

An
Bord
Pleanála

Board Order ABP-314004-22

Planning and Development Acts 2000 to 2022

Planning Authority: South Dublin County Council

Planning Register Reference Number: SD21A/0232

Appeal by Ballyboden Tidy Towns Group care of Marston Planning Constancy of 23 Grange Park, Foxrock, Dublin against the decision made on the 8th day of June, 2022 by South Dublin County Council to grant subject to conditions a permission to Luxcare Limited care of Holmes Miller Architects of 89 Minerva Street, Glasgow, Scotland in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development will comprise of a new three-four storey nursing home building to consist of 111 number bedrooms (with ensembles) and associated site and resident welfare facilities and amenities, including extensive landscaped gardens, the protection and preservation of Newbrook House (a Protected Structure – reference number 300) and incorporation with the construction of a new three-four storey nursing home, formation of new vehicular and pedestrian site access off Taylor's Lane and associated landscaping works, the development will include communal open space, as well as offer facilities open to the public such as a hair salon, function suite and cinema, provision of 18 number parking spaces including two number accessible spaces and two number EV charging bays to service the nursing home, provision of 24 number short and long stay parking spaces and five number new three-storey dwellings with associated parking, landscaping and services. All at Newbrook House, Taylor's Lane, Rathfarnham, Dublin, as revised by the further public notice received by the planning authority on the 19th day

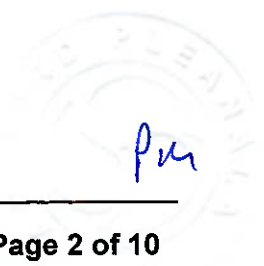
of January, 2022 as follows: minor changes to site layout, demolition of four number derelict buildings, single rear storey extension to Newbrook House and provision of 21 number car parking spaces to service the nursing home (including the two number EV, two number accessible and one number delivery parking) and construction of four dwellings with eight number car parking spaces.

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 zoning objective for the subject site, to its location within an existing urban area, and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable, would not seriously injure the residential amenities of the area or of property in the vicinity and would be acceptable in terms of built heritage 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 on the 19th day of January, 2022 and the 12th day of May 2022, 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. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment Report, 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.

3. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, a remediation strategy for contaminated land on the subject site.

Reason: In the interest of public health.

4. Additional planting shall be provided within the car parking area to the front of the protected structure. Revised drawings showing compliance with this requirement 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 and to secure the integrity of the proposed development.

5. To ensure sightlines are not impeded by the proposed tree planting in the north-west portion of the site, a revised proposal for boundary planting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

6. The boundary planting and areas of communal open space and public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application 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 the nursing home is made available for occupation.

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

7. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall 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 and to ensure an appropriate high standard of development.

8. Details of signage relating to the nursing home use shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

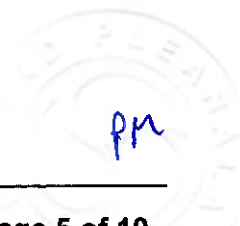
Reason: In the interest of visual amenity.

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to, and agreed in writing with, the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

10. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have 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



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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

12. 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 agreed in writing with the planning authority.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

13. Proposals for a naming/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 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/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.

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.

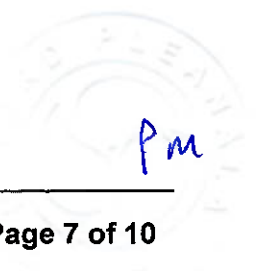
Reason: In the interests of visual and residential amenity.

15. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

16. (a) Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services. These arrangements, given the nature and use of the proposed development shall include appropriate safety measures.
- (b) A Stage 2 - Detailed Design Stage Storm Water Audit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) Upon completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate that sustainable urban drainage system measures have been installed and are working, as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to, and agreed in writing with, the planning authority.

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



17. 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 order to safeguard the residential amenities of property in the vicinity.

18. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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. 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.

20. 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.

21. 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 commencement of development.

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

22. 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

23. 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.



Peter Mullan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this *18th* day of *December* 2023.