



An
Coimisiún
Pleanála

Commission Order
ABP-320640-24

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 4237/19

Appeal by Kevin Fitzsimons of 1 Villa Park Road, Navan Road, Dublin and by John Reilly of 2 Villa Park Road, Navan Road, Dublin against the decision made on the 4th day of September, 2020 by Dublin City Council to grant subject to conditions a permission to Lark Finance Limited and SM Blackhorse Limited care of Downey Chartered Town Planning of 29 Merrion Square North, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development will consist of a residential development of 33 number residential units comprising of: two number three storey, four-bedroom semi-detached houses with balconies to rear elevation of houses at second floor level and one number four storey apartment block (ranging from three to four storeys) consisting of 31 number apartments (11 number one bedroom units and 20 number two bedroom units) with balconies/terraces to the south east elevation; two number communal roof terraces will be located at fourth floor level; one number ESB substation and switch room; waste storage area; entrance lobbies; two number bicycle parking rooms (each with 28 number spaces, providing 56 spaces in total); landscaping; public lighting; boundary treatment; 27 number

surface level car parking spaces; 12 number surface level bicycle parking spaces; new vehicular access from Villa Park Road; pedestrian access from Villa Park Road and Blackhorse Avenue; and all associated site development and engineering works necessary to facilitate the proposed development. The proposed development would also consist of the demolition of the two number existing single storey detached dwellings and associated outbuildings and sheds, all at 353 and 363 Blackhorse Avenue, Dublin, which is generally bound by Blackhorse Avenue to the south and Villa Park Road to the west. The proposed development was revised by further public notices received by the planning authority on the 14th day of May 2020.

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 provisions of the Dublin City Development Plan 2022-2028, as varied, and the location of the proposed development on zoned and serviced lands within a 'city urban neighbourhood', it is considered that, subject to compliance with the conditions set out below, the demolition of the buildings on site would not detract from the setting or character of the area or protected structures and conservation area in the vicinity, would not result in the demolition of buildings of significant historic value that contribute to that setting or character, and the proposed development would therefore make efficient use of an underutilised brownfield site and positively contribute to this neighbourhood, would positively contribute to an increase in housing stock in this accessible urban location with a range of social, commercial, and public transport infrastructure, would be acceptable in terms of urban design and building height, would be acceptable in terms of pedestrian and traffic safety,

and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure residential or visual amenities or significantly increase traffic volumes in the area, or negatively impact on human health, or natural or cultural heritage. The proposed apartment 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 omit the top floor of the development, the Commission did not share the Inspectors concerns that the top floor of the could adversely affect the character and visual amenity when viewed from Áras an Uachtaráin. It is noted that the proposed apartment block is over 400 meters from Áras an Uachtaráin and that there are extensive belts of mature trees between the two sites. Having regard to the separation distance and the extensive belt of mature landscaping separating the sites and that the northern view from the front of Áras an Uachtaráin is not one of the views and prospects designated in the Phoenix Park Conservation Management Plan (OPW, September 2011), the Commission is satisfied that the development as proposal was acceptable from a visual amenity point of view in the context of views to and from Áras an Uachtaráin. Also having regard to the separation distances between the site and Áras an Uachtaráin, the Commission did not consider the proposed development posed any type of security threat to the Irish State.

The Commission also considered that the reduction in the proposed apartment block to three storey would result in a rather squat-shaped building which would be inappropriate in urban design terms and the reduction in density, as a result of the removal of five units, would fail to fully exploit the advantages of this zoned and serviced site in close proximity to Dublin City Centre and existing and planned public transport services.

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 22nd day of April 2020, 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 interests of clarity.

2. The proposed development shall be amended as follows:
 - (a) The roof terraces shall be omitted in their entirety and a green roof incorporated uniformly.
 - (b) The three car parking spaces along the northern boundary of the site contiguous to the rear garden of number 2 Villa Park Road shall be omitted from the proposed development. The residual lands shall incorporate mature landscaping.
 - (c) The provision of a separation railing from the access to the children's play area along the pedestrian route bordering space numbers 13, 14, 15 and 16.
 - (d) The provision of a minimum two-metre-wide footpath along the application site boundary with Blackhorse Avenue and Villa Park Road.

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 proper planning and sustainable development.

3. Details of the materials, colours, and textures of all the external finishes to the proposed development 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. 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.

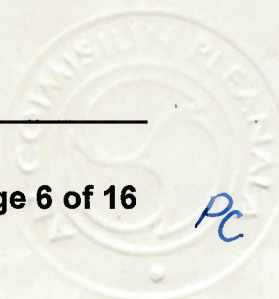
Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

5. (a) The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development following consultation with the National Monument Service (NMS).
- (b) Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement.

The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.

- (c) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the NMS, regarding appropriate mitigation (e.g. preservation in-situ, or excavation). The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.
- (d) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.



6. Proposals for a development name and house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and house 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.

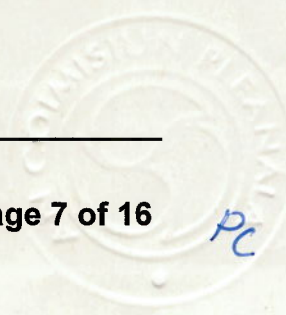
Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

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 interest of visual amenity.

8. The internal road network serving the proposed development, including junctions, parking areas, footpaths and kerbs shall be in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) and the detailed construction standards of the planning authority for such works.

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



9. (a) The maximum number of car parking spaces serving the proposed development shall be 24 in number. A minimum of two number car parking spaces within the development shall be permanently allocated to car club use. The location and layout of these spaces shall be agreed in writing with the planning authority prior to the commencement of development.
- (b) Residential car parking spaces shall be permanently allocated to residential use and shall not be sold, rented, or otherwise sub-let or leased to other parties.
- (c) A minimum of 50% of all residential car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.
- (d) The bicycle parking quantity shall be provided as per the bicycle parking standards of the Dublin City Development Plan 2022-2028. Resident cycle parking spaces shall be secure, conveniently located, sheltered, and well lit. Key/fob access shall be required to resident bicycle compounds. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. Electric bike charging facilities within the resident cycle parking areas shall be provided. All cycle parking shall be in situ prior to the occupation of the development.

- (e) Prior to the occupation of the development a Parking Management Plan shall be prepared for the development and submitted to and agreed in writing with the planning authority. The plan shall include measures to ensure that the car parking spaces shall not be sold, rented, or otherwise sub-let or leased to other parties.

Reason: In the interest of sustainable transportation.

10. The development shall be carried out and operated in accordance with the provisions of a revised Mobility Management Plan (MMP) which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The MMP shall include specific objectives and measures to achieve modal split targets for the development which shall be implemented in full upon first occupation. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first five years following first occupation and shall submit the results to the planning authority for consideration and placement on the public file.

Reason: To achieve a reasonable modal split in transport and travel patterns in the interest of sustainable development.

11. Public lighting shall be provided in accordance with a scheme prepared in line with the principles of the Bat Conservation Trust Guidance on Bats and Artificial Lighting at Night. The scheme shall include lighting along pedestrian routes through open spaces, 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 occupation of any dwelling.

Reason: In the interests of amenity and public safety, and wildlife protection.

12. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Traffic Management Plan (TMP) for the construction phase of the development for the written agreement of the planning authority. The TMP shall incorporate details of the road network to be used by construction traffic including oversized loads, detailed proposals for the protection of bridges, culverts and other structures to be traversed, as may be required. The agreed TMP shall be implemented in full during the course of construction of the development.

Reason: In the interest of sustainable transport and safety.

13. Prior to the commencement of development (including demolition and tree clearance), a bat survey shall be undertaken by a bat specialist and submitted to, and agreed in writing with, the planning authority. Any demolition of structures or tree clearance that supports a new record of bat roost shall be carried out only under licence from the National Parks and Wildlife Service (NPWS) and details of such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

14. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the attenuation and disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable urban drainage.

15. A comprehensive boundary treatment and landscaping scheme, incorporating the planting principles from the all-Ireland Pollinator Plan, shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following:

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including acoustic measures, heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual and residential amenity.

16. (a) The open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted

to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

17. (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 shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the 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.

18. 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 Environmental Protection Agency'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.

19. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of residential amenities, public health and safety and environmental protection.

20. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

21. 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 Coimisiún 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.

22. 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 Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

23. 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 Coimisiún 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.

24. The developer shall pay a financial contribution to the planning authority in lieu of a shortfall in public open space as set out in the Dublin City Council Development Contribution Scheme 2023-2026, or any subsequent scheme. 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 Coimisiún Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable 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: To ensure compliance with policy GI26 and Section 15.8.7 of the Dublin City Development Plan 2022-2028.



Paul Caprani

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this 29th day of July 2025.