



An
Bord
Pleanála

Inspector's Report

Development

Development of enabling works to the existing car park associated with an Adult Education Centre and all associated site works at St. Catherine's College Campus, Blackrock, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D16A/0216

Applicant

Blackrock Clinic Ltd

Type of Application

Permission

Planning Authority Decision

Grant

Appellant

Norah Ambrose & Others

Type of Appeal

3rd Party v. Grant

Observer(s)

None

Inspector

Colin McBride

Date of Site Inspection

November 2016

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.22 hectares, is located to the north west of Blackrock Village and to the north of Mount Merrion Avenue (N31) and west of the Rock Road (R118). The appeal site is part of the curtilage of the Blackrock Clinic. The site is occupied by a two-storey split level structure in use as an Education Centre with parking to the east and north of the building on site. The site is accessed through an existing service road that also provides access to Convent Grounds and residential development in the form of Westfield/Sion Hills (there is residential parking for such located along the service road. Development/uses adjoining the site consists of the grounds of Blackrock Clinic to the north and east, a playing pitch to the west, the Convent grounds to the south and residential development (Westfield/Sion Hill) to the south west.

2.0 Proposed Development

2.1 Permission is sought for enabling works to the existing car park associated with the Adult Education Centre including...

- Demolition of an existing outbuilding (c67sqm).
- Reconfiguration of existing car park and provision of 18 additional spaces.
- Partial replacements of existing steps with a new external platform lift at the entrance to the Adult Education Centre.
- New motorised gate to the south of the site leading to Mount Merrion Avenue.
- All associated site development, lighting, soft and hard landscaping and boundary treatment works.

3.0 Planning Authority Decision

3.1 Decision

3.1.1 Permission granted subject to 6 conditions. Conditions are standard in nature.

3.2 Planning Authority Reports

3.2.1

- (a) Transportation Planning (16/05/16): Further information required including justification for the additional 18 car parking spaces, clarification where the existing 15 spaces along the eastern boundary are to be retained, submission of a Travel Plan. Details of linkages for pedestrians and cyclists, provision of cycle parking, provision electric vehicle charging points. Motorcycle parking, details of lighting provision in the context of adjoining residential development and details of traffic management during the construction phase.
- (b) Drainage Planning (01/04/16): Further information required including the full extent of foul and surface water drainage system proposals.
- (c) Planning Report (25/05/16): Further information required including the information sought by the Transportation Planning and Drainage Planning in addition to the provision of detail regarding the finishes of the proposed new boundary wall/fence.
- (d) Drainage Planning (22/06/16): No objection subject to conditions.
- (e) Transportation Planning (15/07/16): No objections subject to conditions.
- (f) Planning Report (19/07/16): The proposal was considered acceptable in regards to design, scale and impact in regards to adjoining amenities and satisfactory in the context of traffic safety. A grant of permission was recommended subject to the condition outlined above.

3.3 Third Party Submissions

3.3.1 Third party submission were received from...

Damian O'Regan, 31 Westfield, Sion Hill, Blackrock, Co. Dublin.

Kevin Gallagher & Yvonne Miller, 78a Castledawson, Blackrock, Co. Dublin.

Norah Ambrose, 71 Castledawson, Rock Road, Blackrock, Co. Dublin.

Patrick Quigley, 81 Woodford, Blackrock Co. Dublin.

The submission can summarised as follows...

- The submissions query the level of detail in the plans including the dimensions of the wall to be constructed, the location of the building to be demolished and the details of the proposed new gate. The submission questions the applicants' right of access over the existing access road and note there is encroachment onto property not under the applicants' control.
- The submissions raise concerns about the impact of construction activity in regards to traffic, noise and general disturbance as well as wishing to have a timeframe for the proposed works. Right of access is reiterated and the impact of a potential increase in traffic on a private road.
- Clarification is requested that construction access will be from Merrion Road and not Rock Road. It is also requested that construction hours be conditioned.

3.3.2 Further third party submissions in response to further information (returned by the Planning Authority and submitted with the appeal submission).

Damian O'Regan, 31 Westfield, Sion Hill, Blackrock, Co. Dublin.

Kevin Gallagher & Yvonne Miller, 78a Castledawson, Blackrock, Co. Dublin.

- The applicants propose to demolish a boundary wall shared with Sion Hill and does not belong to them. It is noted that applicants have a long history of encroaching on adjoining properties. It is reiterated that Blackrock Clinic does not have a right of access over the existing service road from Mount Merrion

Avenue. The applicants did not submit traffic flow information that was requested.

- The issue of right of access is reiterated. It is noted that the applicant did not submit information regarding permeability and pedestrian linkages. The issue of construction hours is also reiterated and the need for some penalties in the event of non-compliance with such. It is also noted that before further works occur a masterplan for Blackrock Clinic should be drawn up.

with the rest of Blackrock Clinic and the Clarification is requested that construction access will be from Merrion Road and not Rock Road. It is also requested that construction hours be conditioned.

4.0 Planning History

- 4.1 D15A/0744: Permission granted for construction of an air handling unit at Blackrock Clinic.
- 4.2 D14A/0394: Permission granted for retention for a period of three years, 2 no. cabins to be located above the Central Disinfection Unit.
- 4.3 D12A/0269: Permission granted for amendments to D09A/0884 including revision to elevations at first floor level.
- 4.4 D10A/005: Permission granted for construction of a single-storey building at lower ground floor providing a Central Disinfection Unit. Permission also granted for 2 no. trolley lifts providing direct access to CDU.
- 4.5 D09A/0884: Permission granted for two-storey over basement level building consisting of an extension to the existing Intensive Care Unit.
- 4.6 D09A/0429: Permission granted for retention of 2 no. existing single-storey temporary buildings used as ancillary hospital accommodation for a period of 5 years.

5.0 Development Plan

5.1 The relevant plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022.

The site is zoned Objective 'A' with a stated objective 'to improve, encourage and facilitate the provision and expansion of medical hospital uses and services'. A portion of the site is also zoned Objective A with a stated objective 'to protect and/or improve residential amenity.'

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1 A third party appeal has been lodged by Norah Ambrose on behalf of the Sion Hill & Sion Hill Management Limited. The grounds of appeal are as follows...

- The appellants note that the Planning Authority made a clerical error in returning submissions made by third parties (response to further information) and have acknowledged such. The appellants are of the view that the decision of the Planning Authority should not stand. If the Board decide proceed with assessment of this appeal it is noted that the third party submission in question should be included for consideration.
- It is noted the that the appeal site is to be accessed along a private road from Mount Merrion Avenue that also serves existing residential development. It is noted that this road is a private road which is the property of Sion Hill residents/shareholders and that the Dominican order has a right of way. It is noted that Blackrock Clinic does not have a right to use the road. The legal entitlements of the applicant need to be clarified before any construction work can be undertaken.

- The proposal entails demolition of a wall shared between it and Sion Hill residential development and which does not belong to the applicants. The applicants' entitlements in this regard need to be clarified.
- The appellants question whether the application should be under the name of Blackrock Clinic as it is the Dominican nuns who own the property.
- The appellants note that the master planning exercise mentioned by the applicants in response to further information should be carried out prior to any works to clarify future works and traffic circulation on site and in Blackrock Clinic. The appellants have particular concerns regarding use of the temporary construction access on the Rock Road entrance.
- The appellants wish that the construction hours permitted/attached to any permission granted be clearly stated. The appellants also wish consideration of fines/penalties for breaching construction hours.

7.0 Responses

7.1 Response by Dun Laoghaire Rathdown County Council.

7.1.1

- It is considered that the grounds of appeal do not raise any new matters which in the opinion of the Planning Authority would justify a change in attitude to the proposed development.

7.2 Response by McGill Planning on behalf of the applicants, Blackrock Clinic Ltd.

7.2.1

- The issue regarding the Planning Authority's clerical error is noted, the applicants note that it is open for the third parties to take legal action and that in any case the application is now being considered 'de novo' by the Board.
- Section 34(13) applies in regards to rights of access and the applicants are satisfied they have sufficient rights of access in this case. Section 34(13) also applied in regards to the wall to be demolished to allow access to the site from the existing footpath along Peafield.

- The application was made by Blackrock Clinic on behalf of the Dominican Order with a letter of consent in this regard submitted with the application.
- In regards to the issues of a future Masterplan it is noted that the proposal is a rationalisation of parking associated with the Adult Education Centre. It is noted that the future expansion plans of the hospital are beyond the scope of this application and that any future proposal would be subject to permission and be considered on their merits. It is considered that appellants' demand for a completed Masterplan exercise is premature and unreasonable in this case.
- It is noted that the temporary access permitted off Rock Road is no longer in use. The Board is requested to remove condition no. 3 as it is considered unreasonable and unworkable.
- A construction management plan was submitted and it is normal that a condition be applied regarding operation hours for construction. It is noted that the Board has no role to play in enforcement.

8.0 Assessment

8.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Physical impact/adjoining amenity

Traffic/access

Other Issues

8.2 Principle of the proposed development:

8.2.1 The proposal is for alterations to an existing parking area serving an Adult Education Centre associated with Blackrock Clinic. The nature of works includes additional parking, reorganisation of existing parking, new steps, handrails and platform lift as well alterations to boundaries. As note above the site is affected by two zonings, which are Objective 'A' which has a stated

objective 'to improve, encourage and facilitate the provision and expansion of medical hospital uses and services' and Objective A which has a stated objective 'to protect and/or improve residential amenity. In regards to compliance with zoning the proposal is for alterations to existing established use and therefore is satisfactory in the context of Development Plan land use policy. I would consider that the principle of the proposed development is acceptable subject to the physical impact of the works proposed being satisfactory in the context of the proper planning and sustainable development of the area.

8.3 Physical impact, adjoining amenity:

8.3.1 The proposal is for alterations of the layout of an existing parking area associated with an established Adult Education centre. The alterations include demolition of an existing outbuilding (c67sqm) and reconfiguration of existing car park and provision of 18 additional spaces, partial replacements of existing steps with a new external platform lift at the entrance to the Adult Education Centre a new motorised gate to the south of the site leading to Mount Merrion Avenue and all associated site development, lighting, soft and hard landscaping and boundary treatment works. The proposal entails no increase in floor area of any of the existing structures on site and is reconfiguration/upgrade of the ancillary parking facilities associated with the existing use. In this regard I would consider that the overall impact of the proposed development to be modest as it does not entail an intensification or change of use and is merely an improvement of existing ancillary parking associated with the established use.

8.3.2 In regards to the overall scale of the works proposed, no structures of significant size or scale are proposed to be constructed and there are no changes to the access arrangements/traffic movements associated with the established use. I would consider that the changes proposed provide for an improved parking and pedestrian layout including the provision of clearly demarcated disabled access parking, cycle parking on site, improved visual appearance through soft landscaping, improved public lighting and improved

universal access arrangement (platform lift). I am satisfied that nature of the works proposed would have no significant or adverse impact on the amenities of any of adjoining properties including existing residential development. The design and scale of new boundary treatment along the eastern boundary and part of the northern boundary is satisfactory and in keeping with the character of the area. The proposal a new motorised gate is also satisfactory in terms of design and scale.

8.3.3 One of the major issues raised in the appeal submission relates to the impact of construction including construction traffic and concerns regarding the hours of such. It would appear to be the case that such stems from issues that have arisen concerning recent constructions relating to Blackrock Clinic. Given the nature and scale of the works proposed and the temporary nature of construction activity, I would consider that such can be carried without having a disproportionate impact on the residential amenities of adjoining properties. I would consider that it is appropriate for the applicant/developers to provide a construction management plan and that there is a condition applied specifying construction hours in the event of the grant of permission. I am satisfied that there is adequate access for construction vehicles (applicant has clarified that temporary access from Rock Road is no longer in use) and that subject to a satisfactory construction management plan, such would have an acceptable impact in regards to the amenities of adjoining properties. I would note that any breach of conditions regarding construction management including construction hours does not fall under the remit of the Board and would be the responsibility of the Local Authority. Notwithstanding such I do consider that the application of construction management conditions appropriate in this case.

8.4 **Traffic impact:**

8.4.1 The proposal entails no changes to the access arrangement of the existing Adult Education Centre with the centre access over an existing service road with vehicular access from Mount Merrion Avenue to the south of the site. The changes are confined to the parking layout within the site and the provision of

motorised sliding gate at the southern boundary of the site. The proposal does entail the provision 54 parking bays (includes two motorcycle parking spaces). The existing site has 54 spaces including a number of spaces along the eastern boundary of the site that are to be removed and new boundary provided with such space to be incorporated into the St. Catherine's College Campus. The proposal provides the same number of spaces associated with the existing use in a smaller area and in an improved layout. I am satisfied that such would be acceptable in the context of traffic impact and that the proposal does not entail an intensification of the existing use that would generate additional traffic levels above the existing use.

8.5 Other Issues:

8.5.1 The appellants note that the applicants (Blackrock Clinic) do not have a right of access over the existing service road providing access to the site from Mount Merrion Avenue. In this regard I would note that it is not within the Board's function to determine landownership or rights of way issues. What is clear from the information on file and the site inspection is that the existing Adult Education Centre that is subject to this application is currently served by the existing service road providing access to Mount Merrion Avenue and such appears to be a long established arrangement. Notwithstanding such I would note that Section 34(13) of the Planning and Development Act, 2000 (as amended) does apply as "a person shall not be entitled solely by reason of permission under this section to carry out any development". The onus is on the applicants to ensure they have adequate rights of access or control over the appeal site.

8.5.2 The appellants also note that the proposal entail alterations (partial demolition) of a boundary sheared with the Sion Hill residential development and the applicants' do not have consent to alter such. I would refer to the previous paragraph and note that the same applies in this regard.

8.5.3 I am satisfied that the proposal can be assessed and permitted without the need for a masterplan of future development at Blackrock Clinic. The proposal

is for alterations to the car parking area associated with an existing structure/activity. The proposal also entails the provision a new boundary along part of the northern and eastern boundary that separates the site from the rest of Blackrock Clinic. I can see no issues with such and if anything such would ensure that the traffic levels using the existing service road would remain the same with no proposals to access any of the remainder of Blackrock Clinic through this access due to the physical boundary proposed.

8.5.4 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.5.5 The appellants have raised the issue of a clerical area by the Planning Authority. The error is failure to take into account third party submission in response to applicants' further information response. The Local Authority have acknowledged that they wrongly returned such submissions as they were deemed to be late. The appellants note that if the Board are to assess the proposal that these submissions should be taken into account. The Board considers appeal cases *de novo*. Notwithstanding such all information and documents associated with the file including third party submissions are taken into account. The third party submissions accepted by the Planning Authority are summarised earlier. The appellants have submitted the further submission returned by the Planning Authority in error with the appeal submission and such are also summarised earlier in this report. All information on file has been taken into account including the third party submissions and the further submissions returned by the Planning Authority in error. I am satisfied subject to appropriate conditions that the proposed development would be satisfactory in the context of the proper planning and sustainable development of the area.

9.0 Recommendation

9.1 I recommend a grant of permission subject to the following conditions.

10.0 Reasons and Considerations

10.1 Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, to the pattern of development in the area and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, and would be satisfactory in the context of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended on the plans submitted on the 22nd day of June 2016, 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. Water supply and 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 surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of public health and to ensure a proper standard of development.

3. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 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 amenities of adjoining residential occupiers.

4. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

Colin McBride

15th November 2016