

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D22A/0202

Appeal by Patrick McMahon and Ann McMahon of Montenotte, 110 Mount Merrion Avenue, Blackrock, County Dublin and by Others against the decision made on the 25th day of October, 2022 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Bartra Property Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Permission is sought for development comprising: (i) demolition of existing two-storey dwelling and ancillary garage; (ii) construction of five-storey (four-storey with fifth floor setback) over basement build-to-rent later living facility comprising 39 number apartments (35 number one-bed and four number two-bed). Each unit will have a kitchen/dining/living room, bathroom, storage areas and a private balcony/terrace; (iii) provision of communal residential facilities to include a cinema, meeting room/family dining room, trackman room, library/reading room, gym, kitchen, hydrotherapy room with changing room and toilet, hairdressing room, massage room, storage areas, plant room and communal terrace at basement level, and

administrative office, foyer, private members' club room with espresso bar, storage and post boxes at ground floor level; (iv) provision of communal outdoor amenity spaces including a terrace with two number hot tubs at fourth floor level and landscaped gardens at ground floor; (v) provision of 26 number car parking spaces (including two number mobility spaces and two number car sharing spaces) and 64 number bicycle parking spaces at ground floor level; (vi) alterations to existing entrance off woodland park to include removal of piers and widening of entrance; (vii) all associated site and infrastructural works, including foul and surface water drainage, landscaping, boundary treatments, bin stores, and plant areas necessary to facilitate the development. All at 45 Woodlands Park, Blackrock, County Dublin. The proposed development is revised by the further public notices received by the planning authority on the 13th day of July, 2022 and on the 28th day of September, 2022, to provide 38 number apartments.

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

It is considered that the proposed development which is located in an established urban area within walking distance of public transport would be in accordance with the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022 - 2028. It is further considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential, visual or environmental amenities of the area, would not constitute overdevelopment of the subject site, would not result in traffic hazard, would not cause a proliferation of Build To Rent developments in the area and would offer a good standard of accommodation to future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area, the separation distance to the European sites and the nature of the Priory Stream, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans and projects, on these European sites in view of the site's conservation objectives, and concluded that a Stage 2 Appropriate Assessment is not required.

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 13th day of July, 2022 and the 28th 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. This grant of planning permission is for 38 number apartments units only comprising 33 number one-bedroom units and five number two-bedroom units.

Reason: In the interest of clarity.

3. The development hereby permitted shall be for Build-to-Rent units which shall operate in accordance with the definition of Build-to-Rent developments, as set out in 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 shall be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

4. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme. This covenant or legal agreement shall also highlight the reduced level of car parking available to future residents.

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

5. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

6. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. A drawing and associated details which demonstrate that the proposed green roof extents are designed in accordance with the planning authority's current Green Roof Policy shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

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

8. (a) 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.
- (b) The non-amenity roof areas shall not be accessible except for maintenance purposes only.

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

9. (a) The internal road network serving the proposed development, including turning bays, parking areas, footpaths and kerbs, and the junction with the public road shall be in accordance with the detailed standards of the planning authority for such works.
- (b) A detailed plan and elevation drawing of a proposed segregated access for cyclists and motor vehicles with treatment for pedestrian priority at the redesigned entrance to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (c) A total of 25 car parking spaces shall be provided, two to be fully accessible, two for use by a 'car club' and the remaining 21 to be for resident parking.
- (d) 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (e) Two motorcycle parking spaces shall be provided.

Reason: In the interests of amenity, traffic and pedestrian safety, sustainable transportation and to provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

10. Detailed drawing(s) of the layout and marking demarcation of all bicycle spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All cycle parking shall be secure and easily accessible. All long-term cycle parking shall be covered while 50% of visitor cycle parking shall be covered. E-Bike and Cargo bike provision shall make up 10% respectively of the total cycle parking provision.

Reason: To ensure the availability of high-quality bicycle parking provision to serve the proposed development and in the interest of sustainable transportation.

11. Proposals for a development name, unit 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 apartment unit numbers shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

12. 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.

13. The applicant or 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.

14. The landscaping proposals prepared by Austen Associates, as submitted to the planning authority with the planning application on the and as amended by the further plans and particulars submitted on the 13th day of July, 2022 and on the 28th day of September, 2022, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

15. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment unit.

Reason: In the interest of public safety.

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

17. 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) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) 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.

18. 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.

19. 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.

20. 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 interests of orderly development and the visual amenities of the area.

21. Having regard to the Clarification of Further Information, submitted to the planning authority by Hughes Planning and Development Consultants on the 28th of September 2022, the applicant shall enter into a Section 47 agreement with the planning authority restricting the use of the development to later living as follows:

The occupancy of the units shall be permanently restricted to persons of 60 years or older. Prior to commencement of development the applicant shall enter into such an agreement with the planning authority.

Reason: In the Interests of clarity and the use of the development as proposed.

22. 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.

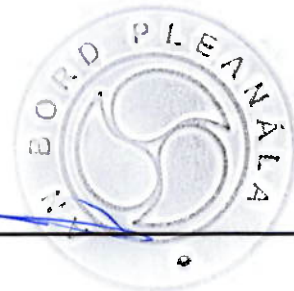
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

23. 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.

24. 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.



Liam Bergin

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

Dated this 25th day of April 2024.