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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Dún Laoghaire-Rathdown County Council**

**Planning Register Reference Number: D22A/0583**

**Appeal** by Martin and Margaret Lynch of 34 Ashlawn, Ballinteer Road, Dundrum, Dublin and by Howard Farrell on behalf of Ashlawn Residents Association care of BPS Planning and Development Consultants of Ballinatone, Greenan, Wicklow against the decision made on the 19<sup>th</sup> day of April, 2023 by Dún Laoghaire-Rathdown County Council to grant, subject to conditions, a permission to James Monaghan care of McGill Planning of 22 Wicklow Street in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The development will consist of the following: Demolition of buildings measuring circa 410.84 square metres including extensions to Ballinteer Lodge and ancillary structures (swimming pool and garage). Ballinteer Lodge will be retained, restored and converted into apartments and two number new blocks of apartments will be constructed (up to four-storeys in height). The Proposal will provide for 31 number residential units (12 number one-beds and 19 number two-beds) all with balconies facing north/south/east/west. Provision of new access from Ballinteer Road to the east and Ashlawn to the northwest. It is proposed to close the existing access

to the northeast of the site. The development includes for upgrade works to widen the public footpath along a portion of Ballinteer Road. Provision of car parking at basement and surface level, cycle parking, open spaces, bin stores and all associated site development works, landscaping, boundary treatments and other servicing works, all at Ballinteer Lodge, Ballinteer Road, Dundrum, Dublin. The application site includes a portion of Ballinteer Road and Ashlawn. The site addresses both Ballinteer Road and Ashlawn. The proposed development was revised by further public notices received by the planning authority on the 23<sup>rd</sup> day of March 2023.

## **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 and scale of the proposed development, the Objective A zoning for the site in the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the assessment of the scheme by the planning authority and the totality of documentation on file, including all submissions made, it is considered that, subject to compliance with the conditions set out below, the proposed development would be of an acceptable form and scale at this location, would accord with relevant policies and provisions in the development plan including HER21 (Nineteenth and Twentieth Century Buildings, Estates and Features), PHP18 (Residential Density) and PHP35 (Healthy Placemaking), would be acceptable in terms of traffic, would not seriously injure the residential, visual or environmental amenities of the area, would not constitute overdevelopment of the subject site, would not have significant effects on ecology, and would offer a good standard of accommodation to future residents. 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 revised by the further plans and particulars received on the 23<sup>rd</sup> day of March 2023 and the further details received with the applicant's response to the appeal on the 12<sup>th</sup> day of June 2023, 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. This permission is for the construction of 31 number apartments comprising 12 number one-bedroom units and 19 number two-bedroom units in two four-storey blocks and within the existing period house (Ballinteer Lodge).

**Reason:** In the interest of clarity.

3. Details of the materials, colours and textures of all the external finishes to the proposed apartment blocks shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. Prior to commencement of development the developer shall appoint a conservation expert to oversee and monitor all works to Ballinteer Lodge to ensure adequate protection of the historic fabric during those works. Any repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of Ballinteer Lodge is maintained and protected from unnecessary damage or loss of fabric.

5. Prior to commencement of development the developer shall submit, for the written agreement of the planning authority, full details and specifications of all play equipment.

**Reason:** To ensure the play equipment accords with relevant safety standards.

6. Prior to commencement of development the developer shall submit, for the written agreement of the planning authority, a revised Building Lifecycle Report to include an assessment of long-term running and maintenance costs as they would apply on a per residential unit basis and which demonstrates measures to effectively manage and reduce costs for the benefit of residents.

**Reason:** To comply with Section 6.12 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHLGH, 2023).

7. (a) 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.
- (b) The non-amenity roof areas shall not be accessible except for maintenance purposes only.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

8. (a) Prior to commencement of development the developer shall submit, for the written agreement of the planning authority, the detailed design of (i) the proposed cycle access on Ballinteer Road and (ii) the cycle path to be constructed within the development site, which shall have regard to the items raised in the Quality Audit received by the planning authority on the 23<sup>rd</sup> day of March 2023.
- (b) Prior to commencement of development the developer shall submit for the written agreement of the planning authority a Road Safety Audit (Stages 2 and 3) in order to demonstrate that appropriate consideration has been given to all relevant aspects of the development.
- (c) The measures recommended by the Auditor shall be undertaken, unless the planning authority approves any departure in writing. A detailed drawing(s) showing all accepted proposals and a feedback report should also be submitted.
- (d) The internal road network serving the proposed development, including turning bays, parking areas, footpaths and kerbs, and the junctions with the public roads shall be in accordance with the detailed standards of the planning authority for such works.

- (e) A total of 34 car parking spaces shall be provided, 28 at basement level and six at surface level. Two surface level car parking spaces shall be fully accessible.
- (f) At least 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.
- (g) Two motorcycle parking spaces shall be provided.

**Reason:** In the interests of amenity, traffic and pedestrian safety, sustainable transportation and to provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

- 9. All mitigation measures outlined in the Ecological Impact Assessment received by the planning authority on 23rd March 2023 shall be carried out as specified.

**Reason:** In the interest of clarity and to mitigate potential ecological effects.

- 10. All mitigation measures outlined in the Bat Fauna Impact Assessment received by the planning authority on 23rd March 2023, supplemented by the appeal documentation received by An Bord Pleanála on 12<sup>th</sup> day of June 2023 and circulated to parties under Section 131 of the Planning and Development Act 2000, as amended, shall be carried out as specified.

**Reason:** In the interest of clarity and to mitigate potential impacts on bats.

11. (a) The developer shall comply with the requirements of the planning authority in relation to all tree works (including felling, removal and surgery) and tree protection measures.
- (b) All mitigation measures and recommendations outlined in the Arboricultural Assessment and Tree Protection Plan submitted with the planning application shall be carried out as specified.

**Reason:** In the interest of clarity and to ensure adequate protection of existing trees and vegetation.

12. Proposals for a development name, unit 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 unit 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. 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 and to ensure the use of locally appropriate placenames for new residential areas.

13. 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.

14. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

**Reason:** In the interest of public health.

15. The landscaping scheme shown on drawing number LBAL060-100, submitted to the planning authority on the 23<sup>rd</sup> day of March 2023 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 interest of residential and visual amenity.

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 0800 to 1400 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 amenities of property in the vicinity.



17. All recommendations and mitigation measures outlined in the Environmental Noise Survey received by the planning authority on 23<sup>rd</sup> day of March 2023 along with the additional noise mitigation details received by An Bord Pleanála on 12<sup>th</sup> day of June 2023 shall be carried out as specified.

**Reason:** In the interest of clarity and to mitigate noise impacts from the proposed development.

18. 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) the location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (b) the location of areas for construction site offices and staff facilities;
  - (c) the details of site security fencing and hoardings;
  - (d) the details of on-site car parking facilities for site workers during the course of construction;
  - (e) the 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) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) the 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;
- (k) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) the 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 interest of amenities, public health and safety.

19. The demolition of the existing buildings and construction of the development shall be managed in accordance with a final Construction and Demolition Waste Management Plan and a final Construction and Environmental Management Plan, both of which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. These plans shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including noise management measures, dust and vibration management measures, construction traffic logistics, parking, mobility and access during the construction phase for workers

and emergency vehicles, and off-site disposal of construction/demolition waste and/or by-products.

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

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

21. That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

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.

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

23. 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 apartment unit.

**Reason:** In the interest of public safety.

24. 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.

25. 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, 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.

26. 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.

27. The developer shall pay a financial contribution to the planning authority as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in lieu of the provision of public open space, to fund improvements to the existing public open space at Ludford and Ballawley Park, which would benefit the proposed development. 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 commencement of development or in such phased payments as may be agreed prior to commencement of the development and shall be subject to any indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

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



Dated this 26<sup>th</sup> day of August 2024.