



Planning and Development Acts 2000 to 2017

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D17A/0397

Appeal by Phelim O’Leary and Judy Leyden and others care of Diarmuid Ó Grada of 16 Louvain, Roebuck Road, Dublin and by others against the decision made on the 29th day of November, 2017 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Bartra Property Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of the existing two-storey dwelling and ancillary two-storey structure (circa 623 square metres) and construction of an infill residential scheme (22 number units) as follows: three number one-bedroom, single-storey detached dwellings (each 77 square metres), each with one number car parking space; four number five-bedroom part single, part two-storey, detached dwellings (each 315 square metres), each with two number car parking spaces; one number part single, part two-storey over basement, five-bedroom detached dwelling (449 square metres) with two number car parking spaces; two number three-storey apartment blocks accommodating 14 number apartments ranging in size from 75 square metres to 135 square metres and including six number one-bedroom units and eight

number two-bedroom units, with private balconies/terraces at each floor level and solar panels at roof level. The development will include the provision of communal open space, 18 number surface level car parking spaces (including two number universal access spaces) to facilitate the proposed apartment units, 14 number bicycle parking spaces, two number motorcycle spaces and bin storage facilities. The development will also include the demolition of the existing boundary wall and entrance gate onto Avoca Road and their replacement with a two metre high boundary wall and recessed vehicular and pedestrian gates. A secondary pedestrian access gate will be reinstated at the western site boundary. The development will also include piped infrastructure and ducting, a new ESB substation, changes in level, internal road and pathways, site landscaping, boundary treatments and all associated site development and excavation works above and below ground, all on a site (circa 0.94 hectares) located at “Glensavage”, Avoca Road, Blackrock, County Dublin. The proposed development was revised by further public notices received by the planning authority on the 13th day of September, 2017.

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 zoning provisions of the site, to the pattern of development in the area, to the high quality of design and to the nature, scale and layout of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would to give rise to traffic hazard, would not be prejudicial to public health, would provide greater permeability, and would not unreasonably impact on the ecology of the site or of neighbouring property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board concurred with the decision of the planning authority and is satisfied on the basis of the information provided that the demolition of 'Glensavage' is justified and further considered that the demolition of the house, which is not listed on either the Record of Protected Structures or the National Inventory of Architectural Heritage would not materially contravene any objective set out in the current development plan for 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 13th day of September, 2017, and the 3rd day of November, 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 the 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. (a) The glazing within the ground, first and second floor windows on the northern façade of Apartment Block A (apartment numbers 1, 4 and 6) shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of the clear glass is not acceptable.
- (b) The first and second floor bedroom windows on the northern façade of Apartment Block A (apartment numbers 4 and 6) shall have a minimum sill height of 1.8 metres above finished floor level.

Reason: In the interest of residential amenity.

3. 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 shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the adjoining residential area.

Reason: In the interest of visual amenity.

4. Each apartment unit and house shall be used as a single dwelling unit and shall not be sub-divided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

5. The developer shall ensure the provision of unrestricted pedestrian accessibility to facilitate direct continuous pedestrian connectivity between the proposed residential development with Avoca Road and with Linden Grove. In this regard, the pedestrian gates on Avoca Road and onto Linden Grove shall remain permanently unlocked and accessible to allow for unrestricted pedestrian permeability through the site.

Reason: In the interest of the proper planning and sustainable development of the area.

6. Proposals for an estate/street name, house/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 house/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.

7. The landscaping submitted to the planning authority shall be carried out within the first planting season following substantial completion of external construction works.

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 interests of residential and visual amenity.

8. The developer shall comply with the recommendations of the Ecological Impact Assessment Report submitted as part of the Further Information received by the planning authority on the 13th day of September, 2017, in particular with regard to, and in addition in relation to biodiversity as follows:
- (a) Any removal of vegetation, including trees, from the Glensavage site shall only to be carried out in the months from September to February, that is, outside the main bird nesting season in accordance with and recommended by the Ecological Impact Assessment by Scott Cawley.
 - (b) All foliage, stems and rhizomes of Japanese knotweed occurring at Glensavage and the soil surrounding such rhizomes shall be removed from the site and disposed of in a suitable licensed facility subject to a licence to transport Japanese knotweed material off-site having been obtained from the National Parks and Wildlife Service of the Department of Culture, Heritage and the Gaeltacht.
 - (c) The buildings to be demolished at Glensavage and trees identified as potential bat roosts shall only be removed under the supervision of a licensed bat worker, who can rescue and release any bat encountered during such works.
 - (d) The badger sett identified at Glensavage shall be excluded and then destroyed in the period July to November before building work is begun on site, and according to the methodology set out in the Ecological Impact Assessment, and on receipt of a licence from the National Parks and Wildlife Service to interfere with the sett.

- (e) An Updated CEMP to include (i) details of site controls to avoid runoff from the construction site entering the watercourse, (ii) an Invasive Species Management Plan, and (iii) a detailed lighting plan with input provided from a bat specialist shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of the preservation of biodiversity.

- 9. The developer shall ensure that the Apartment Block car parking spaces are clearly marked as attaching to a particular apartment unit. Allocated spaces shall not be sold or let. The developer shall give an undertaking in this respect in writing to the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

- 10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

- 11. 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) Provision of parking for existing properties at [*specify locations*] during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) 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.

12. 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.

13. 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 amenities of property in the vicinity and the visual amenities of the area.

14. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, details of the type of Green Roof to be installed. The Green Roof shall be designed in accordance with The SUDS Manual (C753) and BS EN 12056-3:200 and shall be a minimum depth of 50 millimetres. The developer shall enter into a formal maintenance agreement with a professional maintenance contractor with specialist training in green roof care. Access to the roof for maintenance shall be through the building's stairwell core.

Reason: In the interest of public health.

15. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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 the 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 the Board 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.

Paul Hyde

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

Dated this day of 2018.