



Development

The proposed development on this site of 3,606 sq m to consist of:

- 1) The demolition of two existing dwellings – Kinvara & Kinros (total floor area of 585 sq m) and associated ancillary sheds.
- 2) The provision of eighteen units in two blocks of three storeys comprising 4 x 1 bed apartments, 6 x 2 bedroom apartments and 8 x 3 bedroom apartments.
- 3) 27 No. car-parking spaces; cycle parking; the realignment of the existing entrance southwards requiring the relocation of the existing ESB kiosks further south; the widening and resurfacing of the existing access avenue to provide a shared surface incorporating the inclusion of 44 sq m of lands to the west of the access avenue from the adjoining Mornacott site;
- 4) the facilitation of 2 No. car-parking spaces for the permitted mews

dwelling at Mornacott as granted under DLR Reg. Ref. D17A/1058

- 5) Works on Leopardstown Road comprising amendments to existing road markings located in the centre of the road carriageway at the entrance to Fey Yerra to facilitate a formal right turn pocket for vehicles.
- 6) Potential pedestrian links on the north-eastern and eastern boundaries; bin storage (29 sq m); hard and soft landscaping; boundary treatments; signage; lighting; changes in level; diversion of services and all other associated site works.

Location	Kinvara & Kinros, Leopardstown Road, D18.
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D19A/0972
Applicant(s)	Rivertempus Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission with conditions.
Type of Appeal	Third Party

Appellant(s)

David Whelan & Eileen M. O'Brien
Fey Yerra Management Limited
Jim Leyden
Jodie-Jane Tingle
Dearbhaile O'Kelly

Observers

Sandra Keaveney
Kevin Kilmurray & B. Brett

Date of Site Inspection

14th October 2020

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The site comprises of a stated area of 3,606 sq m located to the north west of the Leopardstown Road/ R113, County Dublin. The location is almost midway between the N11 – Dublin to Bray Road and the junction of the Leopardstown Road/ Burton Hall Road to the east of Sandyford Business Park. The main part of the site is set back from the public road by circa 65 m, a driveway provides access to the site. On site are two detached houses, Kinvara and Kinros; large part single/ part two storey houses on generous site areas and which are habitable. Site boundaries consist of a mix of mature hedgerows/ planting/ trees and fencing.
- 1.2. The Leopardstown Road primarily consists of large, detached houses on large sites. To the north east of the subject site is Fey Yerra/ Fey Yerra Wood, residential development of semi-detached houses, two storey/ part three storey houses accessed by way of a roadway to the Leopardstown Road. This access road parallels the access to the subject site, both roads separated by planting and trees. To the west and north of the subject site is a large area of public open space that serves the residential development along Leopardstown Avenue and the surrounding area.
- 1.3. This section of the Leopardstown Road is served by Go-Ahead bus route 114 which connects Blackrock DART station to Ticknock via Sandyford on an hourly basis. The N11 Quality Bus Corridor (QBC) is approximately 750 m from the site and is served by high frequency bus services. Sandyford and Central Park Luas stops are each located approximately 1.2 km from the site. Off-road cycle paths are provided along this section of the Leopardstown Road.

2.0 Proposed Development

The proposed development of this site, with a stated area of 0.3606 hectares, consists of:

- The demolition of two dwellings – ‘Kinvara’ & ‘Kinros’ (total floor area of 585 sq m) and associated ancillary sheds.
- The provision of eighteen units in two blocks of three storeys comprising:
 - Four no. one bed apartments,

- Six no. two bedroom apartments
- Eight no. three bedroom apartments.
- 27 No. car-parking spaces; cycle parking; the realignment of the existing entrance southwards requiring the relocation of the existing ESB kiosks further south; the widening and resurfacing of the existing access avenue to provide a shared surface incorporating the inclusion of 44 sq m of lands to the west of the access avenue from the adjoining Mornacott site;
- The facilitation of 2 No. car-parking spaces for the permitted mews dwelling at Mornacott as granted under DLR Reg. Ref. D17A/1058
- Works on Leopardstown Road comprising amendments to existing road markings located in the centre of the road carriageway at the entrance to Fey Yerra to facilitate a formal right turn pocket for vehicles.
- Potential pedestrian links on the north-eastern and eastern boundaries; bin storage (29 sq m); hard and soft landscaping; boundary treatments; signage; lighting; changes in level; diversion of services and all other associated site works.

The proposed density is 50 units per hectare.

Following the receipt of further information, open space provision was revised, the number of car parking spaces was reduced from 27 to 26 and the two spaces to serve Mornacott were omitted, bicycle parking revised to a total of 56 spaces and one motorcycle space to be provided. Revisions to the residential units were made to reduce overlooking and provide for larger bicycle parking spaces. SUDs measures were also introduced.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of further information, the Planning Authority decided to grant subject to conditions. The conditions are generally standard. Condition no.2 requires the submission of a revised landscaping plan/ boundary details, Condition no.3 requires evidence of consent to provide the links to Leopardstown Avenue Park, Condition no. 7 to submit revised drawings demonstrating that the disabled parking

bay comply with necessary standards and Condition no. 8 refers to the submission of a written agreement from the Planning Authority indicating that submitted drawings detailing amendments to the road linings of the Leopardstown Road are acceptable.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Report reflects the decision to grant permission subject to conditions. A further information request raised a number of issues as follows, in summary:

1. To submit revised drawings and details that demonstrate the quantity, classification and useability of the proposed open space areas.
2. To demonstrate how the links to Leopardstown Park can be adequately/ appropriately be provided for.
3. Revisions to car parking and to only provide parking spaces to serve this development. In addition, electric charging spaces to be provided.
4. Details and revisions to bicycle parking and also provide for motorcycle parking.
5. To provide an updated Quality Audit which is to include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit.
6. To provide for a detailed Construction Traffic Plan.
7. Revise the balcony of apartment no. B1.18 in order to prevent overlooking of adjoining properties.
8. To demonstrate that footpaths of 1.8 m wide can be provided.
9. To provide surface water drainage details and appropriate SUDs measures.

The applicant submitted a detailed response to each of this point of further information. The Planning Authority Case Officer was generally satisfied with the submitted response and a grant of planning permission was recommended.

3.2.2. Other Technical Reports

Transportation Planning: Further information was requested in relation to the provision of an updated Quality Audit (to include a Road Safety Audit, Access Audit,

Cycle Audit and a Walking Audit), revised car parking details, to demonstrate that car parking to be capable of electric vehicle charging, revised bicycle parking and provide for motorcycle parking, to demonstrate how pedestrian links can be provided for and to submit a detailed construction traffic plan. On receipt of the further information response, the Transportation Planning Section reported no objection subject to conditions.

Drainage Planning – Municipal Services Department: Further information requested in relation to surface water drainage and to demonstrate that suitable SUDs measures can be provided on site. No objection on receipt of the further information response.

Parks and Landscape Services: Further information requested in relation to revising the open space area and request a revised/ updated Tree Report. On receipt of the further information response, the Parks and Landscape Services requested clarification of further information.

Housing Department: No objection subject to recommended condition.

3.2.3. **Prescribed Bodies Report**

Irish Water: No objection subject to recommended conditions.

Transport Infrastructure Ireland (TII): No objection but relies on the Planning Authority to assess impacts on the road network and refers to the Section 49 Supplementary Contribution Scheme for the Extension of Luas Line B1 – Sandyford to Cherrywood and the site falls within the scheme area.

3.2.4. **Objections/ Observations**

A number of letters of objection/ observation were received to the original application.

Issues raised include:

- History of the site and previous refused permissions are noted/ referred to.
- The proposed development would negatively impact on important trees, which form part of the character of the area. These are owned by Fey Yerra Management Ltd.

- Concern that submitted reports have downgraded the status/ quality of trees on site.
- Concern about traffic safety and in particular the junction arrangement at the entrance to the site. An assessment was undertaken by 'Trafficwise – traffic & transportation solutions' on behalf of Fey Yerra Management Ltd. – who conclude that the junction arrangement does not overcome previous concerns/ reasons for refusal under previous applications.
- Existing traffic on the Leopardstown Road is congested and this development will only add to that.
- Issue of consent to develop these lands and ownership issues with particular reference to the proposed site access arrangements.
- Concern that the development would generate a significant amount of surface water run-off which may impact on existing adjoining residential areas.
- Impact on existing residential amenity through loss of sunlight and loss of outlook. This will devalue existing property.
- Concern about negative impact on the area during the construction phase of development with reference to the parking of contractors' vehicles onto the Fey Yerra private avenue.
- Query over the relocation of a public lighting pole and the impact on other lights along the Fey Yerra avenue.

4.0 Planning History

P.A. Ref. D17A/0478/ ABP Ref. PL06D.249042 refers to an April 2018 decision to refuse permission for the demolition of two houses and the construction of nine number, three storey houses and all necessary site works, services provision, landscaping and boundary treatment. Reasons for refusal included:

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 a 1.2 kilometre walk of the Sandyford Luas Stop and 700 metres from the N11 Quality Bus Corridor, is at a density which represents an

unsustainable use of urban land (with considerable scope for increased density on site) and would, therefore, be contrary to 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 to the policy objectives of the current Dún Laoghaire-Rathdown County Development Plan and national policy. The proposed development 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 that the proposal entails an intensification of traffic levels. The proposed development would, therefore, endanger public safety by reason of traffic hazard, interfere with the safety and free flow of traffic at this location and would be contrary to the proper planning and sustainable development of the area.

3. The layout and design of the proposed development would 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. The proposed development would be contrary to Policy UD1 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and would seriously injure the amenities of the area.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

P.A. Ref. D19A/0350 refers to a July 2019 decision to refuse permission for the demolition of two existing dwellings and associated ancillary sheds and the provision of a twenty five unit, two to three storey over basement residential apartment development, car parking, landscaping and all associated site works. Reasons for refusal included:

1. The vehicular entrance as proposed has not overcome the safety concerns and reason for refusal for the previous application on site (Reg. Ref. D17A/0478/PL06D.249042). The intensification of traffic levels given the proposed sightlines at the development/ Fey Yerra junction and at the entrance to the proposed basement car park, which cannot be achieved given the reliance on works required outside the application site for which consent has not been given, would result in a development which would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Policy UD1: 'Urban Design Principles' of the Dún Laoghaire – Rathdown County Development Plan 2016 – 2022 states that it is policy to ensure that all development is of high quality design that assists in promoting a 'sense of place', and seeks to ensure that development proposals are cognisant of the need for the proper consideration of inter alia context, layout, privacy and amenity and detailed design. This policy is considered reasonable. The proposed development, by reason of its overall design and site layout, and in particular the inadequate usable communal open space, in addition to tree loss, represents overdevelopment of the site, and would result in a substandard level of amenities to serve the future occupiers of the proposed residential scheme. The proposed development would not, if permitted, be in accordance with Policy UD1 of the Dún Laoghaire – Rathdown County Development Plan 2016 – 2022, and would, therefore, be contrary to the proper planning and sustainable development of the area.

P.A. Ref. D17A/1058 refers to a February 2018 decision to grant permission for a new part single part two storey flat roof private house located in the rear garden of the existing house, 'Mornacott'. The development also includes a new vehicular entrance onto the existing private laneway serving Kinvara and Kinros, new gates and all ancillary site works. Mornacott is located to the south east of the subject site.

5.0 Policy and Context

- 5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A 'To protect and/or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.
- 5.1.2. Chapter 2 – 'Sustainable Communities Strategy' of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, includes section 2.1 'Residential Development'. The Introduction (2.1.1) refers specifically to how future population growth will be accommodated, with one model – 'Through the continuing promotion of additional infill accommodation in existing town and district centres at public transport nodes, brownfield sites and established residential areas'.
- 5.1.3. Under 2.1.3.3 'Policy RES3: Residential Density' it is policy to: '.. 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'. I also note the following:

'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. Consideration in relation to densities and layout may be given where proposals involve existing older structures that have inherent vernacular and/or streetscape value and where retention would be in the interests of visual and residential amenity and sustaining the overall character of the area'.

Under 2.1.3.4 'Policy RES4: Existing Housing Stock and Densification' it is policy to:

- Encourage densification of the existing suburbs in order to help retain population levels – by 'infill' housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc.

Under 2.1.3.7 'Policy RES7: Overall Housing Mix' 'It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy'.

5.1.4. Section 5.1 refers to 'Environmental Infrastructure and Management' and Section 5.2 refers to 'Climate Change, Energy Efficiency and Flooding'.

5.1.5. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development' and the following are relevant to the subject development:

- 8.2 'Development Management' – with particular reference to section 8.2.3 'Residential Development' and 8.2.3.4 'Additional Accommodation in Existing Built up Areas'.
- Section 8.2.4.12 refers to Electrically Operated Vehicles – One parking space per 10 spaces to provide for electric charging.
- Section 8.2.10.4 refers to Flood Risk Management.

5.2. National Guidance

- The National Planning Framework includes a specific Chapter, No. 6 – '*People Homes and Communities*' which is relevant to this development. This chapter includes 12 objectives (National Policy Objectives 26 to 37) and the following are key to this development:
 - National Policy Objective 27 seeks to 'Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages'.

- National Policy Objective 33 seeks to ‘Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location’.
- National Policy Objective 35 seeks to ‘Increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights’.
- Quality Housing for Sustainable Communities (DoEHLG, 2007).
- Design Manual for Urban Roads and Streets (DMURS).
- Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (DoEHLG, 2009) and its companion, the Urban Design Manual – A Best Practice Guide (DoEHLG, 2009).
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DoHPLG, 2018).

These guidelines provide for a range of information for apartment developments including detailing minimum room and floor areas.

- Urban Development and Building Heights Guidelines for Planning Authorities (DoHPLG, 2018).
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (DEHLG & OPW 2009).
- Permeability Best Practice Guide (NTA).

5.3. Natural Heritage Designations

None.

5.4. EIA Screening

Having regard to the nature of the proposed development comprising the demolition of two existing houses and the provision of an apartment development on a brownfield site, in an established urban area and where infrastructural services are

available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Five separate appeals have been submitted against the decision of Dun Laoghaire-Rathdown County Council to grant permission for this residential development. The appeals from Dearbhaile O’Kelly, Jodie-Jane Tingle and Jim Leyden are similarly worded, though all appeals raise the generally same issues of concern.

Mains grounds of appeal include:

- Query over the red line boundary of the site and all of the site may not be within the applicant’s ownership.
- The development will result in the loss of existing trees and may impact negatively on trees on the adjoining Fey Yerra lands.
- The proposed road access has not overcome the previous reasons for refusal and an independent transport report has indicated that the proposed junction does not overcome previous concerns.
- Concern that the development will increase/ give rise to localised flooding in the area.
- The proposed development will impact on existing residential amenity through the height and scale of development giving rise to overshadowing.
- The proximity of the car parking area to existing houses will give rise to nuisance and consequential loss of residential amenity.

The appeal submitted on behalf of Fey Yerra Management Ltd, was prepared by Kieran O’Malley + Co. Ltd and supporting documentation includes an engineering assessment prepared by ‘Travelwise’. Some additional comments made here include:

- Construction vehicles should not park on Fey Yerra private road.

- No provision should be made for pedestrian access from Fey Yerra through the proposed development to Leopardstown Avenue Park.
- The proposed Block A should be omitted and replaced with communal open space including a play area to serve the proposed development.
- Construction access should only be provided through the open space at Leopardstown Avenue Park.

6.2. First Party Comment

- 6.2.1. Thornton O'Connor Town Planning on behalf of the applicant have prepared a response to the appeal.

The following points are made in summary:

- Nature of the development is provided in the context of the Planning Authority report.
- Legal status of the site is outlined, and the applicant confirms that all lands within the red line boundary are within their ownership. Legal documents included from Miley & Miley LLP Solicitors and includes site maps etc.
- Impact on residential amenity is considered in detail.
 - Noise from car parking areas is no different to existing car use.
 - Scale, massing, and height is appropriate in this location and has regard to previous applications on this site and national policy on increased densities in suitable locations.
 - Overlooking of adjoining properties has been designed out from the proposed development.
 - The height at three storeys is not excessive having regard to the existing character of the area.
- Trees were recategorized as a new Arborist was employed to carry out an independent assessment and time has passed since the first tree survey. It is noted that a number of trees have died since the first survey.
- It is considered that subject to best practice, the trees on the avenue can be protected from any impacts during the construction phase of development.

- It is considered that access to the site can be provided in a safe and appropriate manner. Details provided by DBFL Consulting Engineers.
- Surface water run-off can be accommodated on site without impacting on neighbouring properties. A supporting report has been prepared by DBFL Consulting Engineers.
- Note recommended conditions in the submission by Kieran O'Malley. Accept the first two, firstly, no construction vehicles to park on the Fey Yerra private road and secondly, no provision be made for a pedestrian link between Fey Yerra and Leopardstown Avenue Park through the subject site. The third condition recommended that Block A be omitted to provide for additional communal open space – opposed to this and fourthly, construction vehicles only access the site through the Leopardstown Avenue Park, do not oppose this but consider that the Local Authority would be opposed to this (see below in Section 6.4).

6.3. **Observations**

Two observations were received in support of the appeal. Comments include reference to traffic safety concerns with examples provided and concern about the scale of development, impact on existing trees and potential drainage issues.

6.4. **Planning Authority Response**

The Planning Authority note the submitted appeals and makes some additional comments with reference to the appeal submitted by Kiaran O'Malley + Co. Ltd on behalf of Fey Yerra Management Ltd. Condition no. 9 of the recommended grant of permission requires the submission of a construction management plan that seeks to ensure that construction traffic/ parking does not impact on existing residential amenity. The adjoining public park – Leopardstown Avenue Park is zoned 'F' – for public open space use and the suggestion to use this space for construction traffic to access the subject site is strongly resisted by the Planning Authority.

7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Principle of Development
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Traffic and Access
- Surface Water Drainage
- Other issues
- Appropriate Assessment Screening

7.2. **Principle of Development**

7.2.1. The subject site is zoned 'A' for residential development, and it is therefore considered that the provision of a residential development on this site is acceptable in principle. National and local policy as set out in the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 seeks to increase densities where this is appropriate. The proposed development is for 18 duplex units on a site of 0.3606 hectares, therefore giving a density of 50 units per hectare. This density is considered to be acceptable in an area where public transport is within walking distance, primarily the N11 QBC, though the Luas stops at Sandyford and Central Park are also within walking distance. Previous applications were refused permission due to the insufficient density and that issue has been fully considered here.

7.2.2. I do not consider the existing houses on site worthy of retention or incorporation into any redevelopment of the site. The houses are not listed on the record of protected structures and the site is not located within an Architectural Conservation Area (ACA).

7.3. **Design and Impact on the Character of the Area**

- 7.3.1. The Planning Authority requested further information and in response the applicant submitted revised plans and elevational details, these are relatively minor, but I consider the revisions to be an improvement on the originally submitted application. The design of this residential scheme is somewhat unusual in that it is a mix of contemporary architecture with very clear traditional elements. The elevational design with a mix of treatments, large vertical windows, and design of the front/ eastern elevations, represent a contemporary form of architecture. The use of pitched roofs over a three-storey structure is a more traditional form of architecture. The design of the development is detailed in the supporting 'Planning Application Design Statement' prepared by 'Red Workshop architects'.
- 7.3.2. I am satisfied that the proposed development will visually integrate into its surroundings. Although the immediate area is primarily characterised by two story units, the proposed development will not negatively impact on the visual character of the area. The curved nature of the two blocks will provide a sense of enclosure to the eastern side of the public open space at Leopardstown Avenue Park and will provide for improved passive surveillance through the gable fronted elevations without negatively impacting on the character of this open space.
- 7.3.3. Elevational treatments consist primarily of buff coloured brick, some rendered finish areas and elements of terracotta/ ceramic tiling to provide for some relief to the buff areas. Balcony railings to be steel rail powder-coated which will match the aluminium/ Alu-Clad framed glazing. The design is carefully considered and the use of the render, terracotta/ ceramic tiling in addition to the use of perforated brickwork sections indicates a high-quality form of architecture will be provided here. I consider that the development benefits from the existing mix of mature trees/ planting which will work well with the primarily buff coloured finish of the buildings. The zinc roof will also work well in this location. The design of the buildings presents a sense of solidness but also openness through the large windows, separation between the two blocks and curved nature of the buildings.
- 7.3.4. I am satisfied that the design of the development is sufficient to ensure that overshadowing is not an issue of concern. Some overshadowing is likely in the afternoon, in winter when the sun is low in the sky, this will not impact on residential amenity to any significant amount.

7.4. Impact on Residential Amenity

- 7.4.1. The proposed development provides for adequate room sizes in accordance with the apartment guidelines and adequate storage provision is available to future occupants. The revisions made in response to the further information request, include for improved bicycle parking at ground floor level. These spaces are covered with a green roof and are easily accessible to the adjoining residential units.
- 7.4.2. The mix of units, which includes for one, two and three bedroom apartments, will provide for different housing/ tenure needs.
- 7.4.3. All units demonstrate compliance with the requirements for private amenity space, in the form of balconies and terraces in the case of ground floor units. Communal open space (circa 600 sq m) is available at ground level to the western side of the site. Public open space is not provided for, the Planning Authority do not appear to have any concerns in this regard.
- 7.4.4. All units are indicated as dual aspect and floor to ceiling heights as indicated on the cross sections are acceptable and are in accordance with the requirements of the apartment guidelines.
- 7.4.5. The issue of overlooking/ loss of privacy was raised as an issue of concern in the appeals. The 'Planning Site Layout_2019' drawing no. A5-1112 received by the Planning Authority in response to the further information request, indicates the distances to the site boundaries. The design has been carefully considered in this regard and ensures that adequate separation distances are provided. The use of perforated brick screens to the balcony on the southern elevation, will ensure that overlooking on this side of the site is adequately addressed.
- 7.4.6. The nature of the development is such that overbearing is not an issue of concern. As already referred to, this is an apartment development, but the design takes account of the character of the area which is two-storey housing. An apartment block may have a greater impact on the character of the area and the applicant has addressed such concerns through the submitted design.

7.5. Traffic and Access

- 7.5.1. The Dun Laoghaire-Rathdown County Council Transportation Department reported that they had no objection to this development following the receipt of further

information, subject to conditions. Conditions included the need for a detailed construction management plan with a construction traffic management plan and that full details of the revisions to the road lining on the Leopardstown Road be submitted for the written agreement of the Planning Authority.

7.5.2. Concern has been raised about the access to the site and the increase in traffic from the development. As already reported, the site is in an established urban area and where public transport is available. The applicant submitted by way of further information, legal details indicating that they had ownership over the access to the site. Whilst the applicant has demonstrated adequately that they have legal entitlement to make this application, the Planning Authority have correctly referred to Section 34(13) of the Planning and Development Act 2000 as amended and which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development'.

7.5.3. I am satisfied that access to the site can be safely provided. I do not foresee that the traffic volumes generated by this development will negatively impact on the overall area. Traffic on the Leopardstown Road is heavy at peak times, but that would not be unusual for a regional road connecting national primary routes (N11/ M50) and significant urban development.

7.5.4. Adequate car parking has been provided to serve this development, with at least one space per unit. Additional visitor parking has also been provided on site. Parking to serve the adjoining 'Mornacott' has been omitted from the development at further information stage. Provision has been made for electric vehicle charging spaces and motorcycle parking is also indicated on the site layout plan. It should be possible to increase the number of electric charging points in the future if necessary as the proposed spaces are outdoor and it is relatively easy to provide for additional electric cabling to these spaces, which is not usually the case in underground/ undercroft car parks.

7.6. **Surface Water Drainage**

7.6.1. Flooding was raised as an issue in the appeal/ letters of objection. The Drainage Department of Dun Laoghaire-Rathdown County Council raised no issues of concern in their report. Attenuation is catered for onsite and a number of SUDs measures have been proposed by the applicant for this site/ development. I have looked at the

OPW – floodinfo.ie website and there is no recent record of any flooding or surface water issues in this area.

- 7.6.2. I also note the use of green roofs such as over the bicycle parking areas which will have a small but beneficial impact on surface water drainage.
- 7.6.3. Irish Water raised no objection to this development in terms of water supply and foul drainage.

7.7. Other Issues

- 7.7.1. I note that the Housing Department have no objection to the development and that details can be agreed following a grant of permission.
- 7.7.2. The submitted landscaping plan and associated detail is considered to be acceptable. The protection of existing trees was a matter of concern raised in the submitted appeals. As I have noted already in this report, the retention of as many mature trees as possible will benefit the setting of this development. The design of the road access serving the development is such that I do not foresee that the development will impact on existing trees to the east of this proposed access. Standard tree protection measures during the construction phase will ensure that no negative impacts occur. I note the Tree Protection Plan submitted to the Planning Authority on the 11th of December 2019
- 7.7.3. Concern was raised in the appeal that car parking on site would negatively impact on existing residential amenity. This is a relatively modest residential development and car parking provision is of a suitably appropriate scale in this regard. The site is zoned for residential development and the scale of development is appropriate for such a location. I do not consider the issue of nuisance that may be generated from on-site car parking to be significant. For residents of Fey Yerra, car parking generated within their area is likely to be of a greater significance than that generated on this site. Car parking is spread throughout the site and this is appropriate as a single large car parking area may generate a greater level of nuisance. Underground car parking could be provided on site, but the density and height of development would probably have to be at a significantly greater level to make this financially worthwhile.

- 7.7.4. I note that proposals have been made to provide connections to the existing public park to the north/ west and a link is indicated to Fey Yerra to the east. The link to the public park will be by way of an accessible ramp. I have no objection to such connections, and this supports the promotion of permeability as per the National Transport Authority Guidelines. At a minimum, the connections should be accommodated, and a gate or temporary fence may be inserted until such time as the link is opened; the proposals in this regard as indicated in the submitted documentation are acceptable. From the site visit, I was able to access the Fey Yerra avenue from the subject site without much difficulty.
- 7.7.5. The report from Transport Infrastructure Ireland (TII) is noted and in particular the comments regarding the Section 49 contribution in respect of ‘the extension of Luas Line B1 – Sandyford to Cherrywood’. The site falls within the contribution area.

7.8. Appropriate Assessment Screening

- 7.8.1. The applicant has engaged the services of Openfield Ecological Services to carry out an Appropriate Assessment Screening of the site. The assessment finds that the site is not within or adjacent to any Natura 2000 site and significant impacts to a Natura 2000 site are not foreseen, either alone or in combination with other plans or projects.
- 7.8.2. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, relevant National Guidelines and the zoning of the site for residential purposes, to the location of the site in an established urban area within walking of public transport and to the nature, form, scale, density and design

of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential, visual or environmental amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 11th of December 2019 and as amended by the further plans and particulars submitted on the 9th 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This permission is for 18 no. residential units in the form of four no. one bedroom apartments, six no. two bedroom apartments and eight no. three bedroom apartments. The development to be carried out in accordance with the revised 'Planning Site Layout_2019' – Drawing No. A5-1112 and 'Planning proposed Contextual Elevation_Kinvara+Kinros_Section Option A' – Drawing No.A5-1118 received by the Planning Authority on the 9th of April 2020.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>Prior to the commencement of development, the developer shall provide, for the written agreement of the Planning Authority:</p> <p>a) The proposed fencing along the boundaries with the Leopardstown Avenue Park to be removed and replaced with a suitable boundary treatment.</p>

	<p>b) Full details of the proposed external design/ finishes in the form of samples and on-site mock-ups. These details shall include photomontages, colours, textures and specifications.</p> <p>c) The apartment terrace/ balcony railings/ supports shall be painted/ coated metal and shall not be unpainted galvanised metal railings.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>The internal road network serving the proposed development, including turning bays, parking areas, footpaths and kerbs, and the junction with the public road shall be in accordance with the detailed standards of the Planning Authority for such works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
5.	<p>Full details of the revisions, at the developer's expense, to the road lining on the Leopardstown Road which facilitate right turning movements to/ from the proposed development which shall be in accordance with the Traffic Signs Manual 2019, shall be submitted for the written agreement of the Planning Authority prior to the commencement of works.</p> <p>Reason: In the in the interest of traffic safety.</p>
6.	<p>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.</p>

	<p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
7.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
8.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
9.	<p>a) The landscaping scheme and associated boundary details shown on drawing no. 01, 02, 03 and 04, as submitted to the Planning Authority on the 9th day of April 2020, shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>b) 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 or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>c) The trees and associated planting along the boundary with Fey Yerra shall be suitably protected in accordance with best practice and as set out in the submitted documentation.</p> <p>Reason: In the interest of residential and visual amenity.</p>
10.	<p>Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1st – August 31st).</p>

	<p>Reason: To protect birds and bird breeding habitats during the nesting season.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
12.	<p>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, a fully details Construction Traffic Management Plan, noise management measures and off-site disposal of construction/ demolition waste. No construction/ contractor vehicles shall park on the accessway to Fey Yerra and site parking details shall be included within these documents.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p>

	<p>Reason: In the interest of sustainable waste management.</p>
14.	<p>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.</p> <p>Reason: To protect the amenities of the area.</p>
15.	<p>(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company</p> <p>(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.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
16.	<p>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.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
17.	<p>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</p>

	<p>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.</p> <p>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.</p>
18.	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
19.	<p>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</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
20.	<p>The developer shall pay to the planning authority a financial contribution in respect of ‘the extension of Luas Line B1 – Sandyford to Cherrywood’ in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>

Paul O’Brien
 Planning Inspector

11th November 2020