

An Bord Pleanála



Inspector's Report

PL06D.245603

Development: Demolition of vacant factory building, construction of 14 no. apartments over underground car park & refurbishment and extension of no. 4 Bentley Villas.

Location: Site adjacent to no. 4 Bentley Villas, Dun Laoghaire, Co. Dublin.

Planning Application

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref. No: D15A/0262

Applicant: Randalswood Construction Limited

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellants: (1) J.K. & S Hughes, G Howard, M Lennon & S.S Shepherd

(2) Randalswood Construction Limited

Type of Appeal: First and Third Party

Date of Site Inspection 12/1/16

Inspector: Siobhan Carroll

1.0 SITE LOCATION AND DESCRIPTION

- 1.0.1 The site of the proposed development is located at the junction of the George's Place and Callaghan's Lane at Dun Laoghaire, Co. Dublin. It lies to the north of the Main Street of the town, George's Street Lower. There is a mix of residential and commercial uses in the surrounding area. The commercial uses include the Dun Laoghaire School of Music which is located to the south and the Harbour View Business Centre to the west of the site at the junction of George's Place and Clarence Street.
- 1.0.2 Bentley villas contains 3 no. two-storey 1920's dwellings. No. 4 Bentley Villas forms part of the appeal site and is a vacant property. Nos. 2 & 3 Bentley Villas adjoin no.4 and no. 1 Bentley Villas, at the opposite end of this small terrace was demolished and the site now forms part of mixed retail and residential scheme with frontage onto Clarence Street. This building is five storeys in height with the eastern section stepped down to two and a half storeys at the boundary with Bentley Villas.
- 1.0.3 The site has a stated area of 0.0837 hectares. There is a two storey former factory/warehouse building on site and the western part of the site contains the no. 4 Bentley Villas. The boundary of the site with George's Place is formed by a high fence and hedgerow. On the northern side of George's Place opposite the site lies no's 5-10 Bentley Villas a terrace of two-storey dwellings. The southern site boundary adjoins the rear gardens and yards of no's 129-134 George's Street Lower. These properties contain a mix of use including retail, office and residential.
- 1.0.4 The Harbour Court Apartment building is situated on the corner of Callaghan's Lane and George's Place. This four-storey building is directly opposite the appeal site. It contains commercial units at ground floor with upper floor apartments. Callaghan's Lane runs for 60m between the junction of George's Place and George's Street Lower. The road width narrows from 7.5m at the northern end to 3m at the southern end. Consequently, there is only one-way vehicular access from George's Street Lower onto Callaghan's Lane.

1.1 THE PROPOSED DEVELOPMENT

Permission is sought for the demolition of a vacant factory building development of a total 14 no. apartments, the refurbishment and extension of no. 4 Bentley Villas and all associated site works. Features of the scheme include;

- Site area 0.0837 hectares,
- Floor area of existing buildings 394sq m,
- Floor area of proposed works 2,251sq m,
- Floor area to be retained 96sq m,
- Floor space proposed for demolition 298sq m.

1.2 THE PLANNING AUTHORITY'S DECISION

Internal Reports:

Transport Department: No objection subject to conditions

Drainage Department: No objection

Parks Department: No objection subject to conditions

Submissions

The Planning Authority received a number of submissions in relation to the application the main issues raised are similar to those set out in the appeal.

Decision

Following the submission of further information and clarification of further information the Planning Authority decided to grant permission subject to 22 no. conditions.

1.3 PLANNING HISTORY

There is a comprehensive planning history on the site and for the surrounding area the most recent cases which relate to the subject site are;

Reg. Ref. D14A/0360 – Permission was refused for a four storey apartment building with 15 no. dwelling units for two reasons. The first refusal reasons refers to the height, bulk and mass of the proposed building and states that it would form a visually intrusive feature in the streetscape. The second refusal reason refers to the poor quality of design which would seriously injure the residential amenities of property in the vicinity by reason of overlooking.

Reg. Ref. D08A/1205 & PL06D.233690 – Permission was granted for the demolition of commercial building and end of terrace house and construction of a hotel with basement car park.

Reg. Ref. D07A/0608 & PL06D.227317 – Permission was refused for the demolition of industrial building and the end of terrace house and the construction of 16 no. apartments and 3 no. retail units. The first refusal reasons refers to the scale and layout of the proposed development and states that it would have an overbearing effect on the adjoining residential properties and due to the lack of adequate parking or loading and unloading facilities on the site, would constitute over-development. The second refusal reason refers to the height, bulk and mass of the proposed building and states that it would form a visually intrusive feature in the streetscape, be detrimental to the visual amenities of the area and would have an overbearing effect on adjoining residential properties.

Reg. Ref. D06A/0599 & PL06D.218868 – Permission was refused for the demolition of an existing commercial building and end of terrace house and construction of a 5 storey building to include 21 no. apartments and 3 no. retail units. Permission was refused for two reasons. The first reason referred to the size, scale, massing and design the proposed development that it would result in overlooking and overshadowing of properties to the south and west and would seriously injure their residential amenity. The reasons also makes reference to overhanging nature of the façade along Callaghan’s Lane, which would be detrimental to the amenities of the area. The second reason refers to the single aspect nature of over one third of the apartments, the lack of adequate on-site parking and the overall poor quality of design and layout which would result in a sub-standard form of development which would seriously injure the residential amenities of future residents.

2.0 PLANNING POLICY

2.1 Dun Laoghaire Rathdown County Development Plan 2010 – 2016

The subject site adjacent to no. 4 Bentley Villas, Dun Laoghaire, Co. Dublin is located on Map 3 of the Dun Laoghaire Rathdown Development Plan and is identified as being Zoned Objective ‘MTC’ ‘to protect, provide for and/or improve major town centre facilities.

- Chapter 5 – Residential Development
- Chapter 16 – Development Management
- Section 16.3 refers to Residential Development

3.0 APPEALS

3.1 A third party appeal has been received by the Board on the 12th of October 2015 from J.K. & S Hughes, G Howard, M Lennon & S.S Shepherd the main issues raised concern the following;

- The appellants have made a joint objection. John & Karen Hughes reside at no. 131 George's Street Lower. Samantha Shepherd resides at no. 133 George's Street Lower. Samantha Hughes resides at no. 6 Bentley Villas. Mary Lennon resides at no. 7 Bentley Villas and Grainne & Frances Howard reside at no. 3 Bentley Villas.
- The massing and scale of the proposed building is considered excessive having regard to the proximity of the neighbouring dwellings. It is considered that there would be a poor visual relationship between the building and existing properties. It is also considered that it would have an overbearing impact on the adjoining residential properties.
- Due to the inadequate separation distances provided it is considered that there would be overlooking of the existing gardens from the apartments and the roof garden.
- The pile driving which would be carried out would have a detrimental effect on the adjoining properties.
- The noise, vibrations, dirt and dust generated during construction works would negatively impact upon the adjoining residential properties.
- The proposed building would result in the loss of daylight to neighbouring properties.
- Concern is raised regarding the level of traffic and parking which would be generated.

3.2 First Party appeal

A first party appeal has been submitted by Roger Hofler Architects on behalf of the applicant, Randalswood Construction Ltd. on the 12th of October 2015. The main issues raised concern the following;

- The applicant is appealing condition no. 17 of the decision to grant permission. Condition no. 17 requires the payment of a special contribution of €28,875.00 for seven on-street car parking spaces.

- The proposed scheme comprises the development of 14 no. apartments with an underground car park and the extension of no. 4 Bentley Villas.
- There are three on-street car parking spaces on Callaghan Lane and three on-street car parking spaces on Georges Place. It is stated that the Planning Authority have assumed that no. 4 car parking spaces will be lost on Georges Place as a result of the proposed development. There will be no site works outside no. 4 Bentley Villas.
- It appears it is the assumption of the Planning Authority that the site works would result in the closure of all the on street car parking spaces.
- In terms of the proposed works it is intended to use sheet piling along the site boundary so excavations can be carried out behind it. Construction hoardings will be erect on the site boundary and the footpath of 1.5m in width will be maintained on Callaghan Lane with a footpath width of 2.5m being maintained on Georges Place. The applicant therefore considers that the new building can be constructed without any detrimental effect on the Local Authority 'on street' car parking.
- It is requested that the financial contribution be therefore omitted.

3.3 First Party response to third party appeal

A response to the third party appeal has been submitted by Roger Hofler Architects on behalf of the applicant, Randalswood Construction Ltd. On the 23rd of November 2015. The main issues raised concern the following;

- The site has a town centre zoning. Under D08A/1205 & PL06D.233690 the Board granted permission for a hotel on the site. The site has been vacant for a number of years. There is a former factory building on site. It is considered that the site is suitable for apartment development due to its town centre location.
- The applicant was advised by the Local Authority that their preference for residential development on the site rather than commercial development.
- The proposed design has taken into consideration the concerns of the adjoining residents. The building is stepped in height with a two-storey duplex at the Georges Street Lower end and it rises to four storeys at the corner of Callaghan Lane and Georges Place.

- In terms of overlooking, the south facing balconies to apartments no. 4 and no. 8 have been located to the front of the apartments to prevent overlooking of rear gardens. The bedroom windows facing gardens on Georges Street Lower have been splayed to prevent direct overlooking. Roof gardens have been set back from the edge of the building facing Georges Street Lower to prevent overlooking.
- Apartment no. 8 has been set back from the boundary with no. 3 Bentley Villas to reduce the impact.
- A shadow analysis was carried out as part of the application. The shadow analysis indicates that the proposed building would have no impact on the level of sunlight to surrounding buildings.
- Regarding the concerns of surrounding residents of impact during the construction phase, the applicant is proposing to employ the building contractor who carried out the Crofton apartment development close to the site. The contractor is therefore familiar with the area and that development proceeded without concerns from residents and St. Michaels Hospital.
- There is an asbestos sheet roof on the factory building. The applicant will employ a company which specialises in this type of work and which has a license to carry out these works.
- Regarding the concern that granite may be encountered during excavation works to provide the basement, two trial holes have been dug and no granite was evident. The applicant cannot guarantee that granite will not be encountered however due to the topography of the site it is not proposed to dig out a full basement. At the Georges Place end the depth of the basement would be 1.5m and at the Georges Street Lower end it would be 3m.
- In relation to the issues of noise and general disturbance it is stated that the contractor will consult with the neighbours to ensure that if certain noise is not acceptable at certain hours then it will be taken into consideration.
- The hours of construction were conditioned by the Local Authority. The contractor will submit a site management plan to the Local Authority for their approval.
- Regarding the use of the on-street car parking spaces it is stated that workers on the project will be instructed not to use the immediate street car parking.

- The applicant request that the Board take into consideration the matters set out in their submission and dismiss the appeals and grant of permission for the proposed scheme.

3.4 Planning Authority response to third party appeal

- The Planning Authority in assessing the proposed development had specific regard of the visual and residential amenities of the properties to the south-west of the site.
- Significant amendments to the design of the proposed apartment building were sought by way of further information and clarification of further information.
- The amendments in the design have been included in the final approved scheme which also includes boundary treatment measures for the party boundaries to the south-west.
- The Planning Authority is therefore satisfied that the approved scheme is acceptable in terms of the impact on the amenities of the area.

3.5 Planning Authority response to first party appeal

- Condition no. 17 requires the payment of a special contribution of €28,875.00 (250 times the daily parking rate for seven on-street vehicles).
- This condition is based on the recommendation in the report from the Transportation Department in response to the Clarification of Further Information. Which states *“It is noted that the Applicant wishes to provide a total of 14 no. off-street car parking spaces for the proposed 14 unit dwellings as per submitted drawing,In accordance with Table 16.3 of the current County Development Plan a minimum of 21 no. off-street car parking spaces for the proposed 14 unit dwellings are required. A special contribution in accordance with Section 48(2)(c) of the Planning and Development Act, 2000, as amended, is requested from the applicants to be expended on the DLRCC – Traffic and Road Safety Section’s traffic management works along the Queen’s Road/Park Road junction (Dun Laoghaire) in conjunction with the People Park Restoration and Improvement Works 2013/2014.”*
- The Council is satisfied that condition no. 17 should be applied in this case and request that the Board apply the condition accordingly.

4.0 ASSESSMENT

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Development Plan policy
- Design and layout
- Impact upon amenity
- Traffic and car parking
- Development Contributions
- Appropriate Assessment

4.1 Development Plan policy

4.1.1 The subject site is located within lands zoned 'MTC' in the operative County Development Plan which seeks to protect, provide for and/or improve major town centre facilities. The proposed development comprises a scheme of 14 no. residential units. It is proposed to extend and refurbish an existing dwelling and construct a four-storey apartment building on the site of a former factory/warehouse. In this town centre location there are a mix of residential and commercial use. The proposed residential use is an acceptable use within the 'MTC' zone in accordance with the relevant policies, standards and requirements set out in the plan.

4.1.2 The Development Plan does set out specific density standards higher densities of 50 units per hectare are encouraged by the Planning Authority where a site is located within circa 1 kilometre pedestrian catchment of a rail station and/or Luas line, and/or 500 metres of a Quality Bus Route, and/ or 1 kilometre of a town or district centre. The Ministerial Guidelines - Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities published in 2009 provides specific guidance in relation to housing schemes. The guidelines seek to encourage increased densities in appropriate location through more economic use of existing infrastructure and serviced land. Policy RES3 of the Dún Laoghaire-Rathdown County Development Plan has been framed having regard to the provisions of these guidelines.

4.1.3 The site area is 0.0837 hectares and the total area of the proposed development is 2,251sq m. The proposed scheme of 14 no. dwelling units on the 0.0837 hectares site equates to a density of roughly 167 no. units per hectare. Therefore the proposed scheme is well above the minimum recommended density level as set out in the Development Plan.

4.1.4 Overall, I consider that the residential development of this town centre and at this proposed density represents an efficient and sustainable use of serviced zoned land in close proximity to public and commercial services including public transport. As such, the development proposed is acceptable in principle subject to the acceptance or otherwise of site specifics/ other policies within the development plan and government guidance.

4.2 Design and layout

4.2.1 The proposal provides for the demolition of the existing vacant two-storey factory/warehouse building and construction of a four-storey apartment building. It is also proposed to refurbish and extend no. 4 Bentley Villas. The appellants have raised concern regarding the design of the apartment building particularly the massing and scale of the building relative to the surrounding dwellings.

4.2.2 In relation to the existing character of the surrounding streetscape I note that the area has experienced redevelopment. The corner site to the east of the appeal site on Callaghan's Lane contains a with four apartment building and there is a five storey apartment building to the north of the appeal site at the corner of George's Place and Clarence Street. There is a mix of building types and designs along George's Place. Therefore having regard to the relative mix of building design and heights in the surrounding area there is scope for variation in the streetscape character in terms of an additional apartment building this infill site.

4.2.3 The proposed development is contemporary in design it includes a flat roofs, inset balconies and large floor to ceiling heights windows. The infill nature of the appeal site means any development should fully respect the character and context of the area. The height and design of the proposed of the building relative to the neighbouring two-storey dwellings has been raised, I will address the potential impacts in terms of overlooking and overshadowing in the next section of the report.

4.2.4 In terms of the appellant's contention that the development would have an overbearing impact upon the surrounding development, I consider that the proposed design which includes the height of the building being stepped with a two-storey duplex at the Georges Street Lower end and the four storeys section located at the corner of Callaghan Lane and Georges Place. The fourth storey is also inset by 2m from the edge of the building. The proposed design of the north facing elevation is also stepped in design. The height is stepped down to two-storey on the northern side of the building adjacent to no. 4 Bentley

Villas. Overall in terms of the visual impact of the proposed scheme on the surrounding streetscape I consider that the development has been designed well to integrate with the surrounding development.

- 4.2.5 The communal open space area is proposed in the third floor roof garden area to the northern side of the building and the second floor level. These open spaces have an area of circa 89sq m which is roughly 10% of the site. The site is located adjacent to the coast and within five minutes walk of the west pier in Dun Laoghaire and I note that the Parks Department are satisfied with the level of communal open space. Accordingly, having regard to the recreational amenity provide by the proximity of the site to the coast including Dun Laoghaire Harbour and the two piers. I consider that the proposed on-site communal open space provision is acceptable.
- 4.2.6 Having reviewed the site layout plans, I am satisfied that the areas of the balconies and terraces have been provided in accordance with the required standards set out in Table 16.1 of the Dun Laoghaire Rathdown County Development Plan 2010 – 2016.

4.3 Impact upon amenity

- 4.3.1 In relation to the matters of overshadowing and overlooking which is raised in the appeal I note that the applicants were requested to address these issues in the further information request. The closest residential properties to the site are situated to the west of the site located along Bentley Terrace. The closest neighbouring residential property to the scheme is no. 3 Bentley Terrace. No. 3 Bentley Terrace is 9.5m from the proposed apartment building. It should be noted that no. 4 Bentley Terrace which forms part of the scheme lies between the proposed apartment building and No. 3 Bentley Terrace. Therefore in terms of potential overlooking it would be only the rear garden of No. 3 which possibly could be effected. Having regard to the setback between the garden of no. 3 Bentley Terrace and the closest apartment windows in the building of 16.6m, I consider a satisfactory separation distance has been provided. In relation to the potential impact to the properties to the south of the site on George's Street Lower I note that the response to the appeal from the first party where they stated that the south facing balconies to apartments 4 and 8 were re-located to the front of the apartments to prevent overlooking of rear gardens. In order to address any potential overlooking the bedroom windows facing gardens on Georges Street Lower have been splayed to prevent direct overlooking. The proposed roof gardens have also been set back from the edge of the building facing Georges Street Lower to prevent overlooking.
- 4.3.2 Having reviewed the proposed site layout of the scheme relative to the existing surrounding properties, I consider having regard to the

proposed siting of the new building relative separation distances to the existing dwellings to the south and west of the site that the proposed scheme would not result in any undue overlooking of residential properties.

- 4.3.3 The applicants were also required to address the issue of overshadowing as part of the further information request specifically required the submission of an evening shadow diagram and to address the discrepancy between the 1200 noon and 1500 shadow diagrams which were submitted originally. In response to this a revised shadow assessment was submitted. Having reviewed the shadowing diagrams I note that there would be some new shadowing of Bentley Villas to the north across the road. Having regard to the town centre location of the property some limited additional shadowing is considered acceptable.
- 4.3.4 The appeal also raises the potential impacts of construction and demolition works. In order to ensure that construction and demolition works on site would have as limited an impact as possible, I consider that should the Board decide to grant permission that a condition be attached requiring that the developer shall submit a detailed Construction Management Plan to the Planning Authority for their agreement. The plan should include proposed hours of operation, details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels, off-site disposal of construction/demolition waste and details of the timing and routing of construction traffic.

4.4 Traffic and car parking

- 4.4.1 The proposal entails the provision of a total of 14 no. dwelling units. There was previous vehicular access to the factory/warehouse building from Callaghan's Lane. The proposed layout provides for the entrance and exit to the basement car park to be accessed off George's Place. The proposed entrance is located 15m to the west of the junction between Callaghan's Lane and George's Place. The entrance would be located at a relatively straight section of the road and where the road width is circa 8m. Accordingly, the location of the proposed vehicular access to the basement car park is acceptable. There is an on-street pay and display car parking bay to the front of the site along George's Place which can accommodate circa 5 no. spaces. There is also 1 no. on-street car parking space immediately to the south of the site on Callaghan's Lane. The proposed location of the vehicular access to the basement car park would result in the loss of circa 2 no. on-street car parking spaces. I consider the loss of a limited number of on-street car parking spaces acceptable in the context of the appropriate redevelopment of this vacant town centre site.
- 4.4.2 Table 16.3 of the Dun Laoghaire Rathdown Development Plan 2010 – 2016 sets out the car parking standards for residential schemes.

Generally 1 no. off street car parking space is required for all on bedroom units with 2 no. off street car parking spaces are required for all dwelling units over 2 bedrooms in size. The scheme comprises 2 no. one bedroom units, 10 no. two bedroom units and 2 no. three bedroom units. A total of 14 no. car parking spaces are proposed to serve the scheme which is a shortfall of 7 no. spaces as 21 no. spaces are required to serve the dwellings. It is also proposed to provide 14 no. bicycle spaces. The Planning Authority considered that the provision of 14 no. car parking spaces would be acceptable subject to the attachment of a special development contribution condition. I will address this matter in the ensuing section of the report. Having regard to the town centre location of the site and proximity to bus and rail, I am satisfied with the proposed car parking provision and arrangements.

4.4.3 Regarding the matter of traffic generation, in terms of overall scale and intensity the proposed development is relatively modest in scale. The nature of the traffic associated is residential which is not out of character with the existing type of traffic that frequents the road network in the vicinity of the site. Furthermore, I would note that the previously permitted development on site granted under D08A/1205 & PL06D.233690 for a 28 bedroom hotel and a parking provision of 29 car parking spaces in a two level basement would have generated more traffic than the currently proposed scheme. Having inspected the site and road network in the vicinity I would consider that such is of sufficient capacity to deal with level of traffic likely to be generated by the proposed development.

4.5 Development Contributions

4.5.1 A first party appeal has been lodged against condition no. 17 of the Dun Laoghaire Rathdown County Council grant of permission Reg. Ref. D15A/0262. Under Section 48 10 (b) of the Planning and Development Act, 2000 (as amended), an appeal may be brought to the Board where an applicant for planning permission considers that the terms of the Development Contribution Scheme have not been properly applied in respect of any condition laid down by the Planning Authority.

4.5.2 Condition no. 17 states;

“The applicant shall pay a special contribution in the sum of €28,875.00(250 times the daily parking rate for seven on-street vehicles) levied in accordance with Section 48(2)(c) of the Planning and Development Act, 2000, as amended. This contribution shall be paid by the applicant to the Planning Authority within three months of the date of the final grant of permission and shall be expected on the DLRCoCo – Traffic and Road Safety Sections’ traffic management works along the Queen’s Road/Park junction (Dun Laoghaire) in

conjunction with the Peoples Park Restoration and Improvement Works 2013/2104.

Reason: In the interest of orderly planning and development.”

- 4.5.3 The first party appellant contend that the contribution should not have been applied on the basis that the proposed development would not result in the loss of existing on-street car parking spaces. The first party appellant states that it appears that the Planning Authority have assumed that the proposed development would result in the loss of on-street car parking on Georges Place, this is not proposed.
- 4.5.4 A total of 14 no. car parking spaces are proposed within the basement to serve the 14 no. apartments. Table 16.3 of the Development Plan sets out the Minimum Car parking standards for dwellings. It is required that 1 car parking space is required per 1 bedroom unit and 2 car parking spaces are required per 2 bedroom or larger units. The scheme comprises 2 no. one bedroom units, 10 no. two bedroom units and 2 no. three bedroom units. The report of the Transportation Planning Section dated the 14th of September 2015 states that in accordance with Table 16.3 of the current County Development Plan a minimum of 21 no. off-street car parking spaces are required. Therefore the Transportation Planning Section recommended that the shortfall of 7 no. off-street car parking spaces be address through the attachment of a special development contribution condition requiring the payment of €28,875.00(250 times the daily parking rate for seven on-street vehicles). The site is within a town centre location therefore despite the shortfall of 7 no. car parking spaces the Planning Authority considered the proposed car parking arrangements acceptable.
- 4.5.5 The Dun Laoghaire Rathdown Development Contribution Scheme was adopted on the 14th of May 2013. Section 9 (a) of the Scheme refers to the different classes of public infrastructure and facilities and Class 2: refers to Roads infrastructure & facilities.
- 4.5.6 Section 18 of the Development Contribution Scheme refers to Special Development Contributions and states that; “A special development contribution may be imposed under Section 48 of the Act where exceptional costs not covered by the Dun Laoghaire-Rathdown County Council Development Contribution Scheme 14th May, 2013 to 31st December 2015 are incurred by the Council in the provision of a specific public infrastructure or facility. (The particular works will be specified in the planning conditions when special development contributions are levied). Only developments that will benefit from the public infrastructure or facility in question will be liable to pay the special development contribution. Conditions imposing special contributions may be appealed to An Bord Pleanála.”
- 4.5.7 Section 48(2)(c) of the Planning and Development Act 2000, as amended, states that Planning Authorities may require the payment of

a special development contribution in respect of a particular development where specified exceptional costs not covered by the General Contribution Scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. By way of further clarification in this respect I note that Paragraph 7.12 of the 'Development Management, Guidelines for Planning Authorities, 2007' states the following:

“special contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of Section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis of the calculation, including how it is apportioned to the particular development”.

4.5.8 The rationale the planning authority has used is based on the cost of pay-and-display for one parking space for 250 days. Reference is made in the condition for the levy to be *“expended on the DLRCC – Traffic and Road Safety Sections traffic management works along the Queen’s Road/Park Road junction (Dun Laoghaire) in conjunction with the Peoples Park Restoration and Improvement Works 2013/2014”*. I note that the amount levied is based on an estimated cost for 7 no. on-street car parking spaces for 250 days and the amount levied does not bear any direct connection to the above stated traffic management works. Furthermore, I note that the Queen’s Road/Park Road junction is located at the south-eastern end of the town circa 1.5km from the appeal site.

4.5.9 Under the provisions of Section 48(12) of the Act the Planning Authority are required to identify the nature / scope of the works, the expenditure involved and the basis for its calculation, including how it is apportioned to the particular development, is of particular relevance in the context of the subject appeal as the Act includes a mechanism whereby special contributions can be refunded to the applicant in the event that the works in question are not commenced or are not completed within the required timescales. I consider, by failing to identify how the specific works cited in the condition would directly benefit the proposed development towards which the special contribution will be attributed and also the basis of contribution amount of €28,875.00 which has not been costed in relation to the cited project but rather citing the cost per 250 daily payments of 7 no. a pay and display car parking spaces that condition No. 17 ultimately fails to adhere to the requirements of Section 48(12) of the Act, therefore, I recommend that the condition be omitted.

4.6 Appropriate Assessment

4.6.1 The appeal site is situated circa 0.4km to the south of the closest European site South Dublin Bay and Tolka River Estuary SPA. Having regard to the established previous commercial use of the site, the nature and scale of the proposal, the nature of the receiving environment, namely a suburban and fully serviced location and the separation distance 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.

5.0 Recommendation

5.0.1 Having read the submissions on file, visited the site, had due regard to the provisions of the Development Plan and all other matters arising, I recommend that permission should be granted for the following reasons.

Reasons and Considerations

Having regard to the Major Town Centre zoning of the site in the Dun Laoghaire Rathdown County Development Plan 2010 – 2016 and having regard to the pattern of development in the area and the layout of the scheme, and the planning history on the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. 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 submitted on the 8th day of July, 2015 and the 20th day of August 2015, 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. Prior to the commencement of the development, the applicant shall submit for the written agreement of the Planning Authority, revised plans and drawings indicating the following:
 - a) The ground floor communal terrace area located immediately to the west of Apartment No.2 shall be subsumed into the private terrace area for Apartment No.2 and shall be for the sole use of that unit.
 - b) Direct access shall be provided internally via a stairs from Duplex No.1 to its rooftop private open space area. Access to this private amenity area from the adjacent stairwell shall be omitted.
 - c) The south facing window on the projecting bay window element to Bedroom No.2 within Duplex No.1 shall be fitted with opaque glazing. The opaque glazing shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.
 - d) An additional 2sqm storage room shall be provided within the study room of apartment No.7.
 - e) The brick finish to the north-west corner of the building shall be continued up to second floor level (level 21.06m on submitted elevation drawing) and shall include for both north and west facing elevations on this corner of the building.

Reason: In the interest of residential and visual amenity.

3. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- (b) Location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (e) Measures to obviate queuing of construction traffic on the adjoining road network.
- (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (g) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels. Such measures shall reflect the advice contained in BS 5228-1: 2009 + A1: 2014 and they shall include a dust minimisation plan.
- (i) Noise monitoring locations for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to the commencement of any development on site.
- (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: To protect the amenities of property in the vicinity.

- 4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority details of the boundary between the scheme and the adjoining properties.

Reason: In the interest of residential and visual amenity.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

7. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

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

Reason: In the interest of public health.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

10.

- (1) The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (2) The applicant shall retain the services of a suitably qualified Landscape Architect (or suitably qualified Landscape Designer). A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are completed to the satisfaction of the planning authority in consultation with the parks and landscape services section of the planning authority, and in accordance with the permitted landscape proposals.

Reason: In the interest of the proper planning and sustainable development of the area.

11. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of orderly development.

12. 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 until taken in charge.

13. 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 social and affordable housing in accordance with the requirements of section 96 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 97(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 for the area.

14. 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.

Siobhan Carroll,
Planning Inspector
23rd of February 2016