelict sheds (combined 113 square metres Gross Floor Area) and decommissioned water tank;**
4. **The construction of 11 number residential units comprising: (a) three number Build-to-Sell apartments (one number two-bed and two number three-bed units) contained within a re-constructed Chesterfield House, all with private amenity space; and, (b) eight number Build-to-Sell, two**

and a half-storey, four-bedroom semi-detached houses to the north of Chesterfield House, all with private amenity space;

5. The proposed development also consists of the carrying out of works to Chesterfield House which contains a protected structure, 'Original Drawing Room' (RPS no. 171). Importantly, the protected structure will be retained within the proposed re-constructed Chesterfield House at Chesterfield, Cross Avenue, Blackrock, County Dublin in accordance with the said plans and particulars based on the Reasons and Considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for the proposed development as follows:

The construction of 355 number residential units comprising;

1. 355 number Build-to-Rent apartments across six number blocks in the southern portion of the site ranging in height from three-storeys to eight-storeys over basement incorporating 26 number studio apartments, 138 number one-bed apartments, 163 number two-bed apartments and 28 number three-bed apartments, all with private amenity space;
2. The construction of a childcare facility at ground floor level in Block Number 2 with a gross floor area of 532 square metres, with associated outdoor play area of 201 square metres and two number designated staff car-parking spaces located at basement level;
3. The provision of a Build-to-Rent residents' services and amenities hub (combined 906 square metres) located at basement level to accommodate a range of uses including a gym, aerobics room, residents' lounge, café, co-working area, chef's kitchen, two number meeting rooms, and multipurpose/media/presentation space;
4. The provision of Build-to-Rent residential support facilities (with a combined gross floor area of 429.3 square metres) comprising concierge, parcel room, bin stores, cleaner's rooms, and caretaker's maintenance and storage (former 'Summer House');
5. The provision of 5,260 square metres of public open space and 11,260 square metres of communal open space;



6. The construction of one number bin and bike store with a combined gross floor area of 27.8 square metres to serve Chesterfield House and four number bike stores with a cumulative gross floor area of 119 square metres in the southern part of the site;
7. The provision of 644 number bicycle parking spaces (540 number long stay, 90 number visitor and 14 number for use by the childcare facility);
8. The provision of a total of 290 number car parking spaces comprising 22 number surface level and 268 number basement level car parking spaces. Car parking on site will include 56 number electric vehicle spaces, 12 number universal access spaces, eight number visitor spaces, two number car-sharing spaces and two number car parking spaces designated for the childcare facility;
9. 11 number motor-cycle parking spaces at basement level;
10. Two number pedestrian access paths and access gates for potential future access (subject to agreement) at the boundary with Clonfadda to the south and Cherbury to the west;
11. Access via the existing access on Cross Avenue and improvement works proposed to this entrance including the construction of an ornate patterned steel panel (30 metres by 3.7 metres) incorporating signage (2.6 metres by 0.3 metres) to the east of the existing entrance and signage (2.2 metres by 1.5 metres) on the existing wall to the west, works to the public footpath in the form of a raised table pedestrian crossing, waste layby area, drop-off and set down spaces, improvements to and realignment of the existing internal vehicular access road from the Cross Avenue entrance to provide for a road of 5.5 metres in width and two metres wide footpath;
12. Realignment and enlargement of the existing on-site ornamental pond to facilitate surface water attenuation;
13. Installation of infrastructure along Cross Avenue to facilitate connections to the municipal potable water supply at the junction of Cross Avenue and Booterstown Avenue and the surface water sewer at the junction of Cross Avenue and Mount Merrion Avenue;



- 14. The construction of two number single-storey ESB sub-stations with a combined gross floor area of 51 square metres;**
- 15. All ancillary site development works including plant, waste storage areas, landscaping, green roofs, boundary treatment, outdoor lighting, and solar PV panels at Chesterfield, Cross Avenue, Blackrock, County Dublin based on the Reasons and Considerations marked (2) under.**

The Board agreed with and adopted the report of the Inspector in terms of appropriate assessment screening and environmental impact assessment screening and considers that no issues arise having regard to the scaled down development now proposed.

Reasons and Considerations (1)

Having regard to the location of the proposed development, the residential zoning objective, the policy framework provided by the Dún Laoghaire-Rathdown County Development Plan 2022 – 2028, including objectives for infill development and for the consolidation of the main urban areas of Dún Laoghaire-Rathdown, it is considered that the proposed development, subject to compliance with the conditions set out below, would provide a reasonable level of accommodation on site, would not have an adverse impact on existing residential amenities of the area, would constitute an acceptable form of development at this zoned and service site and, as such, would be consistent with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse planning permission for three number Build-to-Sell apartments and eight number Build-to-Sell, two and a half-storey, four-bedroom semi-detached houses, the Board did not accept the rationale of the Inspector that the over proliferation of Build-to-Rent units applied to these 11 units, as these 11 units are not Build-to-Rent units. The Board considered that a development of three number Build-to-Sell apartments and eight number Build-to-Sell, four-bedroom semi-detached house at this location would be in keeping 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, 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. Prior to commencement of the development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

3. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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 the interest of residential amenity.

5. A Landscaping Plan for the site shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of any of the housing units.

Reason: In the interests of the environment and the visual amenities of the area.



6. Proposals for an estate/street name, house 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 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.

7. Details of the external finishes of 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.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

9. 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.



10. 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.

11. 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.



12. 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 of the area.

13. (a) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house unit or duplex for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the developer or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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.



14. 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 the 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 the Board 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.



Reasons and Considerations (2)

Having regard to the relative proximity of ABP-311190-21 (244 number Build-to-Rent units) circa 220 metres to the north-east of the site which is currently under construction and also accessing directly onto Cross Avenue, the cumulative impacts of a further 358 Build-to-Rent units as proposed in one area would result in the over proliferation of Build-to-Rent at this location and would be contrary to section 4.3.2.3 and Policy Objective PHP27, as it relates to 'sustainable residential communities' and Policy Objective PHP28, as it relates to 'over proliferation' of Build-to-Rent development of the Dún Laoghaire-Rathdown County Development Plan 2022 - 2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.



Chris McGarry

Member of An Bord Pleanála

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

Dated this 12th day of September 2024.