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**Planning and Development Acts 2000 to 2019**

**Planning Authority: South Dublin County Council**

**Planning Register Reference Number: SD19A/0031**

**Appeal** by HVGL Limited care of AKM Design of Unit 4, Orchard Business Centre, 2009 Orchard Avenue, Citywest Business Campus, Dublin against the decision made on the 19<sup>th</sup> day of September, 2019 by South Dublin County Council to refuse permission for development comprising demolition of two number sheds (86 square metres) and construction of two number older persons apartment buildings comprising 20 dwellings. Block 1 is three storeys with penthouse; consisting of eight number apartments with external terraces (three by two bed and five by one bed) and Block 2 is three storeys; consisting of 12 number apartments with external terraces (12 by one bed), shared access road/footpath, bin store, 10 number car parking spaces, 12 number bicycle spaces and all associated site works at the rear of J. Collins Butchers, Main Street, Lucan, County Dublin.

**Decision**

**GRANT permission for Apartment Block 1, eight number car parking spaces, bicycle spaces and the central garden area in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for Apartment Block 2 based on the reasons and considerations marked (2) under**

## **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 (1)**

Having regard to the zoning objective for the site, its planning history and the design, scale and height of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities or architectural heritage of the area or to the residential amenities of property in the vicinity 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 on the 23<sup>rd</sup> of August, 2019 and by the further plan and particulars received by An Bord Pleanála on the 16<sup>th</sup> day of October, 2019, 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. (a) The height of Block 1 shall be three storeys only and shall be developed in accordance with the proposed floor plans Block 1 drawing number PL100 as submitted to An Bord Pleanála on the 16<sup>th</sup> day of October, 2019, providing for the omission of the previously submitted Penthouse level, thereby accommodating a total of six number apartments.
- (b) This permission authorises the development of the garden area indicated on the Proposed Site Layout plan drawing number PL 003 as submitted to the planning authority on the 30<sup>th</sup> day of January 2019, the four number car park spaces located to the east of Block 1, the four number car spaces located to the east of the garden area, ancillary site development works and bicycle parking.
- (c) The proposed Block 2 shall not be developed for the reasons set out in the accompanying refusal decisions.

**Reason:** In the interests of visual and residential amenity and of clarity.

3. Details of the materials, colours and textures of all the external finishes to the proposed apartment Block 1 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. (a) Prior to the commencement of development, full details of the proposed alterations to the public realm on Main Street shall be submitted to, and agreed in writing with, the planning authority.

- (b) The gates on the access laneway shall be fully removed prior to the commencement of development.
- (c) A Mobility Management Plan shall be completed within six months of the occupation of the proposed development. The Mobility Management Plan shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interests of pedestrian and traffic safety and sustainable transport.

- 5. 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.

- 6. Proposals for a development 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, all 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.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along the access route from the Main Street to the site, 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 apartment.

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

8. 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.

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. A Car Parking Management Strategy shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of orderly development.

10. A minimum of 10% of all communal car parking spaces shall be provided with functioning Electric Vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of Electric Vehicle charging points/stations at a later date.

**Reason:** In the interest of sustainable transport.

11. 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. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

13. The site shall be landscaped in accordance with the scheme of landscaping which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interests of residential and visual amenity.

14. The management and maintenance of the proposed development following its completion shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. A management scheme providing adequate measures for the future maintenance of open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to the making available by the developer for the occupation of the development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

15. 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.

16. The construction of the development shall be managed in accordance with a Construction Management and Traffic Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

17. 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.

18. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Saturdays inclusive, 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.

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 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.



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 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.

## **Reasons and Considerations (2)**

1. Having regard to the overall bulk, scale and massing of the proposed Block 2 apartment building and its siting on lands higher than, and proximate to, existing two storey dwellings in Sarsfield Park, it is considered that the proposed development would be visually obtrusive and would seriously injure the residential amenity of adjacent properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the north facing orientation of Block 2, the number of single aspect apartments proposed and the orientation of private open space areas serving the apartments, it is considered that the proposed development would give rise to a substandard form of development for future residents and would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Philip Jones**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2020.**