

An
Bord
Pleanála

Board Order ABP-317595-23

Planning and Development Acts 2000 to 2022

Planning Authority: South Dublin County Council

Planning Register Reference Number: SD22A/0286

Appeal by Jannette Dempsey and Padraic Cawley care of James McInerney of 39 Kilheale Heights, Kilheale Manor, Kill, County Kildare and by Newcastle Glebe Management Company CLG care of Access Property Services of Unit 5 The Maieston, Santry Cross, Dublin against the decision made on the 22nd day of June, 2023 by South Dublin County Council to grant subject to conditions a permission to Deane and Deane Limited care of JFOC Architects of Units 3 and 4 Greenmount Office Park, Harold's Cross, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of two number sheds and the construction of 30 number dwellings, one number vehicular and pedestrian link with Main Street, Newcastle, one number vehicular and pedestrian link with Glebe Square, Newcastle and all associated and ancillary site development works at Main Street, Newcastle, County Dublin. The number of dwellings applied for was reduced to 29 number by way of further information received by the planning authority on the 6th day of March, 2023.

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 policies and objectives set out in the South Dublin County Development Plan 2022-2028, which support the consolidation of Newcastle as a self-sustaining growth town,
- (b) the nature, scale and design of the proposed development which provides for a mix of house types,
- (c) the “Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities” issued by the Department of Housing, Local Government and Heritage (2024), and
- (d) Regional Policy Objective 4.83 of the Regional Spatial and Economic Strategy for the Eastern and Midlands Area 2019-2031,

it is considered that, subject to compliance with the conditions set out below, the proposed development would provide a satisfactory standard of amenity for the future occupants of the proposed development, would not materially contravene the current Development Plan for the area, would be acceptable in terms of pedestrian and traffic safety, would not seriously injure the amenities of adjoining properties and would not be visually obtrusive or out of character with the surrounding area. It is considered that the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the proposed development, by itself or in combination with other plans or projects, would not be likely to have a significant effect on any designated European sites, in view of the sites' conservation Objectives and 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 received by the planning authority on the 6th day of March, 2023 and clarification of further information received by the planning authority on the 26th 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 number of residential units permitted by this grant of permission is 29 residential units.

Reason: In the interest of clarity.

3. A Property Registration Authority (PRA) compliant map clearly indicating the extent of lands outside the subject site and within the applicant's ownership, to be conserved as amenity for the public and to accommodate the future expansion of Saint Finian's Community Centre, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity.

4. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interest of sustainable drainage.

5. Foul and surface water drainage shall be constructed where indicated as 'potential future foul and surface water drainage connection' on drawing NCA-CSC-ZZ-SI-DR-C0002 as part of the works, to facilitate the future expansion of Saint Finian's Community Centre.

Reason: In the interest of public health and surface water management.



6. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

7. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority.

Reason: To ensure that adequate public open space, road and pedestrian/cycle infrastructure be provided in accordance with the development of housing and in accordance with the plans of the planning authority.

8. 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.

9. 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 such names and numbering shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisement/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 names.

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

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any housing unit and demonstrate that it is bat friendly.

Reason: In the interests of amenity and public safety, and to ensure the protection of bats.

11. The developer shall engage a suitably qualified licenced eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to, and approval to proceed is agreed in writing with, the planning authority. The planning authority and the National Monuments Service shall be furnished with

a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

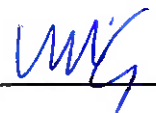
Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.

12. 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.

13. (a) The road network serving the proposed development, including turning bays, junction with the public road, footpaths and kerbs, shall be in accordance with the provisions of the Design Manual for Urban Roads and Street (2019).
- (b) Provision shall be made for access from the subject site to the adjoining lands as per Road Layout Drawing number NCA-CSC-ZZ-SI-DR-C-0016 and NCA-CSC-ZZ-SI-DR-C-0017 submitted by way of further information and clarification of further information to the planning authority on the 6th day of March, 2023 and on the 26th day of May, 2023. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted to, and agreed in writing with, the planning authority.

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



14. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

15. A minimum of 10% of all car parking spaces serving the dwellings shall be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

16. All footpaths and cycleways shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands, with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended, except with the prior written consent of the planning authority. These areas shall be shown in a drawing which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

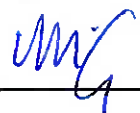
17. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

- (i) existing trees, hedgerows, shrubs, rock outcroppings, stone walls, specifying which are proposed for retention as features of the site landscaping,
- (ii) the measures to be put in place for the protection of these landscape features during the construction period,
- (iii) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include prunus species,
- (iv) details of screen planting which shall not include cupressocyparis x leylandii,
- (v) details of roadside/street planting which shall not include prunus species, and
- (vi) hard landscaping works, specifying surfacing materials, furniture play equipment and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation including details of phasing.



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.

18. (a) An accurate tree survey of the site, which shall be carried out by an arborist or landscape architect, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.
- (b) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.

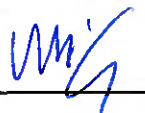
Reason: To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of residential and visual amenity.

19. (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.

20. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) 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 each dwelling unit shall be submitted to, and agreed in writing with the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.
- (c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.



21. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

22. 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.
- (m) 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 interests of amenities, public health and safety.

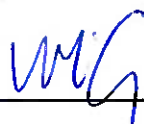
23. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday and 0800 to 1400 hours Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.



24. (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 house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant 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 period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that 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 housing units, in which case the planning authority shall confirm in writing to the applicant 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.



25. 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 lands 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.

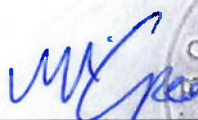
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

26. 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.

27. 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 McGree

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board**



Dated this 26 day of November 2024