



An
Bord
Pleanála

Board Order
ABP-315449-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D21A/1082

Appeal by Bernie and David Lowe of Derwent, Abingdon Park, Shankill, Dublin against the decision made on the 30th day of November 2022 by Dún Laoghaire-Rathdown County Council to grant, subject to conditions, a permission to Ian Ronayne care of Jones and Kelly Architects of The Studio, Summerhill Court, Summerhill Road, Sandycove, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Permission sought for development consisting of (a) 32 number apartments comprising of three number three-bedroom, 14 number two-bedroom, 13 number one-bedroom and two number studio units on three floors to rear with a floor area of 1,121.5 square metres, with balconies on east, west and south sides and an overall height of 14.1 metres from basement level, connected to and along with four floors to front with a floor area of 1,563.5 square metres, with balconies on west, east and south sides, with an overall height of 15.2 metres from basement level. Ground floor car parking for number 13 cars including one disabled space. Basement car parking with an overall floor area of 849.7 square metres consists of number 24 car parking spaces to include number two spaces for disabled and three

electric charge points along with number two motor bike spaces and number 17 bicycle spaces to include one cargo bicycle space, and number 26 bicycle spaces located at ground level. Bin storage with an area of 25 square metres, located at basement level externally to north-east corner of site. Plant and services with a floor area of 21.9 square metres are located at roof level and meter services with a floor area of 15.3 square metres at basement level. Total gross floor area of the proposed development to be 3,556 square metres. Solar panels of the area of 40 square metres to be provided on west roof. New five metres wide vehicular access and 1.2 metres wide vehicular access and 1.2 metres wide pedestrian access are to be provided onto Clifton Park, with gates 2.0 meters high, all on a site area of 3,380 square metres. The site works include landscaping, screening, with common open space of 1,385.25 square metres along with new sewage and surface water drainage and an area of seven square metres for siting two-metre-high heat pumps at north boundary, new water connection to be connected to existing services at Clifton Park. New two-metre-high wall to be provided along the south boundary and two-metre-high wall to be re-instated to east boundary of the site. All enabling and site development works, landscaping, boundary treatment, lighting, services and connections, waste management and all other ancillary works; (b) demolition of the existing two storey dwelling house 'Conna' with a floor area of 432 square metres, and a height of 8.46 meters, along with demolition of single storey corrugated metal roofed sheds at north western boundary, retaining existing access, as a pedestrian access onto Shanganagh Road, which boundary and curtilage partially meets the attendant grounds of Abingdon House, a protected structure, all at Conna, Abingdon Park, Shanganagh Road, Shanganagh, Shankill, County 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,

- (a) the residential zoning of the site in the Dún Laoghaire-Rathdown County Development Plan, 2022-2028,
- (b) the local through to national planning policy provisions which support the redevelopment of serviced brownfield infill sites and support the compact denser taller residential buildings in accessible locations,
- (c) the existing as well as permitted pattern of residential development that characterises the site's surrounding context,
- (d) the sylvan character of the site due to the presence of many mature trees of merit,
- (e) the built heritage constraints of the site's location arising from the site's proximity of the site to a Protected Structure ('Abingdon' – Recorded Protected Structure number 1782) and its historical relationship with this historic property,
- (f) the topographical constraints of the site relative to adjoining and neighbouring land, the remote setting of the site relative to its existing connection to the public domain via a restricted in width private access

cul-de-sac lane (Abingdon Park),

(g) the documents submitted with the application and appeal, and

(h) the report and recommendation of the Planning Inspector,

it is considered that the design, height, built form, layout and landscaping through to the level of retention of natural features of merit of the proposed development would appropriately intensify the residential use of this suitable brownfield infill site whilst maintaining and adding to its sylvan character. It would also constitute an acceptable quantum, density and mix of residential development in this accessible urban location. It is further considered that its overall design and layout would be respectful of the architectural heritage as well as residential character of the area with the scheme maximising potential permeability and connectivity with its surroundings. It is therefore considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure to the residential or visual amenities of property in the vicinity, and would be acceptable in terms of pedestrian, cyclist, traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board considered all the information on the file, including the report and recommendation of the Planning Inspector, and concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site, and a stage 2 Appropriate Assessment is not therefore required.

Environmental Impact Assessment (EIA):

The Board completed an Environmental Impact Assessment screening of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development;
- (b) the Environmental Screening Report and associated documentation submitted in support of the planning application; and
- (c) the Planning Inspector's report;

and concluded that by reason of the nature, scale and extent of the quantum of development sought, the location of the subject site in a serviced suburban landscape through to the lateral separation distance between it and the nearest European site, the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required in this case.

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 received by the planning authority on the 14th day of September 2022 and the 3rd day of November 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. Each permitted apartment unit shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: In the interest of clarity and to prevent unauthorised development.

3. Revised plans indicating:
 - (a) the proposed northern elevation of the apartment building,
 - (b) the vehicular entrance layout, final details of which are to be agreed with the planning authority, connects to both existing footpaths on Clifton Park to the internal pedestrian route layout of the scheme. In this regard the revised vehicular and pedestrian entrance onto Clifton Park shall demonstrate the proposed surface treatment as well as the revised levels to accommodate safe and convenient access for its future users, and
 - (c) provision of additional screening of the apartment building from adjoining existing sensitive to change properties,

shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity, orderly development and of residential amenity of future occupants as well as of property in the vicinity.

4. Details of the materials, colours, and textures of all external finishes to the proposed development 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.

5. Surface water drainage arrangements, including the attenuation and 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 and surface water management.

6. 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.

7. Controlled gated pedestrian entrance to the southwest corner onto the cul de sac shall be retained for pedestrian/cycle access only. Details of the pedestrian access shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, for occupants of the scheme to access to Shanganagh Road from the cul-de-sac of Abingdon Park.

Reason: In the interest of pedestrian and traffic safety and the proper planning and development of the area.

8. A finalised landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following:
- (a) Details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing, and road surfaces within the development.
 - (b) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings.
 - (c) Details of all lighting fixtures and seating, with the external lighting scheme having regard to the updated Bat Survey and its recommended measures.
 - (d) Details of proposed boundary treatments at the perimeter of the site, including heights, materials, and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

9. (a) Excavations in preparation for foundations, drainage, ancillary ground works and all works above ground level in the immediate vicinity of trees indicated for protection, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected, and all branches are retained.
- (b) No works shall take place on site until a construction management plan specifying measures to be taken for the protection and retention of trees, together with proposals to prevent compaction of

the ground over the roots of the trees, has been submitted to, and been agreed in writing with, the planning authority. Any excavation within the tree protection areas shall be carried out using non-mechanised hand tools only.

Reason: To ensure that the trees indicated for retention are not damaged or otherwise adversely affected by building operation.

10. No additional development to that indicated and hereby permitted, shall take place above roof 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. Access to non-amenity roof areas shall be restricted for the purpose of maintenance works only.

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

11. A minimum of 10% of the proposed car parking spaces in on-surface and at basement level shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
- (a) Notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development.
 - (b) Employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.
 - (c) Provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

13. (a) Prior to the commencement of any development works on the site, the developer shall undertake a bat survey by a competent qualified person or consultancy to ascertain the presence of any bat activity on the site in relation to roosting and foraging and an assessment of any potential impact on the species arising from the proposed development. The nature and methodology of this survey shall be agreed with the planning authority prior to the commencement of the survey. No building, feature or vegetation shall be altered or removed prior to this survey and assessment.

Full details of the survey and assessment shall be submitted to the planning authority in advance of any development works on the site. Such the presence of bats be established on the site no development shall occur until the necessary permission/derogation licence has been obtained from the appropriate statutory body.

- (b) Trees to be removed on site shall be felled in late summer or autumn. Any disturbance to bats on site shall be managed in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist.

Reason: In the interest of bat protection and to provide for the preservation and conservation of this species.

- 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 interest of visual and residential amenity.

- 15. 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.

16. 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(s) including area(s) identified for the storage of construction refuse;
 - (b) the location of areas for construction site offices and staff facilities;
 - (c) the details of site security fencing and hoardings;
 - (d) the details of on-site car parking facilities for site workers during the course of construction;
 - (e) the 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) the 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;
- (j) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and,
- (k) the 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 interest of amenities, public health, and safety.

17. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection, residential amenities, public health and safety, and environmental protection.

18. The internal noise levels, when measured at the windows of the proposed development, shall not exceed:

(a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and

(b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

Reason: In the interest of residential amenity.

19. 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 and for the ongoing operation of these facilities for this apartment scheme 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: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

20. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

21. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, spaces, and entrances to the 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 amenity and public safety.

22. Site development and construction works shall be carried out 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 properties in the vicinity.

23. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling and walking. The mobility strategy shall be prepared and implemented by the management company for all units within this development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

24. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority an up-to-date Climate Action and Energy Statement.

Reason: In the interest of proper planning, sustainable and climate resilient development.

25. Prior to the 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, as amended, and of the housing strategy in the development plan of the area.

26. Proposals for naming, numbering and associated signage of this residential scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartments 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.

27. 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/in the event of being taken in charge.

28. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of public open space within the site, as provided for in Section 12.8.3.1 of the Dún Laoghaire-Rathdown Development Plan, 2022-2028, which benefits the proposed development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

29. 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 09th day of October 2024.