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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dún Laoghaire-Rathdown County Council**

**Planning Register Reference Number: D19A/0972**

**Appeal** by David A Whelan and Eileen O'Brien of Culisheal, 13 Fey Yerra, Foxrock, Dublin and by others against the decision made on the 17<sup>th</sup> day of June, 2020 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Rivertempus Limited care of Thornton O'Connor Town Planning of 1 Kilmacud Road Upper, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** The demolition of the two existing dwellings (585 square metres) and associated ancillary sheds and the provision of an eighteen unit, three storey duplex residential development in two blocks comprising four number one bed apartments, six number two bedroom apartments and eight number three bedroom apartments (1,982 square metres gross floor area). The development also includes 27 number car-parking spaces; cycle parking; the realignment of the existing entrance southwards requiring the relocation of the existing ESB kiosks further south and the demolition of the southern pillar and the wall south of the existing access; the widening and resurfacing of the existing access avenue to provide a shared surface incorporating the inclusion of 44 square metres of lands to the west of the access avenue from the adjoining Mornacott site; the

facilitation of two number car-parking spaces for the permitted mews dwelling at Mornacott as granted under Dún Laoghaire Rathdown Register Reference D17A/1058; potential pedestrian links on the north-eastern and eastern boundaries; bin storage (29 square metres); hard and soft landscaping; boundary treatments; signage; lighting; changes in level; diversion of services and all other associated site works above and below ground, all on 3,606 square metres site at Kinvara and Kinros, Leopardstown Road, Dublin. Works are also proposed on Leopardstown Road comprising amendments to existing road markings located in the centre of the road carriageway at the entrance to Fey Yerra to facilitate a formal right turn pocket for vehicles.

## **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 provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, the relevant National Guidelines and the zoning of the site for residential purposes, to the location of the site in an established urban area within walking distance of public transport and to the nature, form, scale, density and design 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 residential, visual or environmental amenities of the area. 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 9<sup>th</sup> day of April 2020, 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 the commencement of development, the developer shall provide, for the written agreement of the planning authority:
  - (a) the proposed fencing along the boundaries with the Leopardstown Avenue Park to be removed and replaced with a suitable boundary treatment,
  - (b) full details of the proposed external design/finishes in the form of samples and on-site mock-ups. These details shall include photomontages, colours, textures and specifications, and
  - (c) the apartment terrace/balcony railings/supports shall be painted or coated in metal and shall not be unpainted galvanised metal railings.

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

3. 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, and shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS), with particular reference to kerb radii and internal road widths.

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

4. Proposals for a development name, unit 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 apartment unit 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 placenames for new residential areas.

5. 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.

6. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

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

7. (a) The landscaping scheme and associated boundary details shown on drawing numbers 01, 02, 03 and 04, as submitted to the planning authority on the 9<sup>th</sup> day of April 2020, shall be carried out within the first planting season following substantial completion of external construction works.

- (b) 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.
  
- (c) The trees and associated planting along the boundary with Fey Yerra shall be suitably protected in accordance with best practice and as set out in the submitted documentation.

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

- 8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 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 amenities of property in the vicinity.

9. 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, a fully detailed Construction Traffic Management Plan, noise management measures and off-site disposal of construction/demolition waste. No construction/contractor vehicles shall park on the accessway to Fey Yerra and site parking details shall be included within these documents.

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

10. 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.

11. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

12. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

**Reason:** In the interests of orderly development and the visual amenities of the area.

13. 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.

14. 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.

15. 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.

16. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

**Dated this            day of            2021.**