

An
Bord
Pleanála

Board Order
ABP-309833-21

Planning and Development Acts 2000 to 2021

Planning Authority: Fingal County Council

Planning Register Reference Number: FW21A/0003

Appeal by Montague Ventures Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 2nd day of March, 2021 by Fingal County Council to refuse permission for the proposed development.

Proposed Development: Construction of 52 number residential units consisting of 30 number houses ranging in height from two number to three number storeys (one number one-bed unit, six number two-bed units, 21 number three-bed units and two number four-bed units) and 22 number apartment/duplex units (two number one-bed units, 11 number two-bed units and nine number three-bed units) within three number blocks at three number storeys (circa 12 metres). All units include the provision of a private rear garden, balcony or terrace; Refurbishment of an existing former barracks building on site as a one-bed house unit with a gross floor area of circa 47 square metres. Provision of communal and public open space and children's play area. Provision of 81 number carparking spaces and 65 number bicycle parking spaces. Provision of wastewater pumping station and surface water attenuation system; new hard and soft landscaping and boundary treatment to

all boundaries and new internal road layout including pedestrian footpaths, demolition of existing garden wall associated with the existing building on site, provision of new vehicular entrance located off the R121 road along the eastern boundary, provision of pedestrian entrances off the Ratoath Road along the southern boundary, surface water SuDS techniques, surface water connection to adjoining lands to the west, provision of green roof and all associated site development works necessary to facilitate the development, all on a site of circa 1.7 hectares at Hollystown, Dublin. The site is within the curtilage of Hollywoodrath House, (protected structure number RPS 0665). The site is bound by Ratoath Road to the south, the R121 Road to the east, the gate lodge and avenue of Hollywoodrath House to the west and the lands surrounding Hollywoodrath House 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 'RS' zoning which applies to the site under the Fingal County Development Plan 2017-2023, under which residential development is permissible, and to the 'Nature Development Area' designation which also applies under the development plan, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an appropriate form of development, would not seriously injure the character and setting of Hollywoodrath House and its associated buildings which are identified by the development plan as a Protected Structure, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian 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 plans and particulars submitted to An Bord Pleanála on the 29th day of March, 2021, 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. The development shall be amended as follows: -

- (a) Houses number 19 to 29 shall be omitted with a commensurate reduction in parking spaces. The resultant space shall be incorporated into public open space.
- (b) The pumping station shall be moved to ensure that it is outside of tree root protection zones.

Prior to commencement of development, revised drawings showing compliance with these amendments shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of proper planning and sustainable development.

3. A Stage I and II Road Safety Audit shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The developer shall also submit proposals for implementation of the recommendations of the road safety audit, for the agreement of the planning authority.

Reason: In the interest of road safety.

4. Visibility splays shall be provided at the R121 site access, in accordance with the requirements of the planning authority. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of road safety.

5. The internal road/footpath network shall be redesigned as follows: -

- (a) Home zone streets (streets 2, 3 and 4) shall incorporate reduced carriageway widths of 4.8 metres. All other road widths shall be reduced to a maximum of 5.5 metres.
- (b) Internal streets shall incorporate Design Manual for Urban Roads and Streets placemaking and shared surface principles.
- (c) A pedestrian footpath/walking route shall be provided along the south and east site boundaries, up to the point of the main site access, and which shall connect to the existing public footpath on Ratoath Road.
- (d) A proposed parking layout shall be provided, which identifies allocated and visitor parking spaces for apartments and houses.

Prior to commencement of development, revised drawings showing compliance with these amendments shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of proper planning and sustainable development.

6. Apartments shall be provided with dedicated storage space in accordance with the minimum requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2020.

Reason: In the interest of residential amenity.

7. Proposals for protection of retained trees during the construction phase, which shall include monitoring of construction works by an arborist, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the preservation and protection of features of ecological interest within the development site.

8. Public open space shall be provided and laid out in accordance with the requirements of the planning authority. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9. Communal open space, in accordance with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2020, shall be delineated as such and the location and layout of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.



10. A hard and soft landscaping strategy and boundary treatment plan, which shall include supplemental planting along the shared boundary with the gate lodge protected structure, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The development shall thereafter be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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 relating to the proposed development, and
 - (b) employ a suitably qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:
 - (i) the nature and location of archaeological material on the site, and
 - (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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

Reason: In the interest of the visual amenities of the area.

13. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health and orderly development.

14. Water supply and 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.

15. (a) The development, including all roads, footpaths, verges, public lighting, open spaces, surface water drains, attenuation infrastructure and all other services, as permitted under this Order, shall be carried out and completed in accordance with the 'taking-in-charge' standards of the planning authority.
- (b) The areas of open space shown on the submitted drawings shall be reserved for such use and shall be levelled, contoured, soiled, seeded and landscaped in accordance with the detailed requirements of the planning authority. The open space shall be laid out and landscaped prior to the making available by the developer for occupation of any of the units in the relevant phase of the development.
- (c) All the areas of public open space, as shown on the submitted drawings which are to be taken in charge, shall be maintained by the developer until the development is taken in charge by the local authority. When the estate is taken in charge, these open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

Reason: In the interests of proper development and the timely provision of open spaces, and in order to comply with national policy in relation to the maintenance and management of residential estates.



16. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall cover all aspects of the construction phase and incorporate measures to avoid, minimise and mitigate potential effects on the environment. The plan shall provide details of the intended construction practice for the development, including noise management measures and construction traffic management plan. The plan shall be updated at regular intervals.

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

17. 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.



18. 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. 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.

19. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

20. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, 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 unit.

Reason: In the interests of amenity and public safety.

21. (a) A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has 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.
- (b) Electric charging facilities shall be provided for cycle parking and proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to occupation of the development.

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



22. 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 in accordance with the requirements of the planning authority shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

23. Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house/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.

24. 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 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.

25. 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.



Terry O Niadh

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



Dated this 26th day of January 2022.