



An
Bord
Pleanála

Board Order
ABP-315061-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3971/22

Appeal by Geraldine Egan and others care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin, and by Others, against the decision made on the 13th day of October, 2022 by Dublin City Council to grant, subject to conditions, a permission to Prime GP 1 Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development will consist of the demolition of the existing derelict glass greenhouses and relate structures (circa 4,503 square metres), the construction of a four-storey building providing a 120 number bed space nursing home (circa 7,630 square metres) and all associated ancillary development including roof plant and equipment, hard and soft landscaping, two number courtyards, boundary treatments internal roads and pathways, the provision of internal surface water and foul drainage pipes, attenuation tanks, SuDs features, service provision and related pipework, ESB substation, ESB switch room, generator room and two number waste storerooms, car parking, bicycle parking, public lighting, signage and all associated site development and excavation works above and

below ground level. Vehicular access to the proposed nursing home will be via the existing vehicular access off Oakland's Crescent and Saint Luke's Hospital service road to the west. An additional pedestrian/bicycle access is proposed via Highfield Grove to the north, all on a 0.67-hectare site at the former Highfield Plant Nursery located off Oakland's Crescent Road, Highfield Grove and Saint Luke's Hospital Service Road, all accessed off Highfield Road, Rathgar, Dublin. The development site is principally bounded by the rear gardens of St. Kevin's Park to the south, Highfield Grove and Four Oaks to the north, Sunbury Park to the east and Saint Luke's Hospital to the west.

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 residential use, scale, height and quality design of the proposed development, the nature and scale of the receiving environment, the existing underutilised nature and inefficient use of this inner-suburban site, the planning history pertaining to the site, and also having regard to the policies and objectives of the Dublin City Development Plan 2022-2028, including the land use zoning objective pertaining to the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be visually obtrusive or out of character with the surrounding area, would not constitute over-development of this well located site, would not seriously injure the amenities of adjoining properties by way of overlooking, overshadowing, impact on access to daylight or overbearance, would provide satisfactory standards of amenity for the future occupants of

the development, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board decided not to accept the Inspector's recommendation to refuse permission. In relation to the one specific issue raised in the Inspector's recommended refusal reason, that being the potential overbearing impact of the development on adjacent residential properties, specifically on Sunbury Park to the north-east, the Board agreed with the Inspector that this issue is "finely balanced" (reference section 7.4.4 of the Inspector's Report) but in this instance the Board disagreed with the Inspector's conclusion in relation to potential overbearance and agreed with the planning authority's determination on the matter.

The Board considered the following:

- (i) the computer-generated images/photomontages submitted by the applicant and appellants,
- (ii) the separation distance between the north-east facing elevation and the shared site boundary with Sunbury Park,
- (iii) the quality and palette of materials to be used on the proposed development and, in particular, on the north-east facing elevation,
- (iv) the articulation of the north-east facing elevation,
- (v) the breaking down of the scale, massing and height of the north-east facing elevation,
- (vi) the quality of the design of the overall development, and
- (vii) the landscaping proposals for the site including proposals along the north-east site boundary with Sunbury Park,

and concluded that the proposed development would not be visually overbearing when viewed from the rear gardens of Sunbury Park (or any other residential property adjacent the application site) and therefore decided not to accept the Inspector's recommendation to refuse permission in relation to this matter. The Board concurred with all other aspects of the Inspector's assessment and recommendation (subject to conditions as indicated below).

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 16th day of September 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. Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority, detailed design proposals to the satisfaction of the planning authority in relation to the following:
 - (i) A revised design for the main entrance to the application site to improve shared surface and pedestrian crossing connections, legibility and materials.

- (ii) Measures to be implemented at the junction of Saint Luke's Hospital Service Road and Oakland Crescent to restrict the use of Oakland Crescent as an alternative access route to the hospital.
- (iii) All works proposed within the public domain, specifically at Highfield Road and Highfield Grove, as specified in the 'Engineering Response to Further Information Request' by DBFL Consulting Engineers, received by the planning authority on the 16th day of September 2022.

Reason: In the interests of vehicular and pedestrian safety.

- 3. The roads layout at Oaklands Crescent/Saint Luke's Service Road junction shall be as indicated in 'Option 2' on drawing titled 'Oaklands Crescent-Oaklands Drive Design Concept Options (drawing number 210183-DBFL-RD-SP-SK-C-1005 revision P03) received by the planning authority on the 16th day of September 2022.

Reason: In the interests of vehicular and pedestrian safety.

- 4. The external finishes to the proposed development shall be in accordance with the plans and particulars submitted with the application unless otherwise agreed with the planning authority in writing prior to the commencement of development.

Reason: In the interests of visual amenity and clarity.

5. Other than those indicated on the plans and particulars submitted with the application, 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 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.

6. Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority, a tree survey outlining existing trees on the site and indicating those to be removed and those to be retained (if applicable).

Reason: In the interest of clarity.

7. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

8. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

9. Site development and building works shall be carried out only between the hours of 0800 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.

10. 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:
- (a) the location of the site and materials compound including area identified for the storage of construction refuse;
 - (b) the location of areas for construction site offices and staff facilities;
 - (c) details of site security fencing and hoardings;
 - (d) details of on-site car parking facilities for site workers during the course of construction;
 - (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

11. 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 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 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.

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 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.

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.



Tom Rabbette

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

Dated this 29th day of April 2024.