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## **Planning and Development Acts 2000 to 2020**

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

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 25<sup>th</sup> day of March 2021 by Atlas GP Limited care of RPS Group Limited of West Pier Business Campus, Dún Laoghaire, Dublin.

#### **Proposed Development comprises of the following:**

- (a) The construction of a residential development and a childcare facility consisting of six number apartment blocks (A1, A2, B1, C1, C2, and D1) ranging from two to six storeys, a shared basement area under Blocks A1, B1, C1 and D1, a part basement under Block C2, seven number two storey houses, the change of use of the former Kylemore Clinic to residential and renovations to Kylemore and its associated gate lodge both of which are proposed Protected Structures, providing a total of 255 number units comprising one number studio apartment, 98 number one-bed apartments, 137 number two-bed apartments, 12 number three-bed apartments and seven number three-bed houses.

- (b) Apartment Block A1 will be a three, five and six storey blocks comprising 52 number units providing 13 number one-bed, 35 number two-bed and four number three-bed units;

Apartment Block A2 will be a four and five storey block comprising 43 number units providing 11 number one-bed and 27 number two-bed and five number three-bed units;

Apartment Block B1 will be a three, five and six storey blocks comprising 52 number units providing 32 number one-bed and 20 number two-bed units;

Apartment Block C1 will be a three, four and five storey blocks comprising 34 number units providing 10 number one-bed, 21 number two-bed and three number three-bed units;

Apartment Block C2 will be a two, three and four storey blocks comprising 34 number units providing 13 number one-bed and 21 number two-bed units;

Apartment Block D1 will be a two, four and five storey blocks comprising 29 number units providing one number studio, 18 number one-bed, 10 number two-bed units and a circa 242 square metres childcare facility with associated outdoor play area;

Kylemore will be renovated to provide four number apartments comprising two number one-bed units, two number two-bed units and ancillary community rooms (circa 215.23 square metres) at ground floor and first floor level;

Housing units will comprise of five number two storey three-bed terraced houses, one number one storey three-bed detached house and the renovation and extension of the gate lodge on Church Road associated with Kylemore resulting in the provision of a single storey three bed detached house.

- (c) The development will also consist of the:

- Demolition of four number dwellings (Rockwinds, Woodlawn, Number 43 Watson Road and Number 66 Watson Drive), outbuildings and extensions associated with Kylemore and outbuildings, and extensions associated with the gate lodge,

- Provision of a total of 220 number car parking spaces and 548 number bicycle parking at basement and surface level,
- Provision of private open space to apartments in the form of terraces, balconies and gardens,
- Provision of private open space to houses in the form of gardens,
- Provision of communal and public open spaces including communal gardens, courtyards, roof terraces and play areas,
- Replacement of three number vehicular accesses onto Church Road with two number pedestrian and bicycle accesses,
- Provision of two number new vehicular, pedestrian and bicycle accesses onto Watson Road,
- Provision of one number new pedestrian and bicycle access onto Watson Drive,
- All associated plant, drainage arrangements, works to facilitate utility connections, two number substations, sedum roofs, boundary treatment, landscaping, public lighting, refuse storage and site development works all located at an amalgamated site of circa 2.5 hectare consisting of Kylemore, Rockwinds, Smallacre and Woodlawn off Church Road; Number 43 Watson Road; and Number 66 Watson Drive in Killiney, County Dublin.

## **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**

In coming to its decision, the Board had regard to the following:

- (a) The site's location within an area with a zoning objective that permits residential development in principle;
- (b) The policies and objectives as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (c) The provisions of the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- (d) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) The provisions of the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (f) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020;
- (g) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;

- (h) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;
- (i) The planning history of the site;
- (j) The nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure;
- (k) The pattern of existing and permitted development in the area;
- (l) The Chief Executive's Report of Dún Laoghaire-Rathdown County Council;
- (m) the submissions and observations received, and
- (n) the report of the Planning Inspector.

The Board 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, would respect the existing character of the area and the architectural heritage of the site, would constitute an acceptable residential density for this suburban location, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Stage 1 - Appropriate Assessment Screening Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the developer, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (c) The location of the site on lands zoned to protect and provide for residential uses in the Dún Laoghaire County Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan,
- (d) The existing use on the site and pattern of development in surrounding area,
- (e) The planning history relating to the site,
- (f) The availability of mains water and wastewater services to serve the proposed development,

- (g) The location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001, as amended,
- (h) The provisions of the guidance set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage and Local Government (2003),
- (i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- (j) The features and measures proposed by developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Outline Construction and Environmental Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

### **Conclusions on Proper Planning and Sustainable Development**

The Board 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, would respect the existing character of the area and the architectural heritage of the site, and would be acceptable in terms of pedestrian and traffic safety and convenience. The Board agreed with the Inspector's conclusion, that the proposed development does not represent a material contravention of the operative Dún Laoghaire-Rathdown County Development Plan. 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, 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, revised plans and particulars shall be submitted to and agreed in writing with the planning authority with regard to the following:
  - (a) Revised plans and particulars showing an improved pedestrian priority at the proposed access onto Watson Road, to include two metre wide footpaths on either side of proposed access road,
  - (b) Revised design of proposed basement areas, which address concerns on planning authority. In addition, details to ensure all basement and surface parking are constructed so as to accommodate future electric charging points for electrically operated vehicles,
  - (c) Details of proposed green roofs,
  - (d) All rear gardens of houses shall be bounded by concrete block walls, or concrete post and timber panels 1.8 metres high,
  - (e) Full details of the boundary along Church Road which shall be set back and constructed behind the Church Road reservation line to accommodate the future R118 Wyattville Road to Glenageary Road upgrade and Quality Bus Corridor,

- (f) Revised elevational plans and particulars for Block D1 showing all windows on southern elevation to be high level,
- (g) Relocation of playground from southwest of Block C2 to another location, to be agreed in writing with planning authority,
- (h) Privacy screens between balconies of apartments.

**Reason:** In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability

3. Pedestrian and cyclist linkages from Watson Drive to Church Road and all other access points and public open space areas shall be permanently made available for public use at all times upon the first occupation of the proposed residential development unless otherwise agreed in writing with the planning authority.

**Reason:** To enhance pedestrian and cyclist permeability and in the interests of clarity.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The roofs of the proposed houses shall be blue black or slate grey only in colour including ridge tiles.

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

5. Prior to commencement of development, the developer shall submit to the planning authority a schedule of ecological proposals as detailed in the Ecological Impact Assessment Report and the Outline Construction and Environmental Management Plan submitted with the application. The schedule shall set out the timeline for implementation of each proposal and assign responsibility for implementation. All of the proposals shall be implemented in full and within the timescales stated.

**Reason:** In the interests of clarity, protection of the environment and the proper planning and sustainable development of the area.

6. A suitably qualified Ecologist shall be appointed by the developer to oversee the site set up and construction of the proposed development and the ecologist shall be present onsite during construction works. The Ecologist shall ensure the implementation of all proposals contained in the Schedule of Ecological proposals. Prior to commencement of development, the name and contact details of said person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the planning authority to be kept on record.

**Reason:** In the interest of nature conservation.

7. The developer shall provide for the following to the planning authority for its written agreement before the commencement of any clearance or development works on site:
- (a) A badger conservation plan for the site to include results of a new badger survey of the site, a methodology for the protection of the setts to be retained on the southern boundary of the site of the former 'Kylemore' grounds, measures in relation to monitoring, exclusion and destruction of any other setts located on the site and a programme for the implementation of such measures. In the event of an active breeding or main sett is located on the site other than on the southern boundary, this plan shall provide for the implementation of an exclusion zone around it for a radius of 50 metre over the period December to June, and for the subsequent exclusion or removal; of the badgers from this sett,
  - (b) The developer shall submit a bat conservation plan for the site to include results of new bat activity and roost surveys of the site and measures to avoid injury to bats during tree felling or demolition works on site. If a bat roost is identified in a building or tree to be removed on site, a licence from the National Parks and Wildlife Service to derogate from the Habitats Directive to destroy the bat roost should accompany this plan,
  - (c) Any clearance of trees or shrubs from the development site shall only be carried out in the period September to February inclusive, namely outside of the main bird breeding season.

**Reason:** To avoid injury or death of individuals of a mammal species, namely badger and bat species, protected under the Wildlife Act 1976 to 2018 and Habitats Directive (92/43/EEC) respectively and to avoid destruction of bird nests, eggs and nestlings.

8. Prior to commencement of development, the developer shall provide for the following:
- (a) The appointment of a conservation architect, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works,
  - (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible,
  - (c) The submission of a method statement and specifications for the repair work to Kylemore House and Gate Lodge,
  - (d) All repair and restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011. The repair and restoration works shall retain the maximum amount possible of surviving historic fabric in situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

9. The internal road network, public footpaths within and outside the proposed development site, including car parking provision to service the proposed development, shall comply with the requirements of the planning authority for such works. In this regard:
- (a) Three number car parking spaces shall be reserved for communal car sharing use only and shall be clearly delineated and signed for such use,
  - (b) All other car parking spaces, with the exception of visitor parking, shall be sold with the residential units and shall not be sold separately or let independently,
  - (c) The developer shall ensure that all future occupiers shall be made aware of the restricted car parking and car storage provision and lack of car parking entitlement.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

10. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To provide for and or future proof the development such as would facilitate the use of electric vehicles.

11. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

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

12. (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 is 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.

13. 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.

14. 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 and surface water management.

15. 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.

16. Proposals for the 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(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements or 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 and to ensure the use of locally appropriate placenames for new residential areas.

17. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed dwellings.

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. 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 proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction and demolition waste.

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

20. 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. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

21. 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.

22. 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.

23. 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.

24. 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 carry out site testing and monitor all site investigations and other excavation works, following demolition,
- (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 in situ or by record of any remains that may exist within the site.

25. Prior to commencement of development, the developer 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.

26. 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.

27. 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.



Paul Hyde

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

Dated this 8<sup>th</sup> day of June 2021