



An
Bord
Pleanála

Board Order PL 06D.248082

Planning and Development Acts 2000 to 2017

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D16A/0547

Appeal by the Gallops Residents Association care of Kevin Windle of 11 Glencairn View, Leopardstown, Dublin and by the Leopardstown Heights Residents Association care of Billy Wallace of 67 Mount Eagle View, Leopardstown Heights, Dublin against the decision made on the 27th day of January, 2017 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Ketut Limited care of BMA Planning of 128 Lower Baggot Street, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a residential development of 69 number units comprising 17 number houses and 52 number apartments (Blocks A and B), as follows: 17 number houses ranging in size from 73 square metres to 209 square metres and consisting of 10 number three-storey three-bed semi-detached houses within the Walled Garden; five number three-storey four-bed terraced houses and one number three-storey, four-bed detached house along the western site boundary and one number single storey, one-bed cottage at the entrance. Block A (2,765 square metres gross floor area) is a block of four storeys plus a setback fifth storey (maximum height of 19.9 metres) comprising 26 number apartments (eight number one bed, 16 number two bed and two number three bed units). A basement parking area includes 26 parking spaces and ancillary areas. Block B (2,765 square metres

gross floor area) is a block of four storeys plus a setback fifth storey (maximum height of 19.9 metres) comprising 26 number apartments (eight number one bed, 16 number two bed and two number three bed units). A basement parking area includes 24 parking spaces and ancillary areas. Permission is also sought for associated parking, hard and soft landscaping, playground (85 square metres), boundary treatments and all associated site and development works. A total of 92 car parking spaces are provided on the site consisting of 50 basement car parking spaces, 26 surface car parking spaces and 16 spaces in garages associated with the proposed houses. four surface motorcycle parking spaces and 100 bicycle parking spaces are accommodated across the site. Access to the proposed development is provided from the existing entrance to Lisieux Hall (a protected structure) on the Murphystown Road, all on a site of 1.18 hectares of the overall 1.85 hectares Lisieux Hall site bounded by Murphystown Road to the North, Ballyogan Road to the South, Murphystown Way to the East and Kilgobbin Road to the West, Lisieux Hall (not within the current application site) is included on the Record of Protected Structures (RPS Number 1662) and is to be retained as a private dwelling.

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

Having regard to -

- the residential zoning for the site as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and the provisions of the plan in relation to the promotion of increased residential densities,
- the proximity of the site to a high quality public transport corridor and the proposals for improved pedestrian and cycling permeability,
- the scale and nature of the proposed development and the nature and character of the site which contains a protected structure and mature trees,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location, would conform to the provisions of the development plan and provide for an appropriate density of residential development, would not seriously injure the amenities of the area or adversely affect the character and setting of the Protected Structure, and would be acceptable in terms of pedestrian and traffic safety. The proposed development 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 lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 22nd day of December, 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. The proposed development shall be amended as follows:
 - (a) No gates shall be erected at the entrance to the development.
 - (b) Screening shall be provided to the roof terrace at the north-western end of Level 04 of Block A to prevent overlooking to the north.
 - (c) The windows serving all bathrooms, en-suites, landings and walk-in wardrobes throughout the development, including such windows in the apartments, shall be permanently fitted and maintained with obscure glass.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the residential and visual amenities of the area, pedestrian and traffic safety and the sustainable development of the area.

3. (a) A minimum of one parking space shall be provided for each residential unit hereby permitted and shall be permanently allocated to each unit and, in the case of the basement car park, shall be numbered as such. Car parking spaces shall not be sold, rented, sub-let or leased to other parties, or otherwise assigned separate to the use to serve the residential units within this development.
- (b) The layout of the parking areas at surface level and underground shall comply with the detailed requirements of the planning authority. All residential car parking spaces shall be constructed so as to be capable of accommodating electric vehicle charging points. Details of all car parking allocation, including visitor spaces, in order to comply with (a) above, shall be submitted to, and agreed in writing with, prior to the commencement of development.

Reason: In the interest of the residential and visual amenities of the area, traffic safety and the sustainable development of the area.

4. The access onto Murphystown Road shall be constructed in accordance with drawing number D1784-C-17 Rev A (Option 2), as submitted to the planning authority on the 22nd day of December, 2016. The realignment of the existing boundary wall to the east of the vehicular entrance and the provision of a 1.8 metre wide footpath adjacent to the southern edge of the public road shall be carried out and completed prior to the first occupation of the residential development. The design and layout of the junction of the proposed entrance and public footpath shall comply with the detailed requirements of the planning authority. Prior to commencement of development, detailed plans and particulars in this regard shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of pedestrian and road safety.

5. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development, other than that shown on submitted drawings, shall take place at roof level of the two apartment blocks, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a prior grant of planning permission.

Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

6. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed houses.

7. No access shall be permitted to any of the flat roofs or green roofs at Level 05 of Blocks A and B save for maintenance.

Reason: In the interest of public safety and protection of residential amenity.

8. (a) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, survey drawings and a methodology for the taking down and rebuilding of the stone boundary wall along Murphystown Road to the east of the entrance.
- (b) The developer shall arrange for the appointment of a Grade 1 Conservation Architect, or other similarly-qualified conservation expert, who shall manage, monitor and implement works on the site including the demolition and reconstruction of the boundary wall and all works within and adjacent to the walled garden in order to protect the walls and ensure adequate protection of the historic fabric during those works.
- (c) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and in the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011).

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.

9. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour in the case of the dwellings shall be blue-black or slate grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

10. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority prior to commencement of development and shall be carried out within the first planting season following substantial completion of the external construction works.

This scheme shall include the following:

- (a) A scaled landscape masterplan with cross-sections showing the general layout and hard and soft landscape treatment of all external areas/spaces, boundaries, structures and features.
- (b) The retention of the large mature trees along the northern boundary and in the north-west corner of the site adjoining the western boundary.
- (c) The existing tree line along the southern boundary with Lisieux Hall shall be retained and reinforced.
- (d) Proposed location of trees and other landscape planting including details of proposed species and settings.
- (e) Details of all hard surface finishes, including samples of proposed paving materials, kerbing and road surfaces.
- (f) Details of proposed play equipment and street furniture, including bollards, lighting fixtures and seating.
- (g) Details of all boundary treatments at the perimeter of the site including heights, materials and finishes.
- (h) A timescale for the implementation of all proposals, including the specified maintenance operations.

- (i) A schedule of landscape maintenance which shall cover a period of at least three years and shall include details of the arrangements for its maintenance.
- (j) The appointment of a landscape architect/designer who shall manage and implement the landscaping scheme and maintenance schedule.
- (k) The appointment of a qualified arborist for the entire period of construction to monitor works on the site and to ensure the implementation of all the recommendations in the tree reports and plans.

All retained trees shall be protected from damage during construction works. Within a period of six months following the substantial completion of the development, any planting which is damaged or dies shall be replaced with others of a similar size and species.

Reason: In order to screen the development and assimilate it into the surrounding townscape and in the interest of visual amenity.

11. The apartment basement car parking, including ramps, the common areas within the apartment blocks, and the communal open spaces directly associated with, and around, the apartment blocks, including the proposed “shared private space” to the west of apartment Block A, shall be managed by a private management company. In this regard, a management scheme providing adequate measures relating to the future maintenance of those areas and associated services shall be agreed in writing with the planning authority prior to commencement of development. The remainder of the development, including all areas consisting solely of individual housing units, together with the roads, footpaths and open spaces serving them, the main open spaces within the scheme up to the boundary with Lisieux Hall, and the shared surface courtyard within the home zone inside the former walled garden, shall not be privately managed, but shall be maintained by the developer until taken in charge by the planning authority.

Reason: In order to define those parts of the development which are to be taken in charge and those which are to be privately managed, in accordance with national policy in this regard, and to prevent the creation of a gated community.

12. The areas of open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded and landscaped in accordance with the detailed requirements of the planning authority, and in compliance with condition number 10 of this order. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority (with the exception of the communal open spaces associated with the apartments, as specified by condition number 11 of this order). When the estate is taken in charge, these public open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

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

13. Prior to commencement of development or any related construction activity on site, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to ensure the protection of trees on and immediately adjacent to the site. The security to be lodged shall be as follows -
 - (a) an approved insurance company bond in the sum of €50,000 (fifty thousand euro), or
 - (b) a cash sum of €50,000 (fifty thousand euro) to be applied by the planning authority at its absolute discretion if such protection is not provided to its satisfaction, or

(c) such other security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory protection of trees on and immediately adjacent to the site.

14. 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 and shall include prior consultation with Transport Infrastructure Ireland in respect of the interfaces between the site and the Luas Light Rail System. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 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 the interests of public safety and residential amenity

16. 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.

Reason: In the interest of public health.

17. The development hereby permitted, irrespective of whether or not the relevant part of it is to be taken in charge or maintained by a private management company, under the terms of condition number 11 of this order, shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Policy Document (September 2011 – updated April 2013) and Taking In Charge Procedure Document.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

18. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house/apartment.

Reason: In the interests of amenity and public safety.

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 interests of visual and residential amenity.

20. Proposals for a development/estate name, house/apartment unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house/unit numbers, shall be provided in accordance with the agreed scheme. The proposed 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility, and to ensure the use of locally appropriate place names for new residential developments.

21. 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 within each house plot and 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.

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

22. Prior to commencement of development, the applicant 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 for 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 as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the carrying out, by the local authority, of the works outside the site, as specified in condition number 4 of this permission. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate, and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which will be incurred by the planning authority that are not covered in the Development Contribution Scheme and which will benefit the proposed development.

25. 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.

26. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

Dated this day of 2017