



An
Bord
Pleanála

Board Order
ABP-316087-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 5480/22

Appeal by Stephanie Taheny of 91 Tritonville Road, Sandymount, Dublin and by others against the decision made on the 22nd day of February, 2023 by Dublin City Council to grant subject to conditions a permission to Walthill Properties Limited care of McCutcheon Halley Chartered Planning Consultants of Kreston House, Arran Court, Arran Quay, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: The development will consist of: The demolition of Number 11 Newbridge Drive (a single dwelling with a total gross floor area of 248 square metres) and the construction of 22 number residential units consisting of: (a) 14 number houses comprising 12 number three-bed, three-storey terraced units, one number four-bed, two-storey detached unit and one number three-bed, three-storey (part single storey) house (b) four number ground floor apartments, comprising of two number one-bed units and two number two-bed units, and four number three-bed duplex units, in a single three-storey block, with private amenity space in the form of terraces for the ground floor units and winter gardens for the duplex units. Permission is also sought for minor revisions to the existing shared vehicular access off

Newbridge Avenue, with separate access to one number detached house only (the future Number 11 Newbridge Drive) from Newbridge Drive; associated vehicular and cycle parking; landscaping; and all associated site and development works. All at Baggotrath House, Newbridge Avenue, Sandymount, Dublin (including 11 Newbridge Drive, Sandymount, 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 location of the site, to the 'Z1' and 'Z2' residential land use zoning 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 constitute an appropriate form and scale of development at this location, would not seriously injure the visual amenities and character of the surrounding built environment or the residential amenities of adjoining properties and would be acceptable in terms of vehicular and pedestrian 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 noted that the proposed development is not directly connected with, or necessary to, the management of 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 sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 amended as follows:
- (a) The windows on the south-west elevation of the apartment block shall be obscure glazed and fixed shut to a minimum height of 1.8 metres.
 - (b) Details of an alternative location for the communal bin store shall be agreed in writing with the planning authority prior to the commencement of any above grade works.
 - (c) Details of an alternative location for Bike Store 2 closer to the terrace housing shall be agreed in writing with the planning authority prior to the commencement of any above grade works.

Reason: In the interests of visual and residential amenity.

3. The construction of the development shall be managed in accordance with a Construction and Environmental 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 hours of working, noise and dust management measures, waste management and recycling of materials, environmental protection measures, welfare facilities, site deliveries, complaints procedure, pest control and traffic management arrangements as well as all measures undertaken to ensure orderly development.

Reason: In the interests of public safety, environmental protection, and residential amenity.

4. Prior to commencement of development, the developer or any agent acting on their 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 shall 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.

Response: In the interest of sustainable waste management.

5. The areas of open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the Landscape Plan received by the planning authority on the 12th day of December, 2022. This work shall be completed before any of the dwelling units are made available for occupation. These open space areas shall be maintained as public open space by the developer.

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

6. The development shall comply with the transport and access requirements of the planning authority, including surface materials, parking standards, provision of EV charging, and compliance with the Code of Practice. The details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To facilitate safe pedestrian and vehicular access within the proposed development.

7. The development shall comply with the drainage requirements of the planning authority, including surface water drainage, run-off rates, attenuation, flood mitigation, surface materials/paving, and details of sustainable urban drainage. Details shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

Reason: In the interest of public health.

8. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

9. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

10. 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 dwelling unit.

Reason: In the interests of amenity and public safety.

11. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

12. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers, i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

13. 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 96(4) and 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 97(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 for the area.

14. Prior to commencement of development, the applicant shall submit to, and agree in writing with, the planning authority full details, including relevant areas, for the proposed Taking in Charge of the development, which shall be carried out and completed at least to the construction standards set out in the Dublin City Council 'Policy for the Taking in Charge of Residential Developments' (2012). Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

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

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing within, the planning authority prior to commencement of development.

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

16. Proposals for an estate/street name, house numbering scheme and associated signage (in Irish and English) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house 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 interests of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

17. The developer shall prepare an Archaeological Assessment, including an Impact Assessment and Method Statement, for the proposed development, including all temporary and enabling works and geotechnical investigations. The full details and scope of the assessment shall be agreed in writing with the planning authority prior to commencement of development, the undertaking of any site preparation works, and final foundation design. In the event that archaeological material is shown to be present then the developer shall prepare a detailed report incorporating full details of required excavation, monitoring, onward reporting, details for recording and publication, and a full mitigation strategy, all of which shall be agreed in writing with the planning authority, prior to the commencement of development.

Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

18. 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, sewers, watermains, drains, open spaces 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 of the development.

19. 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 the 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.



Mary Henchy

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

Dated this 9 day of April 2024.