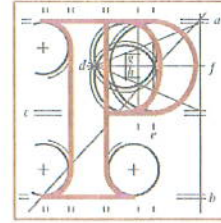


**Our Case Number:** ABP-312492-22



An  
Bord  
Pleanála

Neasa Hourigan  
Leinster House  
Kildare Street  
Dublin 2

**Date:** 26 July 2022

**Re:** Demolition of outbuildings, construction of 112 no. apartments and associated site works.  
Balnagowan House, St. Mobhi Boithirin, Glasnevin, Dublin 9. ([www.balnagowanshd.ie](http://www.balnagowanshd.ie))

Dear Sir / Madam,

An Bord Pleanála has made a decision in respect of the above mentioned Strategic Housing Development. A copy of the Board Order is enclosed.

In accordance with section 146(5) of the Planning and Development Act, 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please mark in block capitals "STRATEGIC HOUSING UNIT" and quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Hereunder contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

**Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended.**

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time

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Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
Ríomhphost	Email	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

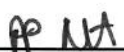
period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, [www.citizensinformation.ie](http://www.citizensinformation.ie).

**Disclaimer:** The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

Yours faithfully,

  
\_\_\_\_\_  
Hannah Cullen  
Executive Officer  
Direct Line: 01-8737246

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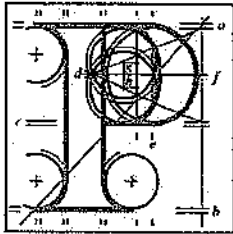
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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Dublin City Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 14<sup>th</sup> day of January 2022 by The Balnagowan Partnership care of McCutcheon Halley Planning Consultants of 6 Joyce House, Barrack Square, Ballincollig, County Cork.

**Proposed Development comprises of the following:**

1. Demolition of three number existing outbuildings including one number single-storey flat roofed shed of 46.5 square metres gross floor area, one number single storey flat roofed shed of 100 square metres gross floor area and one number glasshouse of 25 square metres gross floor area;
2. Construction of 108 number residential units with a cumulative gross floor area of 6,844.5 square metres in three number blocks as follows;
  - (a) Block 1, with an upper height of five storeys (maximum 16.3 metres above ground level), comprising nine number apartments including four number one-bed and five number two-bed, all with private amenity space in the form of balconies;
  - (b) Block 2, with an upper height of six storeys over basement and undercroft level (maximum 21.0 metres above ground level), comprising 33 number apartments including nine number one-bed and 24 number two-bed, all with private amenity space in the form of balconies;

- (c) Block 3, with an upper height of six storeys over basement and undercroft level (maximum 23.10 metres above ground level), comprising 66 number apartments including 40 number one-bed and 26 number two-bed, all with private amenity space in the form of balconies, together with resident's gymnasium (100 square metres gross floor area);
3. Change of use (office (last active use) to residential), refurbishment, modifications and alterations of Balnagowan House (Block 4), a Protected Structure, to provide for four number two-bed residential apartments with a cumulative gross floor area of 284 square metres, all with private amenity space in the form of terraces and balconies over two number floors;
  4. Provision of 100 square metres of public open space to the north of the site at Saint Mobhi Boithirin between Block 2 and Block 4;
  5. Communal open space distributed across the site at ground level with a combined area of 1,537 square metres, including a children's play area to the west of the site;
  6. A basement level, the provision of 51 number total car parking spaces (including two number dedicated disabled parking spaces) and five number motorcycle spaces;
  7. A total of 255 number bicycle parking spaces, comprising 199 number long stay spaces at basement level and ground floor level, and 56 number short stay spaces at surface level;
  8. Vehicular access to the basement car park will be via Saint Mobhi Boithirin, situated between Blocks 1 and 2;
  9. A secondary vehicular access point will be provided at the existing site entrance at ground level to the north of the Balnagowan House to facilitate access to one number disabled car parking bay and for vehicle drop off;
  10. Provision of one number pedestrian and cyclist access point to the north of the site from St. Mobhi Boithirin between Block 2 and Balnagowan House, and one number pedestrian access point at the existing site entrance at ground level to the north of the Balnagowan House;



All ancillary site development works, plant, waste storage, meter rooms, landscaping, boundary treatment and lighting all located at Balnagowan House, Saint Mobhi Boithirin, Glasnevin, Dublin.

## **Decision**

**Refuse permission for the above proposed development based on the reasons and considerations set out below.**

## **Reasons and Considerations**

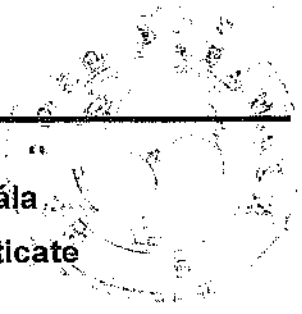
1. Having regard to the policies of the Dublin City Development Plan 2016-2022, and the Protected Structure on site known as Balnagowan (formerly Wendon) Record of Protected Structure Reference Number 8699 which is listed on the National Inventory of Architectural Heritage Reference Number 50130046 with a rating of National significance, it is considered that the proposed development, by reason of the design, height and scale of blocks 2 and 3 proximate to the rear of the Protected Structure, would not constitute an adequate design response for this urban infill site featuring a Protected Structure, would seriously detract from the setting and character of the Protected Structure and would, therefore, be contrary to policy CHC2(d) of the Dublin City Development Plan 2016-2022, which seeks to ensure that development protects, relates to and complements the special character of Protected Structures. Furthermore, having regard to the proposed provision of replacement first-floor wing extensions and associated terraces to the Protected Structure, the proposed development would compromise the character and original form of the Protected Structure and, therefore, would be contrary to policy CHC2(a) of the Dublin City Development Plan 2016-2022, which seeks to ensure that development protects, as well as restores the form and features that contribute to the special character of Protected Structures. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the provisions of section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018, the established character and pattern of development in the vicinity, and the nature and scale of the proposed development, with proposed five-storey block 1 positioned directly onto the back edge of the footpath along St. Mobhi Boithirin and with proposed six to seven-storey block 3 to be positioned proximate and parallel with the rear boundary of properties along St. Mobhi Road, it is considered that the proposed development would be out of character with the immediate streetscape, would seriously detract from the visual amenities and character of the area when viewed from the east and west along St. Mobhi Boithirin, would have an overbearing impact when viewed from neighbouring properties at numbers 3 to 7 The Haven and adjoining properties at numbers 57, 59, 61, 63, 65 and 67 St. Mobhi Road. Furthermore, the provision of windows and balconies on the east elevation of proposed block 3 directly facing onto the rear gardens of housing along St. Mobhi Road would result in excessive direct overlooking of the private amenity spaces to numbers 57, 59, 61, 63, 65 and 67 St. Mobhi Road. Accordingly, the proposed development would seriously injure the residential amenities of the stated neighbouring and adjoining properties, and would be contrary to the provisions set out under sections 16.10.8 and 16.10.10 of the Dublin City Development Plan 2016-2022, which require backland development not to cause significant loss of amenity to existing properties and infill housing to have regard to the existing character of the street. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the design and layout of the proposed development, including the position and proximity of directly-facing primary windows in blocks 1 and 2, providing for excessive direct overlooking between apartments in these blocks, and having regard to the fragmented position of block 1 separated from residents' amenities and communal facilities in the apartment complex by a vehicular access ramp, the proposed development would fail to provide an adequate level of connectivity and residential amenity for future occupants of the scheme and would be contrary to the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020.

  
Michelle Fagan

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



Dated this 25<sup>th</sup> day of July 2022

