



An
Bord
Pleanála

Board Order
ABP-319570-24

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 4137/23

Appeal by Brenda Doyle of Belview, Malahide Road, Balgriffin, Dublin against the decision made on the 26th day of March 2024 by Dublin City Council to grant subject to conditions a permission to Gerry Geoghegan and Patrick Brennan care of Tony Bamford Planning of Sky Business Centre, Clonshaugh Business and Technology Park, Clonshaugh, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing residential property and existing derelict residential property. Construction of a residential development consisting of two blocks with a total of 79 residential apartments. Block A is located to the east of the site and includes 24 number two bed apartments and 12 number one bed apartments. Block B is on the west side of the site and includes 30 number three bed apartments; and 13 number one bed apartments. All apartments have private space in the form of balconies/terraces. Block A ranges from six to eight storeys in height and Block B is seven to eight storeys in height excluding basement. The proposed development including communal amenity spaces located centrally at ground level and on the roofs of Block A and in Block B. The basement contains parking for 56 spaces including four number disabled spaces and motorcycle

MAH

parking along with electric vehicle parking and is accessed via a new vehicle entrance and ramp from Malahide Road. New boundary treatments and communal bike stores, bin stores are proposed. A children's play area and crèche is included. Associated groundworks, landscaping, drainage including SUDS measures, lighting engineering and ancillary works necessary to facilitate the development, all at 1 and 2 Hawthorn Cottages, Malahide Road, 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 'Z14 – Strategic Development and Regeneration Area' (SDRA 1) zoning objective pertaining to the site under the Dublin City Development Plan, 2022-2028, which seeks social, economic and physical development and/or regeneration of these lands with mixed-use, of which residential would be the predominant use; the local through to national planning provisions as well as guidance which in a consistent manner support the redevelopment of brownfield, vacant and underutilised sites; the subject site's proximity to public transport as well as other amenities and services; the pattern of development existing and permitted in the vicinity of the site; through to relevant local, regional and national planning provisions as well as guidance; it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of design, height, layout and scale of development in this accessible urban location and would not adversely affect the visual amenity of the area or seriously injure the residential amenities of property in the vicinity. The proposed development

would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Stage 1:

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development 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, other than the Baldoyle Bay Special Area of Conservation (Site Code: 000199) and Baldoyle Bay Special Protection Area (Site Code: 004016) which are European Sites for which there is potential for significant effects.

Appropriate Assessment Stage 2:

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the Baldoyle Bay Special Area of Conservation (Site Code: 000199) and Baldoyle Bay Special Protection Area (Site Code: 004016) in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

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 28th day of February 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. The development hereby permitted comprises 72 number apartments in total consisting of 19 number one bed units, 23 number two bed units and 30 number three bed units.

Reason: To clarify the number of units hereby permitted.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

4. Details of the operation and management of the ground floor community/cultural space hereby permitted shall be submitted to the planning authority for written agreement prior to commencement of development. The space shall be fully fitted out and ready for occupation and immediate use prior to the first occupation of the residential units hereby permitted.

Reason: To clarify the scope and use of this space in the interest of residential amenities.

5. (a) The communal terraces to the private terraces shall be fully landscaped and access provided from the relevant apartments. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development on site.
- (b) Full details of the management, landscaping and fit out (including suitable outdoor seating) of the roof terraces of Block A and B hereby permitted shall be submitted to the planning authority for written agreement prior to commencement of development on site. Both terraces shall be fully completed and ready for immediate use by residents of both blocks prior to the first occupation of residential units hereby permitted.

Reason: To ensure a high standard of residential amenity for future residents of the scheme.

6. All mitigation measures in relation to archaeology as set out in the Archaeological Impact Assessment included in application documents shall be implemented in full. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. 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.

7. Prior to the commencement of development, a final Construction Environmental Management Plan (CEMP) shall be prepared and submitted to the planning authority for written agreement. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

8. Prior to the 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 proper planning and sustainable development.

9. (a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development, the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities, 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 OWMP.
- (b) The OWMP shall provide for screened communal bin stores for the apartment blocks and community/cultural space, the locations and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.

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

10. Prior to commencement of development, details of the materials, colours and textures of all external finishes including samples, shall be submitted to and agreed in writing with the planning authority. A mixture of high quality brick shall be the predominant material and the use of render shall be minimised. Any proposed render finish to be self-finish in a suitable colour and shall not require painting. The timber, in the louvre assemblies, shall be specified and shall be treated for durability. A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposals. Construction materials and detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

Reason: To protect and improve the visual amenities of the area.

11. External lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The scheme shall include lighting along pedestrian routes, access ramp, open spaces within the scheme and it shall take account of trees within a finalised agreed Landscape Masterplan and Planting Schedule. It shall also include appropriate mitigating to ensure no adverse effect on the foraging activities of the local bat population. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

12. The development shall comply with the following:

- (a) The applicant/developer/management company shall be responsible for maintenance and management of the public open spaces. The public open space shall not be taken in charge. The public open spaces will operate as public park/public realm in perpetuity, with public access and use operated strictly in accordance with the management regime, rules and regulations including any byelaws for public open space of the Planning Authority at all times.
- (b) The developer shall retain the professional services of a qualified Landscape Architect as a Landscape Consultant throughout the life of the site development works. The landscape scheme accompanying the application as amended below, shall be implemented fully in the first planting season following completion of the development or completion of any phase of the development, and any vegetation which dies or is removed within three years of planting shall be replaced in the first planting season thereafter. The landscape architect will submit a Landscape Completion Report to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented and for bond release. The landscape scheme shall have regard to the Guidelines for Open Space Development and Taking in Charge and Landscape Completion Report Guideline copies of which are available from the Parks and Landscape Services Division.
- (c) Prior to commencement of development, the developer shall retain the professional services of a qualified Arboriculturist throughout the life of the site development works. The Arboriculturist shall advise and supervise all works associated or in proximity to the

existing trees to ensure their retention and condition. All trees shown to be retained on the site and adjacent to the site, shall be adequately protected during the period of construction as per the Arboricultural report (Feb 2024) and BS 5837, such measures shall include a protection fence beyond the branch spread, with no construction work or storage carried out within the protective barrier. (The tree protection measures shall have regard to the Guidelines for Open space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division of the planning authority).

- (d) The Mayne River corridor open space lands will be protected from impacts as a result of the development works, except for permitted works in accordance with the agreed development scheme. Prior to construction, a temporary protection fence with appropriate signage will be erected along the boundary and storage of materials, vehicular access, disposal or dumping of materials/waste/spoil, liquid run-off, soil excavation and vegetation clearance will be prohibited within the protected area. Prior to development the details and alignment of the protection fence will be submitted to the planning authority for written agreement.
- (e) 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 accepted by the planning authority to secure the protection of existing trees to be retained on or adjacent the site and to make good any damage caused by construction, coupled with an agreement empowering the planning authority to apply such security , or part thereof, to the satisfactory protection of any trees adjacent or on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from

the substantial completion of the development with others of similar size and species, or to apply to new tree planting in the local area. The amount of the security shall be determined by the Helliwell or Cavat method by the developer's arboriculturist. The form and amount of the security shall be agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

- (f) Biodiversity mitigation and monitoring shall be carried out in accordance with the Ecological Impact Assessment. In particular, no tree felling shall occur within the bird nesting season. A pre-construction inspection for bat roosts shall occur for all buildings to be demolished or refurbished with details to be submitted to the planning authority. A Biodiversity Enhancement Plan shall be submitted prior to commencement of construction for the written agreement of the planning authority.

Reason: In the interests of biodiversity, ecology and tree protection.

13. The development shall comply with the following transportation planning requirements: Prior to commencement of development, the proposed signalised pedestrian crossing on Malahide Road and any other works required to facilitate the development shall be carried out to the written agreement of the ITS Division of the planning authority. All costs associated with the works shall be at the expense of the developer.

- (a) A minimum 194 number resident cycle parking spaces shall be provided and shall be secure, conveniently located, sheltered and well lit. Key/fob access shall be required to resident bicycle compounds. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. All cycle parking shall be in place and ready for use prior to the first occupation of the residential development hereby permitted.
- (b) Car parking spaces shall not be sold, rented, or otherwise sub-let or leased to other parties.
- (c) Prior to commencement of development, full details of all works to the public road and the public realm to facilitate the development, shall be agreed in writing with the planning authority. Materials shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council. Any works to the public road and the public realm including, road and footpath modifications, lighting, drainage and materials considered acceptable to the planning authority shall be carried out at the developer's expense.

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

14. (a) The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.
- (b) All development shall be carried out in compliance with Uisce Eireann codes and practices.

Reason: In the interest of public health.

15. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. All details shall be submitted for the written agreement of the planning authority prior to commencement of development. The details submitted shall include/ be in accordance with:
- (a) The development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- (b) The flood mitigation measures outlined in the Flood Risk Assessment by JBA Consulting shall be implemented in full.
- (c) The development shall incorporate Sustainable Drainage Systems (SuDS) in the management of surface water. The proposed green and blue roofs shall be implemented in full. Full details of the surface water management proposals shall be submitted for the written agreement of the planning authority prior to commencement of development.
- (d) The development shall be drained on a completely separate foul and surface water system with surface water discharging to either the public surface water sewer network or the River Mayne.

- (e) All surface water discharge from this development shall be attenuated in accordance with the requirements of the planning authority's Sustainable Drainage Design and Evaluation Guide 2021.
- (f) The outfall surface water manhole and the outfall pipe from this development shall be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0. The outfall manhole shall be located within the final site boundary and no overflow shall be permitted from this manhole.
- (g) To minimise the risk of basement flooding, all internal basement drainage shall be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer. Permanent discharge of groundwater to the drainage network is not permitted.
- (h) An appropriate petrol interceptor shall be installed on the internal drain from the car park.

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

- 16. Site development and building works shall be carried out only between the hours of 0700 to 1900 on Mondays to Fridays inclusive, between 0800 to 1400 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 agreement has been received from the planning authority.

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

17. 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.

18. No additional development shall take place above roof parapet level of Block A and Block B including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.

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

19. (a) Prior to commencement of development, proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in writing with the planning authority. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.
- (b) The development 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(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 place names for new residential areas.

20. 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 and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

21. 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 development plan of the area.



22. 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.



23. 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.



Mary Henchy

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

Dated this

11th

day of

April

2025.