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**Planning and Development Acts 2000 to 2017**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F17A/0151**

**Appeal** by Pat O'Brennan care of McCutcheon Halley Planning Consultants of Kreston House, Arran Court, Arran Quay, Dublin against the decision made on the 28<sup>th</sup> day of November, 2017 by Fingal County Council to grant subject to conditions a permission to James Doyle care of C and W O'Brien Architects of 1 Sarsfield Quay, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Provision of two number dwelling units, consisting of two number three bedroom two-storey detached units with the provision of four number on-site parking spaces and all associated site works at Mountfield Lawns, Malahide, County Dublin.

**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 Zoning Objective “RS” for the area as set out in the current development plan for the area and to the pattern of residential development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the relevant provisions of the Fingal County Development Plan 2017-2023, would not seriously injure the amenities of the Seamount Road/Mountfield Lawns neighbourhood, or of property in the vicinity, would not be prejudicial to public health 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 1<sup>st</sup> day of November, 2017, 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. Each dwellinghouse shall be used as a single domestic residential unit only.

**Reason:** In the interest of clarity and to ensure orderly development.

3. Physical infrastructure and servicing arrangements to enable the proposed development, specifically in relation to access (including the new vehicular entrance, front boundary treatment, internal road and costs), shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of traffic safety and orderly development, and in order to comply with requirements in relation to access.

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

**Reason:** In the interest of orderly development and visual amenity.

5. 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.

6. (a) A suitably qualified arborist/landscape professional shall be engaged by the developer for the duration of the development -
  - (i) to oversee development works, ensuring strict compliance with the 'Arboricultural Method Statement', particularly as it relates to the site's western boundary, and
  - (ii) to monitor site development works and to liaise with the planning authority.
- (b) Prior to commencement of development, the developer shall have an on-site meeting with the planning authority to agree tree protection measures in compliance with BS 5837: 2012, Trees in relation to Design, Demolition and Construction – Recommendations. This shall include measures to prevent the parking of vehicles and the storage of materials on the grass verge.

(c) A tree bond of €5,000 (five thousand euro) shall be lodged with the planning authority prior to commencement of development in order to ensure that the trees and hedgerows are protected and maintained in good condition throughout the course of development. This bond will be held by the planning authority for a period of three years post construction which may be extended in the event of possible construction related defects. It should be noted that a copy of the Arboricultural Method Statement (which has been signed off/certified by the Arborist including dates of Inspection) will be required to be submitted to the planning authority in order for this tree bond to be considered for release.

**Reason:** In the interest of tree protection and preservation of amenity.

7. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include reference to the 'Tree Survey' and relevant recommendations therein (Cunnane Stratton Reynolds), completed for the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding urban environment, in the interest of visual amenity.

8. Neither of the proposed dwellings shall be occupied until such time as all services have been connected, and are operational, to the satisfaction of the planning authority.

**Reason:** In the interest of orderly development.

9. 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.

10. 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 hours of working, noise management measures, measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, and off-site disposal of construction/demolition waste.

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

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

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

12. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of open space provision towards the cost of amenity works in the area of the proposed development, based on a shortfall of 80square metres of open space. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

13. 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

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**John Connolly**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this                      day of                      2018.**