



Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D22A/0614

Appeal by Jason and Sarah Byers and others of 11 Glenomena Park, Blackrock, County Dublin and by Micheál Collins and Victoria Eherer-Collins of 9 Glenomena Park, Booterstown, Blackrock, County Dublin against the decision made on the 13th day of October, 2022 by Dún Laoghaire-Rathdown County Council to grant, subject to conditions, a permission to HGREIT II Montrose LLC care of Thornton O'Connor Town Planning of 1 Kilmacud Road Upper, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of the demolition of the existing four number storey stairwell to the rear of the existing student accommodation residence and the construction of a part three number to part four number storey extension (734 square metres total gross floor area) to provide 26 number student accommodation studio units. The development will also consist of the reconfiguration and relocation of bin stores, car parking, cycle parking and vehicular circulation, the provision of green roofs and rooftop solar panels and all other associated above and below ground works to facilitate the development, all on at a site located at, and to the rear of Aparto Montrose Student Accomodation, Stillorgan Road, 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 provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, and the zoning of the site for residential purposes which allows for student accommodation, to the location of the site in an established, serviced, urban area within walking distance of public transport and to the nature, form, scale, density and design of the proposed development which is an extension to an existing student accommodation facility within walking distance of the University College Dublin (UCD) campus, 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on any European Sites. The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that, given the potential of significant effects through pollution associated with contaminated water entering the existing surface water drainage system

which discharges to the Elm Park Stream and in turn into Dublin Bay, South Dublin Bay Special Area of Conservation (site code 000210), South Dublin Bay and River Tolka Special Protection Area (site code 004024), North Dublin Bay Special Area of Conservation (site code 000206) and the North Bull Island Special Protection Area (site code 004006) are the European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment Stage 2

The South Dublin Bay Special Area of Conservation (site code 000210), South Dublin Bay and River Tolka Special Protection Area (site code 004024), North Dublin Bay Special Area of Conservation (site code 000206) and the North Bull Island Special Protection Area (site code 004006) are subject to Appropriate Assessment. A description of the sites and their Conservation Objectives and Qualifying Interests are set out in the submitted Natura Impact Statement.

The Board noted that the main aspect of the development that could impact the conservation objectives of the European sites are through deterioration of water quality during the construction and operational phases of the development, with potential negative impacts from dust during the demolition phase. The Board further noted the following range of mitigation measures which are provided in the Natura Impact Statement and primarily refer to the construction phase of development but also refer to the operational phase and include the following:

- The employment of a project ecologist from prior to commencement of development up to the completion stage.
- Local silt traps will be employed on site during the construction phase.

- A log will be taken of air quality during the construction phase of the development.
- Enclosure of sections of the site will be undertaken where there is a high potential for the generation of dust on site. With particular reference to the demolition of the stairwell and to ensure that dust does not enter any watercourses in the area.

The Board concluded that the proposed mitigation measures are clearly described and precise wherein definitive conclusions can be reached in terms of avoidance of adverse effects on the integrity of designated European sites based on the outlined mitigation measures. The Board considered that the mitigation measures are necessary having regard to the proximity of the site to the Brewery/ Elm Park Stream and, in turn, its hydrological connection to the listed Special Protection Areas and Special Areas of Conservation.

In Combination Effects: No issues of concern are raised subject to the full implementation of mitigation measures outlined in the Natura Impact Statement.

Therefore, following an Appropriate Assessment, the Board concluded that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of South Dublin Bay Special Area of Conservation (site code 000210), South Dublin Bay and River Tolka Special Protection Area (site code 004024), North Dublin Bay Special Area of Conservation (site code 000206) and the North Bull Island Special Protection Area (site code 004006).

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and monitoring in relation to the Conservation Objectives of the South Dublin Bay Special Area of Conservation (site code 000210), South Dublin Bay and River Tolka Special Protection Area (site code 004024), North Dublin Bay Special Area of Conservation (site code 000206) and the North Bull Island Special Protection Area (site code 004006).
- Detailed assessment of in combination effects with other plans and projects including historical projects, plans and current proposals.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of South Dublin Bay Special Area of Conservation (site code 000210), South Dublin Bay and River Tolka Special Protection Area (site code 004024), North Dublin Bay Special Area of Conservation (site code 000206) and the North Bull Island Special Protection Area (site code 004006).

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 19th of August 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. The proposed development shall be used for:
- (a) student accommodation or accommodation related to a Higher Education Institute only, during the academic year; or
 - (b) student accommodation or accommodation related to a Higher Education Institute or tourist/visitor accommodation only, during academic holiday periods. The development shall not be used for the purposes of permanent residential accommodation, as a hotel, hostel, apart-hotel or similar use without a prior grant of permission.

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

3. The proposed development shall be implemented as follows:
- (a) The student accommodation and complex shall be operated and managed in accordance with a Student Accommodation Management Plan which shall be agreed in writing with the planning authority prior to the occupation of these units,
 - (b) Student units/apartments shall not be amalgamated or combined.

Reason: In the interest of the amenities of occupiers of the units and surrounding properties.

4. The following shall be submitted for the written agreement of the planning authority prior to the commencement of development:
- (a) Details of the materials, colours and textures of all the external finishes to the proposed building. The aluminium finish shall be

omitted and replaced with render or similar that meets the requirements of the planning authority.

- (b) Provision of a landscaping plan with specific reference to the planting of additional trees along the north-eastern boundary. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority.
- (c) Details of lighting in the vicinity of the extension and common areas.

Reason: In the interest of visual amenity and in the interest of residential amenity.

- 5. (a) Access to the roof area shall be restricted for purposes of maintenance works only and shall not be accessible to residents of this development.
- (b) All windows on the north-east elevation serving corridors shall be permanently fitted with non-opening windows fitted with opaque glazing.

Reason: In the interest of residential amenity.

- 6. Water supply and drainage arrangements, including the disposal of surface water, the provision of hardstanding that incorporate permeability, and the provision of a green roof on the proposed extension, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency'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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 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 amenities of property in the vicinity.

9. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

10. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

11. All recommended mitigation measures outlined in the submitted Natura Impact Statement shall be implemented in full by the developer.

Reason: In the interest of ecological/biodiversity protection.

12. 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 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.

13. 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.




Joe Boland
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this *23RD* day of *April* 2024.