

An
Bord
Pleanála

Board Order
ABP-316304-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D22A/0475

Appeal by Ray O'Meara of 60 Whately Places, Kilmacud Road Upper, Stillorgan, County Dublin against the decision made on the 30th day of March, 2023 by Dún Laoghaire Rathdown-County Council to grant subject to conditions a permission to Saint Anne's Property Limited care of CPD Architecture of 4 The Mall, Main Street, Lucan, County Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of the following: the demolition of existing buildings on site including Saint Anne's Convent and the construction of 19 number apartments over three storeys, including nine number one beds, and 10 number three beds duplex units, with associated balconies, basement car parking provision, bin storage, bicycle storage, and existing vehicular and pedestrian access to Whatley Place, all with associated landscaping, boundary treatments, drainage, site works and development works at Saint Anne's Convent, Kilmacud Road Upper, Kilmacud, Stillorgan, 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 the zoning objective relating to the site in the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the nature and extent of the proposed development with good access to public transport, it is considered that the proposal, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity. The scale, form, and design of the proposed development would be suitable given the surrounding townscape and context. The proposed development would not be prejudicial to public health or the environment and would be acceptable in terms of design, traffic safety, ecology, and amenity and would, therefore, be in accordance with the proper planning and sustainable development of the area.



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 3rd day of March 2023, 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. Details of the materials, colours and textures of all the external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Prior to the 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.

4. 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 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.

Response: In the interest of sustainable waste management.

5. Water supply and drainage arrangements, including attenuation volumes, disposal of surface water, outfall discharge rates, and the provision of a penstock shall comply with the requirements of the planning authority for such works and services, with details submitted and approved in writing prior to commencement of development.

Reason: In the interest of public health.

6. Prior to the surface water connection to the public system, the applicant shall make a submission to the planning authority, showing that the attenuation system, including the flow control device, has been installed according to the planning application plans and conditions, and set to the maximum permitted discharge limit. This shall include photo documentation of the installation process, and certification from who installed the system. The applicant shall then facilitate an inspection from the planning authority and will proceed to connection if the inspection is deemed satisfactory.

Reason: In the interest of public health.

7. The developer shall comply with the transport requirements of the planning authority in terms of cycle parking (including the provision of eight number visitor parking spaces, the provision of non-standard spaces for cargo bikes, and electric bike charging facilities), car parking (including electric vehicle charging facilities and the allocation of five number basement car parking spaces as visitor parking), licencing, code of practice, and orderly development.

Reason: In the interest of sustainable development.

8. Prior to the commencement of the proposed development, a baseline noise survey shall be conducted by an independent qualified technician during a representative time-period and approved in writing by the planning authority.

Reason: In the interests of residential amenity and public health.

9. A Construction and Operational Noise Management Plan shall be developed and implemented, demonstrating selection of construction methodology and implementation of mitigation measures to minimise nuisance affecting adjoining properties and design of building services, such as heat pumps, to avoid creation of nuisance affecting adjoining land uses.

Reason: In the interests of residential amenity, and public health.



10. 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 the intended construction practice for the development, noise, dust and vibration monitoring and management measures, waste management and recycling of materials, environmental protection measures, welfare facilities, site deliveries, complaints procedure and public liaison, pest control measures and traffic management arrangements.

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

11. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

12. 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 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 interests of residential amenity and proper waste management.

13. Prior to the commencement of any development works on the site, the applicant 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.

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

14. Prior to the commencement of development, the applicant shall engage the services of a qualified and experienced ecologist for the entire period of construction activity. The applicant shall inform the planning authority in writing of the appointment and name of the consultant. The consultant shall visit the site to ensure the development proceeds in accordance with the submitted Ecological Impact Assessment, including the mitigation measures outlines at pre-construction and operation phases, and enhancement measures outlined at construction phase.

Reason: To ensure and give practical effect to the retention, protection and sustainability of flora and fauna during and after construction of the permitted development.

15. 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 interests of visual and residential amenity.
16. 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 with, 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.
17. Proposals for an estate/street name, apartment 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 apartment 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.

18. 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 social and affordable housing in accordance with the requirements of section 96 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 the Board 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.

19. Prior to the commencement of any house or duplex unit in 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 house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex 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.

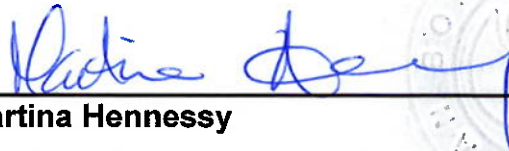
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the interests of the common good.

20. 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.

21. 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.



Martina Hennessy

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

Dated this 18th day of April 2024.