

An
Bord
Pleanála

Board Order
ABP-312832-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3389/21

Appeal by Susan Kemp and Robert Vincent of 13 Bellevue Park Avenue, Booterstown, County Dublin and by Others against the decision made on the 26th day of January, 2022 by Dublin City Council to grant subject to conditions a permission to The Davy Platform ICAV Acting On Behalf Of Its Sub Fund Elm Real Estate Investments care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Amendments to residential development permitted under Register Reference 3743/19 (ABP-307424-20). The proposed revisions to the scheme comprise: Increase in residential units from 73 number to 80 number with a unit mix of one number studio units; 17 number one bed units; eight number two bed (three person) units; 48 number two bed (four person) units and six number three bed units. Internal revisions to permitted units. The proposal provides for an additional floor to the primary block (10 total over basement) and an additional floor to the secondary block (five total over basement). Elevational revisions and consequential revisions to the scheme. Provision of new single storey multi use amenity pavilion within the open space. Increase in car parking provision from 73 number to 80 number within existing basement footprint. All associated site development works at Elmpark Green, Merrion Road, 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 the nature, scale and design of the proposed development, and to the policies and objectives of the Dublin City Development Plan 2022 - 2028, in particular the Z1, Sustainable Residential Neighbourhood zoning, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential development in this location, would not seriously injure the residential or visual amenities of the area and 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. The proposed development shall be amended as follows:

(a) The tenth floor on the main residential building shall be removed.

For clarity, the permission shall relate only to 77 number residential units.

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

Reason: In the interests of visual and residential amenity.

3. Prior to the commencement of development and at least 30 days before the erection of any cranes, the applicant shall provide written evidence to the planning authority of any notification of crane operation to the Irish Aviation Authority.

Reason: In the interest of air traffic safety.

4. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted under ABP-307424-20 (Planning Register Reference Number 3743/19) and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

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 Uisce Éireann.

Reason: In the interest of public health.

7. The internal road network and all the car parking requirements serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in 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 May, 2019.

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

8. 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 hours of working, noise management measures, construction traffic management and off-site disposal of construction/demolition waste.

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

9. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority before any of the residential or commercial units are made available for occupation.


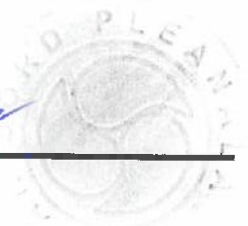
Reason: To provide for the future maintenance of this development in the interest of residential amenity and orderly development.

10. 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.

11. 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.

Stephen Brophy
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board

Dated this 28th day of July 2023.