



Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 4237/19

Appeal by Kevin and Siobhan Fitzsimons of 1 Villa Park Road, Navan Road, Dublin, and by John Reilly of 2 Villa Park Road, Navan Road, Dublin on behalf of the Villa Park and Blackhorse Community, against the decision made on the 4th day of September, 2020 by Dublin City Council to grant subject to conditions a permission to Lark Finance Limited and SM Blackhorse Limited care of Downey Planning of 1 Westland Square, Pearse Street, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Residential development of 33 number residential units comprising of two number three-storey, four bedroom semi-detached houses with balconies to rear elevation of houses at second floor level and one number four-storey apartment block (ranging from three to four storeys) consisting of 31 number apartments (11 number one bedroom units and 20 number two bedroom units) with balconies/terraces to the south-east elevation; two number communal roof terraces will be located at fourth floor level; one number ESB substation and switch room; waste storage area; entrance lobbies; two number bicycle parking rooms (each with 28 number spaces, providing 56 spaces in total); landscaping; public lighting; boundary

treatment; 27 number surface level car parking spaces; 12 number surface level bicycle parking spaces; new vehicular access from Villa Park Road; pedestrian access from Villa Park Road and Blackhorse Avenue; and all associated site development and engineering works necessary to facilitate the proposed development. The proposed development will also consist of the demolition of the two number existing single storey detached dwellings and associated outbuildings and sheds, all at 353 and 363 Blackhorse Avenue, Dublin, which is generally bound by Blackhorse Avenue to the south and Villa Park Road to the west. The proposed development was revised by further public notices received by the planning authority on the 14th day of May, 2020.

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 land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2016-2022, to the nature, height, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this urban location, would be acceptable in terms of layout, height, scale and design, would provide a suitable level of amenity for future residents, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would be served by adequate parking and environmental services, would not endanger the health and safety of persons using neighbouring buildings, and would comply with the provisions of the development plan, the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018, and the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2018. 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 22nd day of April, 2020, and the 10th day of August, 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. 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. A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposals.

Reason: In the interest of visual amenity.

3. 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 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.

4. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
- (a) the footpath along the site boundaries with Blackhorse Avenue and Villa Park Road shall be a minimum of two metres in width,
 - (b) a separation rail or similar shall be provided from the access to the children's play area along the pedestrian route bordering parking bay numbers 13, 14, 15 and 16,
 - (c) no car parking spaces shall be sold separately or let independently of the proposed development,
 - (d) The developer shall undertake to implement the measures outlined in the Mobility Management Plan and to ensure that future occupants of the proposed development comply with this strategy. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans. The Mobility Management Plan shall also, aside from the on-site car club facility, identify car club spaces outside of the development and in the vicinity of the site.
 - (e) A Parking Management Plan shall be prepared and submitted for the written agreement of the planning authority prior to the occupation of the proposed development. This plan shall indicate how spaces will be assigned and segregated by use, and how use of the car parking will be continually managed. Car parking shall not be assigned to individual residential units and car parking spaces shall be permanently allocated to the proposed development use and shall not be sold, rented or otherwise sub-let

or leased to other parties. A minimum of one number car parking space within the development shall be permanently allocated to car club use.

- (f) the roads and traffic arrangements serving the site, including footpath connections and 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,
- (g) the roads layout at the vehicular entrance, parking areas, footpaths, kerbs, car parking bay sizes, and road access to the development shall comply with the requirements of the Design Manual for Urban Roads and Streets and with any requirements of the planning authority for such road works,
- (h) the materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works, and
- (i) a minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points. Ducting shall be provided for all remaining car parking spaces, to facilitate the installation of electric vehicle charging points/stations at a later date. Such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

Reason: In the interests of traffic safety and of sustainable transportation.

5. The landscaping scheme shown on drawing number Co.15-DR-201 Revision C, as submitted to the planning authority on the 22nd day of April, 2020, shall be carried out within the first planting season following substantial completion of the external construction works.

All planting shall be adequately protected from damage until established. Any plants that 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 interest of residential and visual amenity.

6. 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 apartment.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

7. 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.

8. Prior to commencement of the development, the developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

9. 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 and to ensure a satisfactory standard of development.

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

11. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the 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. 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.

12. 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 amenity of property in the vicinity and the visual amenity of the area.

13. 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 the 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, which shall be carried out in full, 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 the environment and sustainable waste management.

14. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia, details and location of the proposed construction compound(s), details of intended construction practice for the development, including noise and dust management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase and off-site disposal of construction/demolition waste.

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

15. Site development and building works shall be carried out only between the hours of 0700 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.

16. Prior to commencement of the 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.

17. 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.

18. 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.

19. The developer shall pay to the planning authority a financial contribution in lieu of public open space 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.

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

Dated this day of 2021.