



An  
Bord  
Pleanála

## Inspector's Report PL06D.249042

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<b>Development</b>	Permission sought for demolition of 2 houses and construction of 9 houses and all associated site works.
<b>Location</b>	Kinvara and Kinros, Leopardstown Road, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D17A/0478
<b>Applicant(s)</b>	Rivertempus Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First-v-Refusal
<b>Appellant(s).</b>	Rivertempus Limited
<b>Observers</b>	Fey Yerra Management Ltd.
<b>Date of Site Inspection</b>	19 <sup>th</sup> October 2017
<b>Inspector</b>	Colin McBride



## **1.0 Site Location and Description**

1.1 The appeal site, which has a stated area of 0.3465 hectares, is located to the east of Sandyford, south of Stillorgan and just to the north west of the R113/Leopardstown Road. The appeal site is occupied by two detached dwellings ('Kinvara' and 'Kinros'). The site is accessed from an existing roadway that has access off the R113/Leopardstown Road. The existing roadway serves a housing development to the north of the site (Fey Yerra). The site has a vehicular entrance onto the roadway not far from the main access onto the R113 with an existing avenue serving both dwellings. Adjoining development includes existing two-storey detached dwellings to the south east of the site, a public open space to the south and north west of the site, the existing access roadway to Fey Yerra along the north eastern boundary of the site and a number of existing two-storey semi-detached dwellings within Fey Yerra to the north of the site. Existing boundaries consist of trees and hedgerow.

## **2.0 Proposed Development**

2.1. Permission is sought for the demolition of 2 dwellings and the construction of nine three-storey dwellings consisting of 4 no. 5 bed semi-detached dwellings (181sqm), 2 no. 4 bed semi-detached and 2 no. 4 bed terraced dwellings (174sqm), and 1 no. 5 bed detached dwelling (282sqm). The development includes car parking, realignment of the existing entrance southwards requiring the relocation of existing ESB kiosks further south and the demolition of the southern pillar and part of the wall south of the existing access, the widening and resurfacing of the existing access avenue to provide a shared surface incorporating the inclusion of 10.05sqm of lands to the west of the access avenue from the adjoining Mornacott site, the provision of a pedestrian link along the western boundary into the adjoining public open space, the removal of trees, bin storage, hard and soft landscaping, lighting, changes in level, diversion of services and all other associated site works above and below ground.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission refused based on two reasons...

- 1. The proposed development, at a density of twenty nine (29) units per hectare, is not considered to be of a sufficiently high density as envisaged by Section 5.8 of the 2009 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the 2016-2022 Dún Laoghaire-Rathdown County Development Plan at this location. The proposed development therefore would be contrary to Section 5.8 of the 2009 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and Policy RES3 of the 2016-2022 Dún Laoghaire-Rathdown County Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The layout and design of the proposed development does not appropriately integrate into the context of the subject site adjoining a public open space, zoned with the objective 'F' 'To preserve and provide for open space with ancillary recreational amenities' in terms of developing an appropriate 'sense of place' due to turning its back on the adjoining public open space and the lack of passive surveillance provided to it along with presenting a discordant elevation to the public open space. In addition, the proposed development would have a significant negative impact on the category 'A' trees on site and on the adjoining site which would detract from the sylvan character of the area. This is contrary to Policy UD1 in the 2016-2022 Dún Laoghaire-Rathdown County Development Plan, and would be injurious to the amenities of the area. Therefore, the proposed development would not be consistent with the proper planning and sustainable development of the area.*

## **3.2 Local Authority reports**

- 3.2.1 Drainage Planning (11/07/17): Further information required including details regarding attenuation and surface water drainage.
- 3.2.2 Parks & Landscape (13/07/17): Refusal recommended due to deficiencies in the provision and layout of public open space.
- 3.2.3 Transportation Planning (19/07/17) Further information required including details regarding the provision of a right hand turning lane on Leopardstown Road, provision of adequate visibility, provision of improved pedestrian facilities and a number of other issues concerning compliance with DMURs, provision of swept path analysis, details of public lighting and construction management.
- 3.2.4 Planning Report (19/07/17): Issues of concern included the density and provision of public open space. Refusal was recommended based on the reasons outlined above.

## **4 Planning History**

- 4.1 No planning history.

## **5 Policy Context**

### **5.1 Development Plan**

- 5.1.1 The relevant development plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A with a stated objective 'to protect and/or improve residential amenity'.

- 5.1.2 Policy RES3: Residential Density (Section 2.1.3.3)

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for

sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- Sustainable Residential Development in Urban Areas (DoEHLG 2009)
- Urban Design Manual - A Best Practice Guide (DoEHLG 2009)
- Quality Housing for Sustainable Communities (DoEHLG 2007)
- Irish Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013)
- National Climate Change Adaption Framework-Building Resilience to Climate Change (DoECLG 2013).

5.1.3 Under Section 2.1.3.3 on Residential Density the following is also noted...

Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged. As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives 'GB', 'G' and 'B') shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to 'greenfield' sites or larger 'A' zoned areas.

## **6 The Appeal**

### **6.1 Grounds of appeal**

6.1.1 A first party appeal has been lodged by Thornton O'Connor Town Planning on behalf of Rivertempus Limited. The grounds of appeal are as follows...

- It is noted that policy RES 3 does not preclude density lower than 35 per hectare and that regard can be had to the context of the site and character of

existing development adjoining such. It is noted that the only way of achieving the minimum density is through an apartment development and that such would be out of character at this location and contrary policy RES4. It is noted that an appropriately scaled infill housing development would make use of an underutilised site and that there are a number of examples where less than 35 units have been permitted by the Local Authority and An Bord Pleanala.

- It is noted in relation to refusal reason no. 2 that it would be difficult to front development onto the adjoining public open space due to the location of the access and that such would be a poor quality standard of urban design. It is noted that proposal does have due regard to the adjoining public open space in terms of pedestrian access and balconies overlooking the open space and that the applicant has successfully addressed interaction with the open space.
- It is noted that access through the existing housing development, Fey Yerra is not feasible and that the residents of such would not facilitate such access with only option to use the existing access.
- It is noted that there are no proposals to remove existing mature trees along the entrance Avenue and the applicant is proposing tree protection measures to mitigate against any adverse impact on such.
- The applicant/appellant notes that they are willing to implement planting in accordance with the Council's Parks and Landscape Department requirements.
- It is noted that scale and pattern of development is in keeping with housing development on adjoining sites.
- It is noted that the proposal has been designed to have regard to its location relative to adjoining public open space and the appellant has provided amendments to the design of the rear elevation of no. 5 to be more consistent with no.s 1-4.
- The appellant has submitted a separate engineering report to address the further information items raised by the Transportation Section. It is noted a drawing showing a right turning lane will be submitted in the event of a grant of permission. It is intended to extend the existing right turning lane

(southbound lane) further north of towards Fey Yerra. The justification for a design speed of 20km/h for the visibility splay at the entrance is based on the use of existing access road by pedestrians and cyclists and pedestrian priority standards under DMURS. It is noted that the shared surface has adequate regard to pedestrians and that if deemed necessary a footpath can be provided. The appellant has submitted a swept path analysis for a fire tender and refuse truck entering and existing Leopardstown Road. It is noted that the required signage and cycling parking can be provided.

- It is noted in relation to surface water drainage that the issues raised by the Drainage Division can be addressed.

## **6.2 Responses**

### **6.2.1 Response by Dun Laoghaire Rathdown County Council.**

- It is noted that the grounds of appeal do not raise any new matters, which would justify a change in attitude to the proposed development.

## **6.3 Observations:**

### **6.3.1 An observation has been received from Kieran O'Malley & Co. Ltd on behalf of Fey Yerra Management Ltd.**

- The alterations required to the avenue to access the site would have an adverse impact on existing trees on the Fey Yerra side of the gravel driveway due to the widening of the access. It is considered that there are inadequate details in terms of a tree survey and report regarding impact on trees. It is noted that the mitigation measures proposed by the applicant/appellant are inadequate.
- It is considered that the proposal uses a substandard vehicular entrance that there would be conflict with traffic generated by Fey Yerra. It is noted that the



existing entrance taken in conjunction with existing walls and trees that are outside the applicant control would mean that sightlines are inadequate and the observer questions the design speed used by the applicant to calculate the visibility standard required. It is noted that the existing traffic layout and junction is such that an intensification of traffic would generate a traffic hazard.

- It is noted that the design, scale and orientation of some of the dwellings proposed would have adverse impact on residential amenities of dwellings within Fey Yerra through overlooking (proposed unit no. s 7 and 8 in relation to no.s 1 and 2 Fey Yerra).

#### **6.4 Submissions to Local Authority:**

6.4.1 16 submissions were received by the Local Authority and the issues raised be summarised as follows...

- Height, scale and proximity of the proposal in the context of the amenities of adjoining properties. Overlooking and overshadowing, boundary treatment, traffic impact and lack of visitor parking and loss of trees.

## 7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Density/development strategy

Development control standards

Design/scale/pattern of development/visual/residential amenity

Traffic impact

Tress

Appropriate Assessment

### 7.2 **Principle of the proposed development:**

7.2.1 The relevant plan is the Dun Laoghaire Rathdown County Council Development Plan 2016-2022. The site is zoned 'Objective A' with a stated objective 'to protect and or improve residential amenity'. The proposal is for residential use and is compliant with land use policy. The site is currently occupied by two existing detached dwellings. The existing development in the vicinity is suburban style housing. The proposal entails an increased density and a use in keeping with zoning policy. I would consider the principle of the proposed development to be acceptable subject to the proposal being satisfactory in the context of its impact upon the amenities of adjoining properties, visual amenity, and traffic safety and convenience.

### 7.3 **Density/development strategy:**

7.3.1 The proposal entails the demolition of two existing detached dwellings and the construction of 9 no. residential units on a site of 0.3465 hectares. This gives a density of 26 units per hectares (the assessment and refusal reason states density is 29 units per hectares). It is notable that permission was refused on the basis that the density proposed is below that recommended under Section 5.8 of the national guidelines, Sustainable Residential Development in Urban Areas and under Development Plan policy. Policy RES3 (Section 2.1.3.3) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 notes that “it is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of area, with the need to provide for sustainable residential development”. It is noted that “as a general rule the minimum default density for new residential development in the County (excluding lands on zoning Objective ‘GB’, ‘G’ and ‘B’) shall be 35 units per hectares. This density might not be appropriate in all instances, but will serve as a general guidance, particularly in relation to ‘greenfield’ sites or larger ‘A’ zoned areas”.

7.3.2 It is also noted under Section 2.1.3.3 on Residential Density that “where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged”. The policy is linked to the recommendations of the Sustainable Residential Development in Urban Areas (DoEHLG 2009) which notes that following in regards to Public Transport Corridors (Section 5.8) ...

“Walking distances from public transport nodes (e.g. stations / halts /bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance<sup>18</sup> of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being

located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities”.

7.3.3 Permission was refused on the basis that the density is too low, with it noted as being 29 units per hectare. The density of the scheme is actually 26 units per hectare, which is well below the minimum level recommended under Development Plan policy. The applicant/appellant argues that Development Plan policy does not preclude lower densities than 35 per hectares with consideration given of the site context and adjoining development as well as noting that there are precedents for residential development lower than 35 units per hectares in similar circumstances. I would question the overall density, which is below to minimum level stated in the County Development Plan, when is in walkable distance of a high quality public transport corridor, Sandyford Luas stop is within 16-minute walking distance, the N11 QBC is located 700m from the site. I would also consider that there is scope on site to provide a development of higher density, while at the same time having adequate regard to adjoining amenities. In particular, there is significant scope for increased density that fronts onto the significant area of open space (apartment or a more mixed unit development). I would consider that the density proposed is an inefficient use of the land and there is scope for higher densities on this site. I would consider that notwithstanding the residential zoning designation of the site, that the proposed residential development, which is located in close proximity to a major transport corridor being within 1.2 km walk of a Sandyford Luas stop and even closer to the N11 QBC, is at a density which represents an unsustainable use of urban land with considerable scope for increased density on site in particular where it adjoins the existing area of public open space. The proposal would be contrary Development Plan policy set down under Objective RES3 and the density requirements in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009. The proposed development would therefore be contrary the policy objectives of the development plan and national policy and would, therefore, be contrary to the proper planning and sustainable development of the area.

#### **7.4 Development control standards:**

- 7.4.1 In relation to residential development the issues concerning development control relate to the provision of public/private open space and car parking. For the purposes of general development control objectives, the proposal entails the provision of 9 dwellings (4 no. four bed and 5 no. five bed units). Under Section 8.2.8.4 of the County Development Plan the minimum requirement for dwellings with 3 bedrooms is 60sqm while for 4 bedrooms or more is 75sqm. The new dwellings back onto the south western (no.s 1-5) and the north western (no.s 6-9) boundaries with rear gardens ranging from 69sqm-144 sqm. All dwelling apart from two, no.s 7 and 8 (69 and 71sqm respectively) have the required minimum standard of private open space. Given the level of private open space associated with some of the dwellings, I would question why the applicant cannot provide the minimum standard for all dwellings within the proposed development.
- 7.4.2 In regards to public open space, under section 8.2.8.2 of the County Development Plan it is noted that “for all developments with a residential component – 5+ units - the requirement of 15 sq.m- 20 sq.m. of open space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms”. It is also noted that irrespective of the circumstances outlined under Section 8.2.8.2 including relaxed standards due proximity to existing park facilities and financial contributions in lieu of public open space “the default minimum 10% open space requirement must be provided on site”. In this case the proposal features no public open space, but is located in close proximity to a public park, which is located immediately to the south west of the site. It was noted in the Planning Authorities assessment that absence of public open space on site is considered acceptable due to its location in close proximity to the public open space to the south west. The proposal was however refused on the basis that the overall design failed to integrate with adjoining public open space.
- 7.4.3 Table 8.2.3 of the County Development Plan outlines the car parking standards for various developments. The requirement for a three bed plus unit is two spaces. In

the case of the proposed development all residential units are provided with at least two spaces with an additional two spaces provided for visitor parking. The level of car parking provided is in excess of the minimum standard required under the County Development Plan.

## **7.5 Design/scale/pattern of development/visual/residential amenity:**

- 7.5.1 The proposal is for 9 three-storey dwellings with 5 no. dwellings backing onto the south western boundary and 4 no dwellings backing onto the north western boundary. I would consider that the overall visual impact of the proposal to be acceptable at this location. The design and scale of the dwellings although three-storeys would not be out of keeping at this location, which is an established suburban residential area. I would also note that existing vegetation and trees along the site boundaries and on adjoining sites also reduce the overall visual impact of the proposed development.
- 7.5.2 Adjoining development consists of existing detached dwellings to the south east that back onto the south eastern boundary of the site, a significant public open space area to the south and north west, the existing access road to the Fey Yerra housing development runs along the north eastern boundary and to the north are a number of two-storey semi-detached dwellings within Fey Yerra. As noted above the dwellings back onto the south and north western boundaries, where the site adjoins a public space area, with no significant or adverse impact on adjoining amenity. Where the site adjoins the existing dwellings to the south east, the existing dwellings fronting Leopardstown Road, have long gardens that offer a high degree of separation from the proposed dwellings (gable of no. 1 is located adjacent the south eastern boundary). The nearest dwellings to the north are no.s 1 and 2 Fey Yerra with the proposed dwellings at the north of the site backing onto the north western boundary. I am satisfied that the overall design, scale orientation and level of separation between the proposed dwellings backing onto the north western boundaries and existing dwellings to the north is acceptable and in keeping with a suburban pattern

of development. I am satisfied that overall design, scale and layout of the proposal has adequate regard to the residential amenities of adjoining properties.

7.5.3 The assessment of the proposal by the Local Authority is critical of overall design and layout in regards to its interaction with the public open space to the south west. As noted under the section in relation to density, there is scope for increased density and development that uses the open space to the advantage of the development. There are a number of issues regarding the layout of the proposal including the fact it fails to use the area of public open space to the full advantage of the development on site. There are also issues concerning the layout and its integration with the existing service road into Fey Yerra. Use of such to access the site further to the north would address issues relation to traffic as well as concerns regarding the potential impact on existing trees.

## **7.6 Traffic Impact:**

7.6.1 The proposal uses an existing access onto Leopardstown Road, which currently serves the housing development of Fey Yerra and the two dwellings on site. The access laneway serving the site forms junction a with the service road to Fey Yerra close to the vehicular entrance onto the public road. The existing access laneway is to be widened and to be shared surface with a width of 5m where it adjoins the side boundary of Mornacott and widening to 6.3m where it adjoins the proposed dwellings. The proposed development will use an existing access point off the Leopardstown Road and such access already serves multiple housing development (Fey Yerra). It is notable that the Transportation Section recommended a grant subject to the provision of an extended right hand turning lane on Leopardstown Road.

7.6.2 I would consider that use of the existing entrance off Leopardstown Road would be acceptable in principle given it already facilitates a larger residential development. I would consider that the provision of and extended right hand turning lane would be beneficial for traffic movement off the existing public road. Notwithstanding use of the

existing entrance onto the public road, there are issues regarding the layout of the access to the site where it forms a junction with the existing service road to Fey Yerra. At present the junction between the access road to the site and the access road to Fey Yerra meet at an awkward angle that means visibility to the north is severely constricted. Although this is visibility on an internal service road and not a public road, there are concerns regarding conflicting traffic movements between traffic associated with the proposed development and that generated by the existing development. In the context of the increased traffic levels proposed, such is a concern. The drawings submitted with the appeal show an entrance layout with provision for a 14m visibility splay set back 2.4m and based on a design speed of 20kph to comply with the standards under the Design Manual for Urban Roads and Streets. I would question whether such is firstly enough to deal with the potential traffic conflict and secondly feasible due to existing trees located along the north eastern boundary that are not within the appeal site. I would note the entrance arrangements as proposed fail to address existing issues regarding the layout of junction of the entrance to the appeal site and the existing service road for Fey Yerra, to a degree that there is potential for conflicting traffic movements due to the deficiencies in the visibility at the entrance to the appeal site and the fact the proposal entails an intensification of traffic level over the existing. The proposed development would endanger public safety, by reason traffic hazard and would interfere with the safety and free flow of traffic at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## **7.7 Trees:**

7.7.1 Permission was refused partly due to concerns regarding the significant negative impact on the category 'A' trees on site and on the adjoining site which would detract from the sylvan character of the area. Such was considered to be contrary to Policy UD1 in the 2016-2022 Dún Laoghaire-Rathdown County Development Plan, and injurious to the amenities of the area. The observation also notes concern regarding the impact of works proposed on existing trees along the north eastern boundary and the service road to Fey Yerra with it noted that tree protection measures are inadequate.



7.7.2 The applicant/appellant did submit a tree survey on the site, which categorised trees into four different categories (A, high quality/value, B moderate quality/value, C low quality/value and U trees in poor condition. The proposal entails the removal of existing trees with all categories from A to U represented. The proposal does include the retention of a small number of trees on site and tree protection measures for such as well as the existing trees adjacent the north eastern boundary. I would note that the redevelopment of the site would lead to an inevitable loss of trees and that such should not preclude such development, given the zoning of the site and its proximity to existing public transport infrastructure. The level of tree removal identified by the applicant is acceptable and necessary for any meaningful redevelopment of the site. The applicant has proposed tree protection measures in relation to existing trees on the adjoining site along the shared surface access laneway. The feasibility of such is questioned by the observers and in this regard I would note that the widened access laneway would appear to be facilitated mostly on the south western side by integrating part of the curtilage of Mornacott to the south into the site. I would note that in the event of permission being granted a condition requiring implementation of the tree protection measures should be included.

## **7.8 Appropriate Assessment:**

7.8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

8.1 I recommend refusal based on the following reasons.

## **9.0 Reason and Considerations**

## 9.1

1. Notwithstanding the residential zoning designation of the site, it is considered that the proposed residential development, which is located in close proximity to a major transport corridor being within 1.2 km walk of the Sandyford Luas Stop and 700m of from the N11 QBC, is at a density which represents an unsustainable use of urban land with considerable scope for increased density on site in particular along the road frontage. The proposal would be contrary Development Plan policy set down under Objective RES3 and the density requirements in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009. The proposed development would therefore be contrary the policy objectives of the development plan and national policy and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The entrance arrangements as proposed fail to address existing issues regarding the layout of the junction of the entrance to the appeal site and the existing service road for Fey Yerra, to a degree that there is potential for conflicting traffic movements due to the deficiencies in the visibility at the entrance to the appeal site and the fact the proposal entails an intensification of traffic levels. The proposed development would, therefore, endanger public safety by reason traffic hazard, interfere with the safety and free flow of traffic at this location, and be contrary to the proper planning and sustainable development of the area.

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Colin McBride  
Planning Inspector

15<sup>th</sup> November 2017

