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## **Planning and Development Acts 2000 to 2019**

### **Planning Authority: Dun Laoghaire Rathdown County Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 13<sup>th</sup> day of July 2020 by Walled Orchard GP3 Limited care of McGill Planning Ltd, 45 Herbert Lane, Dublin 2.

#### **Proposed Development comprises of the following:**

The proposed alterations will provide an additional storey on each of the 4 number permitted blocks providing a total of 26 number additional apartments.

- Block A and C will now have 33 number units each (six additional units in each block),
- Block B and D will now have 38 number units each (seven additional units in each block).

The overall development as modified will increase from 116 number apartments in four number five storey blocks to 142 number apartments in four number six storey blocks. The mix of units will now comprise 50 number one-bed apartments and 92 number two-bed apartments all with associated private balconies/ terraces to the north/south/east/west elevations.

There will be 25 number car parking spaces at the overall development of 142 number apartments including two number wheelchair parking spaces, four number motorcycle spaces and 396 number bicycle parking spaces including 318 number covered and secure bicycle parking spaces accessible only by residents, 68 number visitor cycle parking spaces in visitor accessible areas and 10 number bicycle parking spaces which can be hired.

The development shall provide public open space at ground level and communal open space will be provided at ground floor level and at roof level.

The outbuildings will be renovated and will include inter alia a concierge office, a gym and media suite.

There will be pedestrian and vehicular access off Wyckham Place to the south along with a new pedestrian access gate in the western wall of the site.

The development includes for an Electricity Supply Board substation, plant areas, bin storage, surface water attenuation tank and all other site development works, landscaping and site services required to facilitate the proposed development all located at this site comprising "The Walled Garden", Gort Mhuire, Dundrum, Dublin 14.

The proposed development comprises modifications to the previously permitted Strategic Housing Development granted on the subject site (An Bord Pleanála Reference ABP-304590-19) (currently under construction). The proposed development affects protected structures (the walls of the Walled Garden and outbuildings), which will be retained/refurbished and modified as part of the development.

## **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.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## Reasons and Considerations

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

- (a) the site's location within an area with a zoning objective that permits residential development in principle,
- (b) the policies and objectives in the Dún Laoghaire-Rathdown County Development Plan 2016-2022,
- (c) Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in 2011,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (e) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018,
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended,
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (i) the planning history of the site;
- (j) the nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure, including Dundrum Town Centre and the Luas Green Line;
- (k) the pattern of existing and permitted development in the area;
- (l) Chief Executive Opinion and associated appendices, including their recommended reason for refusal
- (m) the submissions and observations received, and
- (n) the report of the Inspector.

## **Appropriate Assessment Screening**

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, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the environmental impact assessment Screening Report submitted by the developer, 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 Class 10(b)(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned to protect and provide for residential uses in the Dun Laoghaire County Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan,
- (c) the existing use on the site and pattern of development in surrounding area,
- (d) the planning history relating to the site,
- (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 299C(1)(a)(v) of the Planning and Development Regulations 2001 (as amended),

- (e) 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),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),
- (g) The features and measures proposed by developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction Management Plan (CMP).

It is 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 not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and the architectural heritage of the site, and would be acceptable in terms of pedestrian and traffic safety and convenience. The Board agreed with the Inspector’s conclusion, that the proposed development does not represent a material contravention of the operative County Development Plan, and considered the car parking ratio to be acceptable in this instance due to the planning gains achieved in terms of architectural heritage, namely the restoration/refurbishment of Gort Mhuire (Record of Protected Structure Reference Number 1453) and the enhancement of the Walled Garden. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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, or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matters(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. Prior to commencement of development, a revised phasing programme for the development shall be submitted to the planning authority for agreement. This phasing programme shall ensure that no more than two of the four apartment blocks are constructed prior to the substantial completion of restoration works to the Stable Yard buildings and the perimeter walls of the Walled Garden.

**Reason:** To provide for the orderly development of the site.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. The mitigation and monitoring measures outlined in the Ecological Impact Statement submitted with this application, including the measures for the control and eradication of Japanese Knotweed, shall be carried out in full, except where otherwise required by conditions of this permission; and the pre-construction mammal (including bat) survey shall be submitted to the planning authority prior to the commencement of development.

**Reason:** To protect the environment.

5. Prior to commencement of development, the developer shall provide for the following:
  - (a) The appointment of a conservation architect (Royal Institute of the Architects of Ireland Grade 2 or higher), who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
  - (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible.
  - (c) The submission of a method statement and specifications for the repair work to the Stable Yard building and the Walled Garden.
  - (d) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011. The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of

fabric.

6. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
  - (a) Five number car parking spaces shall be reserved for communal car sharing use only and shall be clearly delineated and signed for such use;
  - (b) All other car parking spaces, with the exception of visitor parking, shall be sold with the residential units and shall not be sold separately or let independently;
  - (c) The developer shall ensure that all future occupiers shall be made aware of the restricted car parking/car storage provision and lack of car parking entitlement;
  - (d) The roads and traffic arrangements serving the site (including footpath connections and signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense;
  - (e) The roads layout including junctions, parking areas, footpaths, cyclepaths and kerbs, pedestrian crossings, car parking bay sizes and road access to the development shall comply with the requirements of the Design Manual for Urban Roads and Streets and with any requirements of the planning authority for such road works;
  - (f) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works;
  - (g) All of the parking areas serving the apartments shall be provided with electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

7. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

**Reason:** In the interest of residential and visual amenity.

8. No additional development shall take place above roof parapet level, 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 residential amenity of property in the vicinity and the visual amenity of the area.

9. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

10. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

11. Proposals for the development name, apartment 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 name(s) 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 placenames for new residential areas.

12. 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, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

13. The construction of the development shall be managed in accordance with a Construction and 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, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

14. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 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 residential amenities of property in the vicinity.

16. 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 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.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

17. 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 interest of sustainable waste management.

18. Prior to commencement of development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the in the submitted Tree Survey Report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to British Standard 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

**Reason:** To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

19. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, following demolition, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site.

20. 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.

21. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

