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**Planning and Development Acts 2000 to 2018**

**Planning Authority: South Dublin County Council**

**Planning Register Reference Number: SD18A/0274**

**Appeal** by Olive O'Malley and Anthony McDevitt of 76 Kingswood Castle, Ballymount Great, Dublin against the decision made on the 28<sup>th</sup> day of November, 2018 by South Dublin County Council to grant subject to conditions a permission to Jackie Green Construction care of McCrossan O'Rourke Manning Architects of Albert Place West, Harcourt Lane, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of 15 number residential units comprising the following: two number two-storey, four bed detached houses, five number two-storey, three bed mid-terraced houses, eight number two-storey, three bed semi-detached/end-terrace houses along with all associated car parking, landscaping and site development works. A new footpath and public lighting to Ballymount Road is proposed. The development will result in a new pedestrian/cyclist connection through to Ballymount Park, all on site at Kingswood, Dublin bounded by Kingswood Castle to the east and Ballymount Park to the north.

## **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 location of the site on lands zoned for residential development in the South Dublin County Development Plan 2016-2022, to the nature, scale and design of the proposed development, including the facilitation of pedestrian and cycle movement, and to the pattern of development in the area, it is 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. 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 1<sup>st</sup> day of November 2018, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The proposed development shall be carried out as follows:
  - (a) Pedestrian and cyclist movement through the subject site between the Old Ballymount Road and Ballymount Park, including the proposed pedestrian/cycle link along the northern boundary with Ballymount Park (footpath extension and opening with bollards), shall be open to the public prior to the occupation of any residential unit on the application site and shall not be closed off at any time.

- (b) Pedestrian and cyclist movement through the application site to Kingswood Castle park to the west shall be open to the public prior to the occupation of any residential unit on the application site and shall not be closed off at any time.
- (c) Site levels at the proposed pedestrian/cycle link along the northern boundary of the application site with Ballymount Park shall be graded in accordance with that indicated on drawing number 17008.1 A109 as submitted to the planning authority on the 1<sup>st</sup> day of November, 2018.
- (d) All items and areas for taking in charge shall be completed to a taking in charge standard.

**Reason:** In the interest of permeability and proper planning.

4. The landscaping scheme shown on drawing number 17362-2-101, as submitted to the planning authority on the 1<sup>st</sup> day of November 2018, along with any updates to the landscaping scheme arising from the requirements under condition number 6 below, 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 or until the development is taken in charge by the local authority, whichever is the sooner, 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.

5. Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing. 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 inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, 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. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:
  - (i) A hard landscaping plan with delineation and specification of site boundary details including the external finishes.
  - (ii) A soft landscaping plan incorporating native/indigenous species.

- (iii) Precise details of proposed boundary treatments, including the acoustic fence along the eastern boundary of the site to include details in relation to height, finishes, planting and construction details.

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

- 7. Noise mitigation measures and recommendations, as set out in the Inward Noise Impact Assessment report, prepared by AWN Consulting and submitted with the planning application, shall be implemented in full. Precise details of the relevant noise measures as they relate, to the proposed acoustic boundary along the east side of the subject site and to each of the proposed dwellings, shall be confirmed and agreed in writing with the planning authority prior to commencement of development. All noise mitigation measures shall be implemented before the scheme is made available for occupation.

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

- 8. Water supply and drainage arrangements, including the 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.

9. Revised drawings showing the upgrade to the section of Ballymount Road serving the proposed development shall be submitted to the planning authority for written agreement, prior to commencement of development. Upgrade works shall include a carriageway of no more than 5.5 metres width, two-metre-wide footpaths, traffic calming measures, kerbs and grass verges, which shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of visual amenity and of traffic and pedestrian safety.

10. A revised site layout that reduces the width of the proposed shared surface streets to no more than 4.8 metres and reallocates the residual area to open space, shall comply with the detailed standards of the planning authority for such works. Revised drawings incorporating these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of traffic and pedestrian safety.

11. Public lighting shall be provided in accordance with a scheme, 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.

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

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. 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 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 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. 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.

15. The development shall provide for screened bin stores, which shall accommodate not less than three standard-sized wheeled bins within the curtilage of each house plot.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

17. 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.

18. 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.

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.

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**Chris McGarry**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

**Dated this            day of            2019.**