

An
Bord
Pleanála

Board Order
ABP-319421-24

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: LRD6036/24-S3.

Appeal by The Adroit Company Limited care of Armstrong Fenton Associates of 13 The Seapoint Building, 44-45 Clontarf Road, Dublin against the decision made on the 4th day of March, 2024 by Dublin City Council to refuse a permission for the proposed development.

Proposed Development: The proposed development provides for 181 number dwellings comprised of studio, one, two and three-bed apartment units in four number three to seven storey blocks (accommodated in proposed Blocks A-D). The development also includes: (a) One number retail (shop local) unit (circa 174 square metres) at ground floor level of Block A, (b) one number creche (circa 140 square metres) at ground floor level of Block C, and (c) circa 519 square metres of community/arts and culture space at ground and first floor of Block D (facing onto Greenmount Lane) and circa 147 square metres of community/arts and culture space in number 18 Greenmount Lane and number 11 Limekiln Lane, all on a site area of circa 1.06 hectares. Permission is sought for the demolition of all existing buildings on site (circa 5,356 square metres), that is (a) four number three-storey duplex residential buildings (that is 48 number dwellings, circa 3,542 square metres) and two

53

number one-storey detached dwellings, that is numbers 49 and 50 (circa 40 square metres and 41 square metres respectively) all within Harold's Bridge Court, (b) three number two-storey houses at numbers 1 to 3 Clare Villas (circa 331 square metres in total), and (c) an existing warehouse (circa 1,248 square metres) and ancillary structures (circa 154 square metres) fronting onto Greenmount Lane. Permission is sought for a change of use from existing residential to proposed community/arts and culture space at number 18 Greenmount Lane and number 11 Limekiln Lane. Vehicular access to the proposed development will be via Harold's Cross Road, utilizing the existing entrance to Harold's Bridge Court. Limited vehicular traffic will be allowed enter the site from Greenmount Lane, with no vehicular traffic progressing through the entire development. Pedestrian and cyclist access is proposed via Greenmount Lane, Limekiln Lane and Harold's Cross Road. The proposed development consists of the following: Block A is a four to six storey building accommodating 51 number dwellings, comprised of one number studio apartment, 32 number one-bed apartments and 18 number two-bed apartments. Block A also includes one number retail (shop local) unit (circa 174 square metres) at ground floor level, with a communal amenity room (circa 21 square metres) on the fifth floor. Communal open space/roof gardens are provided at fourth floor level (circa 145 square metres) and two number communal roof gardens (circa 50 square metres and circa 89 square metres respectively) on the fifth floor. Bin and bicycle stores, sub-station and switch room are accommodated at ground floor. Block B is a three to seven storey building accommodating 51 number dwellings, comprised of two number studio apartments, 18 number one-bed apartments, 30 number two-bed apartments and one number three-bed apartment. Block B also includes a reception/concierge room (circa 18 square metres) at ground floor, with communal roof gardens on the third floor (circa 153 square metres) and on the sixth floor (circa 86 square metres). A bicycle store is accommodated at ground floor. Block C is a three to seven storey building accommodating 50 number dwellings, comprised of one number studio apartment, 17 number one-bed apartments and 32 number two-bed apartments. Block C also

includes a one-storey creche (circa 140 square metres) at ground floor level, with associated outdoor play space (circa 233 square metres). A bicycle store is accommodated at ground floor and a communal roof garden (circa 168 square metres) provided on the sixth floor. Block D is a four to five storey building accommodating 29 number dwellings, comprised of two number studio apartments, 17 number one-bed apartments and 10 number two-bed apartments. Block D also accommodates circa 519 square metres of floor space intended to be used as community/arts and culture space at ground and first floor (facing onto Greenmount Lane). Bin and bicycle stores, and communal open space (circa 294 square metres) are accommodated at ground floor. The proposed development provides for public open space (circa 1,355 square metres), hard and soft landscaping and boundary treatments. Communal residential amenity areas and open spaces are provided for in the form of communal roof gardens and communal rooms associated with the individual buildings. Additional communal open space is provided at ground level totalling circa 862 square metres. Private open spaces for the proposed dwellings are provided as terraces at ground floor level of each block and balconies at all upper levels. Car parking is to be provided in the form of surface and basement level car parking (63 number spaces in total). Blocks B and C are located above the proposed basement, which accommodates 56 number car parking spaces (including EV and mobility impaired parking spaces), four number motorcycle spaces and 444 number bicycle parking spaces (including 10 number cargo bike spaces and 60 number electric bike spaces). There are an additional seven number surface level car parking spaces proposed (that is, four number club car spaces, one number EV space and two number mobility impaired spaces), and 60 number surface bicycle parking spaces. Bicycle parking is also accommodated at ground floor level within Blocks A, B, C and D (120 number spaces total). The proposed development includes for all associated site development works above and below ground, bin and bicycle stores, plant (M and E), two number sub-stations/switch rooms, public lighting, servicing, signage, et cetera, all at

'Harold's Bridge Court, numbers 1-3 Clare Villas, number 18 Greenmount Lane and number 11 Limekiln Lane, located at Harold's Cross Road, Greenmount Lane and Limekiln Lane, Harold's Cross, Dublin. The site is bounded: (a) to the north, by the rear of existing dwellings (numbers 1-8a Parnell Road and number 20 Greenmount Lane) and commercial development (that is, "Greenmount Office Park") fronting onto Parnell Road, (b) to the south and east by commercial development, that is, "Greenmount House" and "Argus House" office buildings, and residential development, that is, "Boyne Court", (c) to the east by Harold's Cross Road, and (d) to the west by Greenmount Lane and to the south-west by Limekiln Lane.

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

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in an area where residential/mixed use development is permitted under zoning Z1 of the Dublin City Development Plan 2022-2028;
- (b) the policies and objectives of the Dublin City Development Plan 2022-2028;
- (c) the nature, scale and design of the proposed development and the availability in the area of infrastructure;
- (d) the pattern of existing and permitted development in the area;

- (e) the provisions of Housing for All, A New Housing Plan for Ireland 2021;
- (f) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities prepared by the Department of Housing, Local Government and Heritage, 2024;
- (g) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (h) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2023;
- (i) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Housing, Local Government and Heritage 2019;
- (j) the Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- (k) the Architectural Heritage Protection Guidelines for Planning Authorities 2011;
- (l) the provisions of the Climate Action Plan 2023 and 2024;
- (m) the policies and objectives set out in the National Planning Framework;
- (n) the policies and objectives of the Regional and Spatial Economic Strategy for the Eastern and Midland Regional Assembly;
- (o) the grounds of appeal received;
- (p) the report of the Planning Inspector
- (p) the observations received; and
- (q) the submission from the planning authority.

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 and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up urban area, the distances to the nearest European Sites' and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the subject application including the Appropriate Assessment Screening Report and application documentation, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the Conservation Objectives of such sites.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment screening of the proposed development and considered that the Environment Impact Assessment Screening Report submitted by the first-party appellant, which contains information set out in Schedule 7A to the Planning and Development Regulations 2001, as amended, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as

amended;

- (b) the location of the proposed apartments on lands zoned within the Dublin City Development Plan 2022-2028 and the results of the Strategic Environmental Assessment of the Development Plan;
- (c) the nature of the existing site and the pattern of development in the surrounding area;
- (d) the availability of mains water and wastewater services to serve the proposed development;
- (e) the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as amended;
- (f) the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and;
- (h) the features and measures proposed as part of the project, which are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the project Resource and Waste Management Plan, Appropriate Assessment Screening Report, Preliminary Construction Environmental Management Plan, Ecology Impact Assessment, Archaeological Assessment, Conservation Assessment, Arboricultural Impact Assessment, Site Specific Flood Risk Assessment and Civil Engineering Repots;

the Board considered that 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.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this suburban/brownfield location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would not detrimentally impact on the built heritage of the area, would be acceptable in terms of impacts on traffic and pedestrian safety and convenience, would provide an acceptable form of residential amenity for future occupants, subject to the completion of the recently commended Poodle Flood Alleviation Scheme would not be at risk of flooding, or increase the risk of flooding to other lands and would be capable of being adequately served by wastewater and water supply networks. The Board considered that the proposed development would be compliant with the provisions of the Dublin City Development Plan 2022-2028, 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 submitted, as amended by further plans and particulars submitted to An Bord Pleanála on with the appeal on the 28th day of March 2024, 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. No part of the proposed development shall be occupied until such time has the River Poddle Flood Alleviation Scheme has been completed, or alternatively until the planning authority confirms in writing that is satisfied that an adequate level of flood protection is in place.

Reason: In the interest of proper planning and sustainable development and in the interest of residential amenity.

3. Mitigation and monitoring measures outlined in the plans and particulars, submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

4. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. The development shall be carried out and completed in accordance with a detailed phasing scheme, full details of which shall be submitted to, and agreed with, the planning authority prior to the commencement of development.

Reason: In the interest of proper planning and sustainable development and in the interest of public health.

6. The opening hours, waste management, signage and intended occupant of the proposed retail unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations.

Reason: In the interest of residential amenity.

7. The opening hours, waste management and signage for the proposed creche shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations.

Reason: In the interests of residential amenity.

8. Full details of end users of the community/cultural spaces in addition to hours of operation, waste management and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations.

Reason: In the interests of proper planning and sustainable development and in the interest of residential amenity.

9. The construction of the development shall be managed in accordance with a Construction 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:
- (a) a Pre-Construction Invasive Species Management Plan and an Invasive Species Management Plan if required;
 - (b) a pre-construction condition survey of adjacent properties, if required;
 - (c) the location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (d) the location of areas for construction site offices and staff facilities;
 - (e) details of site security fencing and hoardings;
 - (f) details of on-site car parking facilities for site workers during the course of construction;

- (g) 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;
- (h) measures to obviate queuing of construction traffic on the adjoining road network;
- (i) details of lighting during construction works;
- (j) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (k) the 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 works;
- (l) the provision of parking for existing properties during the construction period;
- (m) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (n) 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;
- (o) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (p) 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

- (q) a record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

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

10. 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.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 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 property in the vicinity.

12. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

13. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

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

14. The developer shall comply with the detailed requirements of Transportation Planning Division of the planning authority.

Reason: To ensure a satisfactory standard of development in the interest of public safety.

15. The boundary planting, lighting and open spaces and biodiversity enhancement plan shall be in accordance with the details submitted to the planning authority with the application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

16. Prior to the occupation of the residential units, 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, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

17. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, 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 advertisements/marketing signage relating to the name(s) of the 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 place names for new residential areas.

18. (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 apartment unit 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.

- (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.

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

- 19. 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.

- 20. (a) The developer shall engage the services of a suitably qualified archaeologist to co-ordinate and finalise the mitigation proposals contained in the Archaeological Assessment (Section 5, page 29) for archaeological testing in advance of construction works and archaeological monitoring of ground disturbance at construction stage access of the development site.
- (b) Should previously unidentified archaeological material be found during the course of testing and monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The planning authority (in consultation with the City Archaeologist and the National Monuments Service, Department of Housing, Local Government and Heritage), shall

determine the further archaeological resolution of the site.

- (c) Following completion, a full report shall be furnished to the Planning Authority and the Department of Housing, Local Government and Heritage.

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.

- 21. (a) All trees shall be inspected by a suitably qualified expert for bats prior to felling. In the event a roost is found the developer shall require a derogation license from the National Parks and Wildlife Service.
- (b) Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential units. The number, type and location of the boxes shall be submitted to, and agreed in writing with, the planning authority.
- (c) Any clearance of vegetation from the site shall only be carried out in the period between the 1st day of September and the last day of February, that is, outside the main bird breeding season.

Reason: To avoid the destruction of the nests, nestlings and eggs of breeding birds and to avoid the proposed development causing detrimental effects on flora, fauna and natural habitats.

- 22. Prior to commencement of development, the developer 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 2000, as amended, and of the housing strategy in the plan of the area.

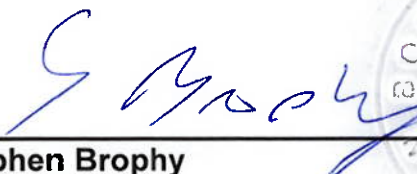
23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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.

24. 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 Contribution Scheme made under section 48 of the Act be applied to the permission.



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



Dated this 20th day of June 2024.