



An
Bord
Pleanála

Board Order
ABP-317483-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 5046/22

Appeal by Mary and Aileen Meenan of 4 Marlborough Road, North Circular Road, Dublin and by Others against the decision made on the 7th day of June 2023 by Dublin City Council to grant, subject to conditions, a permission to Fairfield Road Property Limited care of McNamee Chartered Building Surveyors Limited of 3 Jocelyn Place, Dundalk, County Louth in accordance with plans and particulars lodged with the said Council:

Proposed Development: The proposed development consists of the construction of two number apartment blocks five storeys high with a total of 38 number dwelling units comprising 18 number two-bedroomed apartments, 12 number one-bedroom apartments and eight number one-bed studio apartments with associated south and west facing balconies and all ancillary and associated site development works including site clearance works, new vehicular/pedestrian access of Marlborough Road, 21 number car parking spaces including spaces off Marlborough Road and Mews, communal and public open space areas, cycle parking, bin storage, hard and soft landscaping and boundary treatment works, all on a site at Marlborough Road, Dublin 7, and located to the rear of properties on Marlborough Mews.

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 provisions of the Dublin City Development Plan 2022-2028, including the 'Z1 Sustainable Residential Neighbourhoods' land use zoning objective for the area; to the development plan Core Strategy which promotes compact growth; to the location and existing pattern of development in the area; and to the nature, height and scale of the proposed development; it is considered that, subject to compliance with the conditions set out below, the proposed development would not unduly impact the character and heritage of the area, including McKee Barracks, the Protected Structures therein, or the conservation area of which it forms part; would not seriously injure the amenities of the area or of property in the vicinity; would provide for an acceptable level of residential amenity for future occupants; and would not have a serious detrimental impact on habitats and biodiversity in the area. It is further considered that the proposed development would not give rise to unacceptable traffic, congestion or traffic hazard in the area, or give rise to other unacceptable impacts on infrastructure in the area, including water and rail infrastructure. The proposed development 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 received by the planning authority on the 11th day of May 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. The proposed development shall be amended as follows:
 - (a) One storey shall be omitted from Block B. This shall be the third floor as shown on drawing number PP-013 Rev B as submitted with further information on the 11th day of May 2023, resulting in the omission of Units number 29, 30 and 31. The fourth-floor plan (Units number 32, 33 and 34) shall be relocated to third floor level. This permission therefore provides for 31 number residential units.
 - (b) Full details of the metal fins to the bedroom windows facing Marlborough Court in Block A, and facing Number 3 Marlborough Mews in Block B, shall be submitted, to include a drawing, at a scale of not less than 1:25, showing the materials to be used and the design of the fins, which shall allow for visibility from the windows while avoiding direct overlooking.
 - (c) All balcony edges facing east above ground floor level in Blocks A and B, including those on the southern elevation of Block B, shall be two metres high and consist of opaque or translucent glass.

Revised drawings showing compliance 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 visual and residential amenity.

3. The landscaping scheme shown on drawing number PP-003 Rev. B, as submitted to the planning authority on the 11th day of May 2023, shall be carried out within the first planting season following substantial completion of external construction works. In addition to the proposals in the submitted scheme, the following shall be carried out:
 - (a) The developer shall consult with the Parks and Landscape Services Division of Dublin City Council in relation to the loss of the existing tree on the public footpath on Marlborough Road and shall comply with any requirements in this regard.
 - (b) Measures for the protection of those trees which are proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.

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, or until the development is taken in charge by the local authority, whichever is the sooner, 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 interest of residential and visual amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The brick colour to be used shall be the same or similar as that used in the adjoining residential area/existing development along Marlborough Road.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

5. Proposals for an estate/street name, house 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 house 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 and to ensure the use of locally appropriate placenames for new residential areas.

6. The following shall be complied with:
 - (a) The mitigation measures set out in Section 9 of the 'Biodiversity and Habitat Report' (prepared by EHP Services) as submitted to the planning authority on the 14th day of October 2022 shall be implemented in full.

- (b) The mitigation measures set out in Section 5 of the 'Bat Survey Final Report' (prepared by Faith Wilson Ecological Consultant) as submitted to the planning authority on the 14th day of October 2022 shall be implemented in full.

Reason: To mitigate the loss of biodiversity on the site.

7. 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 provision of parking for existing properties at [specify locations] during the construction period;
- (j) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) 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; and
- (n) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

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

8. 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 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.

9. 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.

10. 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.

11. The developer shall comply with the following requirements of Iarnród Éireann:

- (a) The developer shall engage with the Senior Track and Structures Engineer, Iarnród Éireann, Pearse Station, Westland Row, Dublin, and provide detailed cross sections to agree the line of the proposed railway boundary.
- (b) Due to proximity of the North Wall Great Southern and Western Railway line, upon agreement under item (a) above, the developer shall erect a 2.4 metres high suitable designed, solid block boundary treatment, on the developer's side of the boundary.
- (c) The maintenance of the above railway boundary treatment shall rest with the developer and their Successor-in-Title.
- (d) Provision shall be made by the developer for maintaining the security of the railway boundary during the course of the works and

the boundary treatment should be completed before any major development works begin on site.

- (e) Railway mounds and ditches shall be preserved except where the written consent of Senior Track and Structures Engineer, Iarnród Éireann, Pearse Station, Westland Row, Dublin, has been sought and received.
- (f) The developer shall not undermine the integrity of the soil cutting (Irish Rail reference CT0001D) which runs along the western boundary of the proposed development.
- (g) Any excavations which infringes upon the Track Support Zone will require permission and approval from the Senior Track and Structures Engineer, Iarnród Éireann.
- (h) Approval in writing from the Senior Track and Structures Engineer, Iarnród Éireann, shall be required by the developer for the use of a crane that could swing over the railway property.
- (i) Any proposed services that are required to cross along, over or under the railway property shall be the subject of a wayleave agreement with Iarnród Éireann.
- (j) No overhang of any part of the development over the railway property shall be allowed without the prior written approval of the Senior Track and Structures Engineer, Iarnród Éireann.
- (k) No trees shall be planted directly on the railway boundary. The final location of proposed tree planting adjacent the railway boundary shall be agreed in writing with Irish Rail.
- (l) Lights from the proposed development, either during the construction phase or when the development is completed, shall not cause glare or in any way impair the vision of train drivers or personnel operating on track machines.

- (m) No additional liquid, either surface water or effluent shall be discharged directly into the railway property or into railway drains/ditches. Due to the presence of the railway embankment to the west of the site, details of proposals to infiltrate surface water into the ground within the site shall be agreed with Irish Rail. Confirmation of this agreement shall be submitted to Drainage Division of the planning authority prior to commencement of construction.

An agreement in each of the above regards shall be submitted for the written agreement of the planning authority.

Reason: In the interest of the safety of the operation of the railway.

12. The specific recommendations set out in the 'Noise and Vibration Impact Assessment' (prepared by Allegro Acoustics) as submitted to the planning authority on the 14th day of October 2022 as part of the application shall be implemented in full by the developer. The measures shall be submitted for the agreement of the planning authority prior to commencement of development.

Reason: In order to safeguard the amenities of future residents of the development in relation to noise and vibration.

13. The developer shall comply with the following requirements of the planning authority:
- (a) Car parking spaces shall not be sold with units but shall be assigned and managed in a separate capacity via leasing or permit arrangements. These shall be retained by and managed by the Management Company for the development.
 - (b) All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle 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.
 - (c) Cycle parking shall be secure, sheltered and well-lit with key/fob access. Cycle parking shall be in situ prior to the occupation of the proposed development.
 - (d) Details of the proposed entrance arrangements shall be agreed with the planning authority prior to the commencement of the development.

Reason: In the interest of orderly development and sustainable transportation.

14. 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 on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of services and infrastructure currently in the charge of Dublin City Council, including roads, footpaths, watermains, drains, and other services, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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: In the interest of traffic safety and the proper planning and sustainable development of the area.

16. 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 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.

17. The developer shall pay to the planning authority a financial contribution in lieu of public open space in respect of public open space 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. This contribution shall be discounted proportionately in line with the extent of provision proposed by the developer as public open space as shown on drawing reference "Site Layout PP-003" submitted to the planning authority on the 11th day of May 2023 as part of the applicant response to further information.

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.


Eamonn James Kelly

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

Dated this 13th day of November, 2024.