



An
Bord
Pleanála

Board Order

PL 06D.248265

Planning and Development Acts 2000 to 2017

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D16A/0818

Appeal by David and Anne Davison of 277 Upper Kilmacud Road, Dundrum, Dublin and by others against the decision made on the 10th day of March, 2017 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Crekav Trading GP Limited care of Brady Shipman Martin of Canal House, Canal Road, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Development comprising (1) the demolition of the former Green Acres Convent (425 square metres), (2) the construction of 120 number apartments in two blocks ranging in height from two to five storeys. The development will comprise: Block A - two to five storey building with penthouse communal room at roof level, with a total floor area of approximately 8,026 square metres over basement parking, comprising 74 number apartments with 18 number one bedroom apartments, 33 number two bedroom apartments and 23 number three bedroom apartments, including balconies on all elevations; Block B - two to five storey building of approximately 4,877 square metres, part over basement parking, comprising 46 number apartments with five number one bedroom apartments, 32 number two bedroom apartments and 9 number three bedroom apartments, including balconies on all elevations. Car parking is provided on site with basement parking for 120 number car parking spaces, surface parking set down area/parking bay and 124 number bicycle spaces, in addition to 20 number bicycle spaces at ground level, (3) vehicular access is provided via a relocated new entrance off Kilmacud Road Upper,

immediately north-west of the existing and involving the removal of the existing piers and gates and (4) site development and landscape works, including a substation and switch room (33.9 square metres), provision of bin stores at basement level, boundary treatment, hard and soft landscaping, provision of green roofs and provision of foul, surface water and water services on site with connections to existing, all on a site of approximately 1.23 hectares at Greenacres, Kilmacud Road Upper, 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.

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:

- (a) the Sustainable Residential Development in Urban Areas (Cities, Towns, and Villages) Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in December, 2008,
- (b) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December, 2015,
- (c) the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and

(d) the planning history of the site,

it is considered that, subject to compliance with the conditions set out below, the proposal would be in accordance with the zoning provisions for the site, and would not seriously injure the visual and residential amenities of the area. Furthermore, having regard to the high quality of the design of the proposed development it is considered that the proposed development would provide a high quality of amenity to future residents of the scheme, would not endanger public safety by reason of traffic hazard, would not be prejudicial to public health and the proposed revised access arrangements for the site would be satisfactory. No Appropriate Assessment issues would arise. The proposal 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 on the 13th day of February, 2017, 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) Details of and specifications for the lighting proposed for the new vehicular and pedestrian entrances to the site shall be prepared.

- (b) Details of and specifications for the communal pumping station for the seven apartments at garden level in Block B shall be prepared. These details and specifications shall include the following:
 - (i) Emergency alert and overflow arrangements,
 - (ii) A storage tank with a 24-hour capacity, and
 - (iii) Two pumps.
- (c) Details of the provision of car parking spaces in the basement for electric cars shall be submitted.
- (d) The circular footpath which would encircle the proposed apartment blocks shall be extended by way of a spur to the proposed site of a pedestrian gate in the eastern boundary of the site.

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: To safeguard the visual amenity of the area, in the interest of public safety, in the interest of public health, in order to facilitate the use of electric cars, and in order to promote future permeability.

- 3. 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:
 - (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

- (b) location of areas for construction site offices and staff facilities;
- (c) details of site security fencing and hoardings;
- (d) details of on-site car parking facilities for site workers during the course of construction;
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and

- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

4. 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.

5. The site shall be landscaped in accordance with a landscaping masterplan and associated drawings and documents prepared by BSM as referred to in drawing number 300/01 submitted to the planning authority on the 7th day of November, 2016. Details shall be submitted to, and agreed in writing with, the planning authority prior to commencement including an implementation timeframe. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. The areas of communal open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the apartments are made available for occupation.

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

7. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

8. (a) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees to be retained shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
- (b) No works shall take place on site until a construction management plan specifying measures to be taken for the protection and retention of the trees, together with proposals to prevent compaction of the ground over the roots of the trees, has been submitted to, and been agreed in writing with, the planning authority. Any excavation within the tree protection areas designated in condition number 8(a) of this order shall be carried out using non-mechanised hand tools only.

Reason: To ensure that the trees are not damaged or otherwise adversely affected by building operations.

9. The developer shall appoint a professionally qualified arborist to supervise the measures outlined in conditions numbers 8 and 9 and to ensure that they remain in place during the construction phase.

Reason: To ensure that the trees are not damaged or otherwise adversely affected by building operations.

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

Reason: In the interest of visual amenity.

11. 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.

12. 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 interest of visual and residential amenity.

13. Proposals for a street 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, street signs, and apartment 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 interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

14. 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 of the area.

15. The management and maintenance of the proposed development, including the communal pumping station, following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of communal open spaces, the access road 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.

16. Each apartment shall be allocated one car parking space. These car parking spaces shall be clearly marked as attached to a particular apartment and they shall not be sold or let independently. The visitor car parking spaces shall be delineated as visitor car parking spaces only.

Reason: In order to ensure the efficient use of available car parking spaces.

17. 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 in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within the period of five years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

18. 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 to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning 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.

19. 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.

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

Dated this day of 2017