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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dun Laoghaire Rathdown County Council**

**Planning Register Reference Number: D17A/0486**

**Appeal** by Frank and Breda McCabe care of Michael J. O'Donnell and Associates of Peacockstown House, Kilbride Road, Mulhuddart, Dublin and by others against the decision made on the 24<sup>th</sup> day of May, 2018 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Tigerlight Limited care of Brock McClure of 63 York Road, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Residential development providing for the demolition of the existing two-storey residential dwellings and associated outbuildings at Weaver's Hall and Number 10 Hainault Park (combined demolition figure circa 560 square metres gross floor area) and the construction of an overall development of 51 number residential units in a one to four-storey scheme (circa 6,962 square metres) over part basement level (circa 3,545 square metres). The proposal shall provide for 50 number apartment units (35 number two bed units and 15 number three bed units) ranging in size from circa 86 square metres to 179 square metres, in the form of two number interlinked apartment blocks (three to four-storey over basement level) all with associated balcony/terrace/private garden areas and

one number two bed house unit of circa 205 square metres (single storey), with associated separate living space, private gardens and courtyard area. Primary vehicular and pedestrian/cyclist access to the overall proposal and basement level is proposed via Hainault Park with vehicular set down area only and pedestrian/cyclist access via a secondary access point from Plunkett Avenue. There shall be no access to basement level or car parking areas from Plunkett Avenue. Permission is also sought for 92 number car parking spaces for apartments (88 number at basement level, four number at surface level) and one number on-curtilage car parking space for the house unit; 102 number bicycle parking spaces and associated bike stores/stands (86 number at basement and 16 number at surface level); bin storage areas; plant areas; ESB switch room and substation; public open space and internal courtyard areas; new boundary treatment; green roofs; site services and all associated site development, service connections and landscape works, all on overall site of circa 1.14 hectares at Weavers Hall, Plunkett Avenue and Number 10 Hainault Park, Foxrock, Dublin, as revised by the further public notice received by the planning authority on the 27th day of April, 2018.

## **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 provisions of the Dún Laoghaire-Rathdown County Development Plan 2016–2022, and in particular the objectives of this Plan that seek to promote infill residential development and increased residential densities, and having regard to the pattern of existing development in the area and the design, scale and layout 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 or visual amenities of the area, would not have a detrimental impact on the Foxrock Architectural Conservation Area, would be acceptable in terms of pedestrian and traffic safety, and would not lead to a risk of flooding of the subject site or adjacent properties. 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 to the planning authority on the 27<sup>th</sup> day of April, 2018, 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. 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. Prior to commencement of construction the applicant shall submit full details of the proposed green roofs and formal maintenance of same to be agreed in writing with the planning authority.

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

3. Prior to surface water connection to the public system, in the case of any drainage pipe which is to be taken in charge or whose diameter is 225 millimetres or greater, in particular the new sewer connecting the development site to the culvert on Gordon Avenue, the applicant shall carry out a CCTV survey over the full length of such pipe when constructed and shall provide the planning authority with the results of such survey, together with a satisfactory remediation report (if required).

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

4. Prior to the commencement of development, the applicant shall submit to the planning authority for its written agreement an emergency plan that is reflective of the design life of the development, the proposed use and vulnerability of items to be kept in the premises, the occupants and users, and shall include flood resilience and recovery measures, in particular, alternative access/egress to the apartments to the north-east of the site.

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

5. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, traffic management signage, footpaths and kerbs, and the basement car park shall be in accordance with the detailed requirements of the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points.

**Reason:** In the interests of amenity and of pedestrian and traffic safety.

6. No dwelling units within the proposed development shall be sold separately, independent from the associated car parking provision. All the proposed car parking spaces shall be for occupants of the residential units and shall be sold off with the units and not sold separately or let independently from the residential development.

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

7. The landscaping scheme, as submitted to the planning authority on the 27<sup>th</sup> day of April, 2018, shall be carried out within the first planting season following substantial completion of external construction works.

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, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

The developer shall retain the services of a suitably qualified landscape architect throughout the duration of the site development works. The developer's landscape architect shall certify to the planning authority by letter his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

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

8. The areas of open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9. 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.

10. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the submitted Tree Survey Report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1<sup>st</sup> day of March to the 31<sup>st</sup> day of August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

**Reason:** To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.



11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

13. Prior to the commencement of development, the applicant shall submit revised drawings to indicate the re-location of the proposed sub-station a further 10 metres north-west of the rear boundary wall of the gate lodge.

**Reason:** To protect the residential amenities of the properties in the vicinity.

14. Proposals for an estate/development name, apartment 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/development signs, and apartment 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.

**Reason:** In the interests of urban legibility, and to ensure the use of locally appropriate place names for new residential developments.

15. 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 interest of visual and residential amenity, and of sustainable development.

16. Site development and building works shall be carried only out between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between the hours of 0800 and 1300 on Saturdays and not at all on Sundays or 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 the interest of protecting the residential amenities of adjoining properties.

17. 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 noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of clarity, orderly development and amenity.

18. A Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery (which shall not be within the areas designated for tree protection) and for storage of deliveries to the site.

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

19. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interests of residential amenity and proper waste management.

20. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development. The agreed lighting system shall be implemented and operational, before the proposed development is made available for occupation.

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

21. 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

22. 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, communal open spaces 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 and maintenance of the development.

23. 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 the 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.

24. 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.

**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.

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**Paul Hyde**

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

**Dated this            day of            2019.**