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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F19A/0521**

**Appeal** by Seamount View Residents Association care of Laura Cunningham and Linda Daly of 26 Seamount View, Malahide Road, Swords, County Dublin against the decision made on the 18<sup>th</sup> day of June, 2020 by Fingal County Council to grant subject to conditions a permission to John Aherne care of CEA Architects of Unit 7, Block E, Nutgrove Office Park, Rathfarnham, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** A material change of use and amendments to previous planning application F17A/0714 for a mixed use development consisting of: four six-storey apartment blocks containing 154 two-bedroom apartments with commercial office space on the ground floor along Swords to Malahide Road (R106), a five-storey corner block consisting of two storeys of restaurant, two storeys of commercial offices and two penthouse apartments, an underground parking basement and vehicle entrance ramp for 199 car parking spaces, an ESB metre room/switch room and refuse collection areas; provision of landscaped courtyards, covered bicycle parking, upgrading of landscaping and footpaths along the Swords to Malahide Road (R106) and the service road within the curtilage of the site; Advertising panels on the

corner block; A new 1.8 metre high perimeter security fence with supplementary planting along the western boundary with provision for pedestrian access gates to the public park, to the west of the development; provision for all storm water, foul drainage, mains water and electricity supply connections ancillary to the development to connect to the existing infrastructure; upgrading of the existing vehicle entrance on Swords to Malahide Road (R106) and provision of a new vehicle entrance to the underground car parking basement from the service road running up the eastern boundary, all at Swords to Malahide Road (R106), an area known as Mountgorry, Swords, County Dublin, as revised by the further public notice received by the planning authority on the 12th 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.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## Reasons and Considerations

Having regard to the “Metro Economic Corridor” zoning objective for the site, the pattern of development in the area, the planning history for the site and the nature and scale of the proposed development the Board considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received on the 30<sup>th</sup> 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 interest of clarity.

2. Block C shall be omitted from the proposed development. The proposed residential element of this decision permits 128 number residential units.

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

3. 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.

4. Prior to the commencement of development, the following requirements shall be submitted for written agreement of the planning authority:

- (a) A revised basement layout designed in accordance with the Design Recommendations for Multi Storey and Underground Car Parks. The extent of the basement shall be reduced along the southern boundary of the site in line with the planning authority's requirements in order to provide a clear way for services below the footpath and cycle lane.
- (b) Details of a toucan crossing at the northern arm of the roundabout in accordance with the planning authority requirements.
- (c) Revised layout for the proposed public footpath and cycle path to the south of the site to ensure tie in with the adjoining public footpath to the west.

**Reason:** In the interests of traffic and pedestrian safety and the proper planning and sustainable development of the area.

5. The mitigation measures outlined in the Ecological Impact Assessment and Bat Assessment Report shall be implemented on site.

**Reason:** In the interests of biodiversity and to minimise disturbance to bats and birds on site.

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

**Reason:** To secure the protection of the trees on the site and in the interest of visual amenity and biodiversity.

7. Prior to the commencement of development, the developer shall agree the details of public art to be provided within the development with the planning authority.

**Reason:** In the interests of public and residential amenity.

8. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

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

9. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

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

10. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

11. The developer shall comply with the following requirements of the Environmental Health Officer:
  - (a) During the operational phase of the development, the noise level arising from the development, as measured at the nearest noise sensitive location, shall not exceed the background level by 10dB(A) or more or exceed NG4 levels whichever is lesser:

Day time (0700 to 1900) - 55dB,  
Evening (1900 to 2300) - 50dB,  
Night time (2300 to 0700) - 45dB

measured from the nearest noise sensitive location. Clearly audible and impulsive tones at noise sensitive locations during evening and night shall be avoided irrespective of noise level.

- (b) Once operational, deliveries to commercial premises shall be limited to Monday to Friday from 0700 to 2000 hours, Saturday 0800 to 2000 hours and Sunday 0900 to 2000 hours.
- (c) The development shall be operated so that there will be no emissions of malodours, gas, dust, fumes or any other deleterious materials, no noise vibration on site as would give reasonable cause for annoyance to any person in any residence, adjoining unit or public place in the vicinity.
- (d) All mechanical services shall be designed and suitably located to prevent nuisance from noise and odours to residents and businesses close to the development.

**Reason:** To protect the existing residential amenities of the area and the residential amenities of future occupants.

- 12. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of work, noise and dust management measures, disposal of construction/demolition waste.

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

13. Proposals for an apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development,

**Reason:** In the interest of urban legibility.

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

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

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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



16. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

18. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Paul Hyde**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2020.**