



Planning and Development Acts 2000 to 2018

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D17A/0419

Appeal by Terry O'Brien and others care of Diarmuid O Gráda of 16 Louvain, Roebuck Road, Dublin and by Paul and Sarah Scully of Birdswell, Church Road, Ballybrack, County Dublin against the decision made on the 25th day of January, 2018 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Durkan Residential Limited care of GVA Planning of Second Floor, Seagrave House, 19-20 Earlsfort Terrace, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of three number two-storey and one number single-storey habitable houses (totalling approximately 1,511 square metres) and construction of a total of 47 number residential units comprising 15 number three-storey three-bedroom terraced dwellings, 16 number two-bedroom duplex apartments and 16 number ground floor two-bedroom apartments under. The development will also include the retention of one number existing access for pedestrian use at South Lodge; the modification of the existing access at Ash Meadow; the closure of two number vehicle access points at Evergreen and the Moorings and the reinstatement of the footpath and boundary treatments, all onto Church Road; a single-storey refuse store and all associated ancillary site development and landscaping works on a site

measuring 1.19 hectares at South Lodge, Evergreen, The Moorings and Ash Meadow, Church Road, Killiney, County Dublin. The proposed development was revised by further public notices received by the planning authority on the 22nd day of December, 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 residential zoning of the site in the Dún Laoghaire-Rathdown Development Plan 2016– 2022, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Heritage and Local Government in May 2009, the location of the site, the pattern of development in the area and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objectives for the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing architectural heritage and character of the area and would be acceptable in terms of traffic safety and convenience. 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 on the 23rd day of October 2017, and the 22nd day of December 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. Prior to commencement of development, the four existing dwelling houses shall be demolished, the accesses to “Evergreen” and “The Moorings” closed up in accordance with the permitted plans and the adjoining footway reinstated. The access to “South Lodge” shall be retained as a pedestrian access only and the adjoining footway reinstated. The access to “Ash Meadow” shall be widened in accordance with the permitted plans. Thereafter, the remainder of the proposed development shall proceed.

Reason: In the interest of traffic safety during the construction phase.

3. The proposed vehicular access to Church Road shall be widened through the relocation of the northern boundary wall further to the north-west in order to provide improved sightlines, so as to be in accordance with Section 4.2 of the Quality Audit submitted by the applicant as further information dated the 23rd day of October 2017. Revised drawings, including site plans, elevations and an updated approved Quality Audit, shall be submitted to, and agreed in writing with, planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

4. (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.

- 5. Prior to commencement of development, the developer shall retain the professional services of -
 - (a) a qualified arborist as an Arboricultural Consultant/Site Arborist for the entire period of construction. 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 on a regular basis and shall liaise with the planning authority during construction to ensure the implementation of all of the arboricultural recommendations and method statements, in the submitted Tree Report,
 - (b) a qualified Landscape Architect, as Landscape Consultant, throughout the course of the development works, and shall notify the planning authority of that appointment in writing prior to commencement of development. The developer shall engage the Landscape Consultant to procure, oversee and supervise the Landscape Contract for the implementation of the permitted landscape proposals. When all landscape works are fully inspected and completed to the satisfaction of the Landscape

Consultant, he/she shall prepare, sign and submit a Practical Completion Certificate (P.C.C) to the planning authority, as verification that the approved landscape plans and specification have been fully implemented.

Reason: To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

6. The proposed timber palisade fence along the north-western site boundary shall be omitted and replaced by a stone wall to match the existing boundary treatment and shall have a height of 2.5 metres above ground level within the planted buffer area. This wall shall be provided either in the form of increasing the height of the existing boundary wall, with the agreement of the adjoining property owner, or shall be provided immediately adjoining the existing boundary wall.

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

7. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority revised drawings showing the following:
 - (a) All proposed terraces located at level '01' on the rear elevations of each proposed three-storey dwelling within Block A and Block D, shall be provided with a solid enclosure along the rear elevation.
 - (b) The proposed terrace to the rear of Unit A3 at level '01' shall be reduced in size and centrally located within the rear elevation.

- (c) One of the larger proposed windows located on the rear elevations at level '02' of each unit A2 and unit A3 shall be omitted.
- (d) An eastern side elevation of proposed units A1 and B1/B8, at a scale of 1:100.
- (e) A revised 'Level 00' floor plan for proposed Unit B1 that exactly matches the proposed front elevation.
- (f) A revised site layout plan that realigns proposed internal site boundaries to the rear of Units D3 and D8 in order to provide a minimum rear garden area of 60 metres squared for all proposed three-bed dwelling units.

Reason: In the interest of residential amenity.

- 8. Access to each green roof shall be restricted for the purposes of maintenance works only. No flat roof area shall be used as a garden/terrace.

Reason: In the interest of residential amenity.

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

Reason: In the interest of visual amenity.

10. 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.

11. 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 dwelling unit.

Reason: In the interests of amenity and public safety.

12. All service cables associated with the proposed development (such as electrical, telecommunications and 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.

13. 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 estate and street 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.

14. (a) The roads and traffic arrangements serving the site (including 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. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.

- (d) The materials used, including tactile paving, in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (e) Two car parking spaces shall be allocated for the exclusive use of each three-bed dwelling and one car parking space shall be allocated for exclusive use of each two-bed apartment/duplex. Allocated car parking shall not be let or sold independently.
- (g) The vehicular and pedestrian entrances to the development shall remain ungated.
- (h) The developer shall disperse bicycle parking provision throughout the site providing for more conveniently located residential bicycle parking. This shall be achieved by relocating a minimum of two, and a maximum of three, cycle parking stands, including that located within the communal/public open space to the rear of units A7/A8.

Reason: In the interests of traffic, cyclist, pedestrian safety and social integration

15. 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.

16. 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 noise management measures and off-site disposal of construction/demolition waste.

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

17. The site and construction works required to implement the development shall only be carried out between 0800 hours and 1800 hours, Monday to Friday and between 0900 hours and 1400 hours on Saturday and not at all on Sundays, Bank Holidays or Public Holidays.

Reason: To safeguard the amenities of adjoining residential properties.

18. 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.

19. 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 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.

20. 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 protection of trees and hedgerows to be retained, coupled with an agreement empowering the planning authority to apply such security or part thereof to the protection or replacement of any such trees and hedgerows. The form and amount of the security shall be agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

Reason: To ensure the protection of trees and hedgerows on the site.

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, public open space 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 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 determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

22. 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 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.

Paul Hyde

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

Dated this day of 2018.