

An
Bord
Pleanála

Board Order
ABP-311210-21

Planning and Development Acts 2000 to 2021

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D21A/0519

Appeal by Kavco Limited care of Manahan Planners of 38 Dawson Street, Dublin and by Ann Mulcrone and others care of Reid Associates of 2 Connaught Place, Crofton Road, Dún Laoghaire, County Dublin against the decision made on the 29th day of July, 2021 by Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development.

Proposed Development: Demolition of existing building on site and the construction of three-five-storey over basement apartment building containing 25 number apartments comprising of five number one-bedroom, 15 number two-bedroom and five number three-bedroom apartments. Roof gardens and a central courtyard will be provided as communal open space for future residents. 25 number car parking spaces, 36 number bicycle spaces and dedicated bin storage are located at basement level. The basement access for vehicles and bicycles is via ramp onto George's Place. The proposed development will comprise all other associated site works, electric vehicle charging points, drainage, boundary treatments and landscaping, all on a site of 0.13 hectares at 7-9 Clarence Street and George's Place, Dún Laoghaire, County Dublin.

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Decision

GRANT permission for the above development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the location of the subject site on serviced urban land, the pattern of residential development adjoining the site, and the nature and scale 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 or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted Policy Objective RET11 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 which seeks to control non-retail uses at ground floor level in the principal shopping streets of Major Town Centres, however, the Board were of the view that the subject site is not located on such a street, as determined with reference to the Interim Urban Framework Plan. The adjoining land uses at this location are primarily residential nature, and as such, the Board considered it would be unreasonable to refuse planning permission on this basis.

The Board further noted the Inspector's recommendation that the height of the proposed development adjacent to Number 5 Bentley Villas be reduced by the omission of the proposed second floor level (apartment unit number 17), the Board did not share the view that the three-storey element of the proposed development, given its location within a town centre would have an undue overbearing or over shadowing impact and decided to omit that proposed condition.


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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. The proposed development shall be modified as follows:
 - (a) Opaque glazing shall be provided to the balconies serving the ground floor apartment units facing onto George's Place and Clarence Street.
 - (b) The balcony spaces serving apartment number four at ground floor level and apartment number ten at first floor level shall be accessible from the living spaces within each unit.

Revised plans showing compliance with these conditions shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

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3. 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.


Reason: In the interest of visual amenity.

4. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

5. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To ensure the satisfactory completion and maintenance of this development.

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6. Prior to commencement of development, the developer shall agree the following details with the Transportation Planning Department of the planning authority:
- (a) Proposals to ensure pedestrian priority along the footpath across the proposed vehicular entrance onto George's Place and a taking-in-charge drawing of the access junction.
 - (b) The submission at A1 scale of the planning drawings contained in Appendix A of the Traffic / Transport Assessment.
 - (c) A detailed Quality Audit which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit demonstrating that the proposed development has been designed in accordance with the Design Manual for Urban Roads and Streets (DMURS). An independent team shall be approved by the Transportation Planning Department of the planning authority and all measures recommended by the auditor shall be undertaken unless the planning authority approves any departure in writing.

A feedback report shall be submitted responding to each of the items, together with detailed layout drawings showing the accepted design changes incorporated into the layout.

Reason: In the interests of traffic and pedestrian safety.

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7. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

8. Proposals for an estate/street 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 estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. 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.

9. Prior to the commencement of development, the developer shall submit a plan for the written agreement of the planning authority containing details of the management of waste within the proposed development, including the provision of facilities for the storage, separation and collection of the waste and the ongoing operation of these facilities.


Reason: To provide for the appropriate management of waste in the interests of protecting the environment.

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10. (a) The landscaping scheme shown on landscape design drawing numbers 1 and 2 as submitted to the planning authority on the 8th day of June 2021, shall be carried out within the first planting season following substantial completion of external construction works.
- (b) No development shall take place until final details of all proposed tree planting and soft and hard landscaping treatments have been submitted to, and agreed in writing with, the planning authority.
- (c) A schedule of landscape access and maintenance, including to the green roofs and roof garden, shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.
- (d) Any plants which 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 interests of residential and visual amenity.

11. No additional development shall take place above the roof parapet level of the proposed apartments, 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.

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12. 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.


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

Reason: In the interest of public health.

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

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15. 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.

16. 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.

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17. Prior to the commencement of development, the developer shall enter into an agreement with the planning authority to provide for the payment of a financial contribution in lieu of public open space within the site in accordance with Section 12.8.8 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the Dún Laoghaire-Rathdown Development Contribution Scheme 2016-2020 made under Section 48 of the Planning and Development Act, 2000 (as amended). The amount of the contribution 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 for determination. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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


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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.



Peter Mullan

Member of An Bord Pleanála

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



Dated this *5th* day of *May*, 2023

**An amendment to this
Board Order has been made**

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