

Planning and Development Acts 2000 to 2021

Planning Authority: Fingal County Council

Planning Register Reference Number: F21A/0386

Appeal by Karl Dillon and Christina Dwyer care of Hendrik W van der Kamp of 1, Woodstown Court, Knocklyon, Dublin and by John Bergin of Calistoga, Grey's Lane, Howth, County Dublin and by Trafalgar Capital Limited care of Virtus of Fifth Floor, The Glass House, 11 Coke Lane, Smithfield, Dublin and by Others against the decision made on the 7th day of September, 2021 by Fingal County Council to grant subject to conditions a permission to Trafalgar Capital Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: The proposed development comprises of: (a) demolition of existing dwellings and associated outbuildings on the site; (b) construction of a two- to four-storey apartment block, including setback at third storey (fourth floor) over partial undercroft basement comprising 32 number apartments (totalling circa 4,591 square metres gross floorspace, including basement floorspace) consisting of: a. five number one-bed units; b. 21 number two-bed units; and c. six number three-bed units; (c) the apartment block includes terraces and balconies to the apartments. The development includes 41 number car parking spaces (16 number at surface and 25 number at undercroft basement) and 81 number bicycle parking spaces, including

visitor spaces; (d) the development will also include for all associated and ancillary site development works, including drainage, services and hard and soft landscaping (including boundary treatments and tree/hedge removal and planting), outdoor open space and play area, bin storage, and all ancillary works. The development is accessed from Dungriffin Road to the north-west of the site and a pedestrian entrance to the north-east of the site to Dungriffin Road is also proposed, all at Graymount, Dungriffin Road, Howth, 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.

Reasons and Considerations

Having regard to:

- (a) the provisions of the Fingal Development Plan 2017 - 2023, including the zoning objectives for the site;
- (b) the Housing for All - a New Housing Plan for Ireland, issued by the Department of Housing, Local Government and Heritage in September 2021);
- (c) 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 2013;

- (d) the "Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) the "Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments", issued by the Department of Housing, Local Government and Heritage in December 2020;
- (f) the nature, scale and design of the proposed development;
- (g) the availability in the area of a wide range of social, community and transport infrastructure;
- (h) the pattern of existing and permitted development in the area;
- (i) the planning history within the area;
- (j) the report of the Inspector and the submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would be acceptable in terms of public health and pedestrian and traffic safety and would constitute an acceptable scale and form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment (AA):

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 suitably zoned and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the application, the screening assessment undertaken by the planning authority, the Inspector's Report and the submissions on file.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, either 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.

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. Revised plans showing the following amendments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - (a) 1.8-metre-high obscure glazing balustrades shall be installed along the edge of all terrace areas at third floor level.
 - (b) Access to the flat roof area at second floor level shall be for maintenance purposes only.

Reason: In the interest of protecting the residential amenities of adjoining properties.

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. For the avoidance of doubt, the balcony areas shall be served by railings as set out in the documentation submitted with the application.

Reason: In the interest of visual amenity.

4. 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.

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

5. 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.

6. 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.

7. 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.

8. 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 interest of sustainable transport.

9. 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 house.

Reason: In the interests of amenity and public safety.

10. 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 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/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.

11. 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 amenities of property in the vicinity and the visual amenities of the area.

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

13. 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.

14. 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.

15. (a) 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 for each apartment unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

16. 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, including noise management measures, construction traffic management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of amenities, public health and safety.

17. All bathroom/ensuite windows shall be fitted and permanently maintained with obscure glass.

Reason: In the interest of residential amenity.

18. The landscaping scheme, as submitted to the planning authority on the 15th day of July, 2021 shall be carried out within the first planting season following substantial completion of external construction works. All trees and hedgerows to be retained shall be fully protected during construction works. 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, 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.

19. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are identified 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 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.

20. 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.

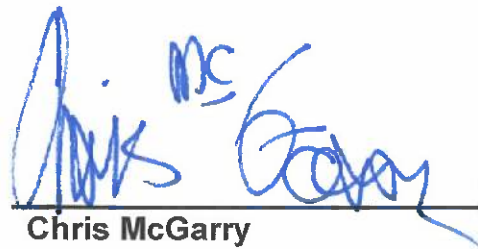
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area

21. 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.

22. 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.

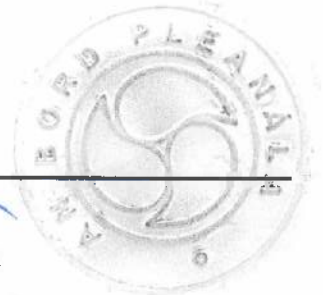


Chris McGarry

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.



Dated this 21st day of October
2022.