

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3657/21

Appeal by John Griffin of a Beverly Court, Vernon Avenue, Clontarf, Dublin and by Anne-Marie Farren and Others care of 8 Richmond Lodge, Fairview, Dublin against the decision made on the 14th day of April, 2002 by Dublin City Council to grant subject to conditions a permission to Joseph Corr care of CWPA Planning and Architecture of Unit 10, North Street Business Park, Seatown West, Swords, County Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: (a) Demolition of existing dwelling and existing steel shed to the rear of subject site, and (b) construction of two number separate apartment blocks yielding a total of 27 number apartments (21 number one-bed units and six number two-bed units), comprising (i) Block 1 - six storeys in height consisting of six number one-bed units and six number two-bed units, (ii) Block 2 - five storeys in height consisting of 15 number one-bed units, (iii) pedestrian access via Richmond Avenue, (iv) provision of 60 number bicycle parking spaces, (v) communal open space including two number roof gardens, (vi) substation and plant rooms, (vii) bin storage, (viii) and all associated engineering and site development works necessary to facilitate the development at 17 and 19 Richmond Avenue, Fairview, 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 Dublin City Development Plan 2022-2028, the location of the site zoned 'Z10 – Inner Suburban and Inner City Sustainable Mixed-Uses', and to Policy QHSN10 to promote residential densities throughout the city and particularly on underutilised sites having regard to the need to successfully integrate with the character of the surrounding area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not adversely impact on the established character of the area, and would be acceptable in terms of scale of development. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the height, form and design of Block 1 together with the reduction in scale and bulk of Block 2 would be acceptable to the pattern of development in the area and would not be visually incongruous, would lessen overbearing and local prominence, would not constitute an abrupt visual transition in building scale, and would not be excessive in scale. The Daylight and Sunlight Assessment indicates there would be either no or modest increase in overshadowing of certain adjacent properties with any dwelling affected being within acceptable BRE guideline ranges. While the Board acknowledged the suggestion of the Inspector to reduce the overall height, massing and scale of Block 2 by way of condition in

the event of a grant of permission, the Board shared the view of the planning authority and considered the potential for adverse visual and residential amenity impacts to have been satisfactorily addressed through their decision.

In addition, the future development potential of adjacent sites are not matters before the Board and this was not considered to warrant a ground for refusal of the proposed development under consideration. The Board also noted the Inspector's indication that an element of works may already have been carried out on the site. However, the removal of single storey structures was not considered to be a material consideration for the Board that would warrant public notice, and enforcement issues are matters of consideration for the planning authority.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 21st day of March 2022, 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 hereby approved shall comprise of 21 number apartment units.

Reason: In the interest of clarity.

3. The proposed development shall be amended as follows:
- (a) All balconies and roof terraces shall be enclosed by obscure glazed balustrades with all balustrades to the terraces being 1.5 metres above finished floor level, with the southern side of projecting balconies serving permitted apartments numbers 6, 9, and 12 in Block 2 being fitted with opaque glazing to at least 1.8 metres in height.
 - (b) Apartment number 10 as a residential unit shall be omitted. The area of the bedroom and bathroom shall be omitted and the proposed living space area shall be retained but further reduced by its western elevation being pulled back to match the elevation of the western windows to apartment number 12. This reduced area shall then be incorporated into the area of apartment number 12 and the overall unit shall become a two-bed unit.
 - (c) With the amendment required above, the terrace at third floor would be directly accessible from the lobby at third floor and this shall serve as communal open space. The area of the terrace north of the revised apartment number 12 shall be provided for the sole use of the revised apartment number 12 with an obscure glazed partition between it and the communal terrace.
 - (d) The west façade to the modified residual space formerly part of apartment number 10 and now to be part of apartment number 12 shall be clad in self-coloured render as shown in the Southwest Elevation drawing.
 - (e) Apartment 15 and associated service core at fourth floor level shall be omitted.

- (f) The planted bed along the southern elevation of Block 1 shall be composed of robust low-level hedging around the bedroom windows.
- (g) Cycle parking and storage facilities for residents and visitors in accordance with SPPR 4 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) shall be included.

The revised drawings and construction methodology 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.

- 4. 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.

- 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.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

- 6. 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.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

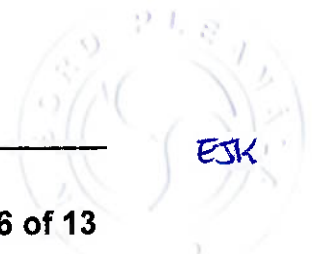
Reason: In the interests of visual and residential amenity.

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 apartment numbers, shall be provided in accordance with the agreed scheme. 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 and to ensure the use of locally appropriate place names for new residential areas.

9. The landscaping scheme as submitted to the planning authority shall be carried out within the first planting season following substantial completion of external 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.



10. 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.

11. 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.

12. 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

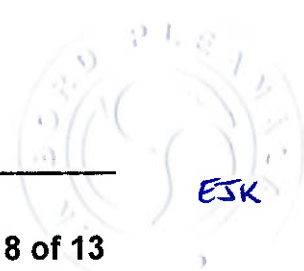
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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.

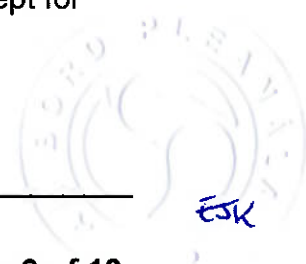
13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;



- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking for existing properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.



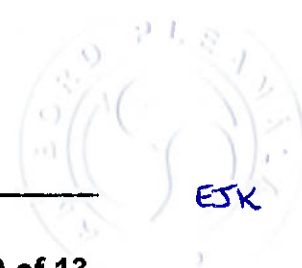
Reason: In the interests of amenities, public health and safety.

14. 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.

15. 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 commencement of development.

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



16. (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.

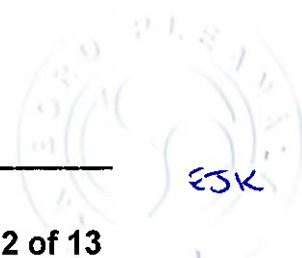
17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for the area.

18. 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.

19. 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.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

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

Dated this *19th* day of *April*, 2024.

