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**Planning and Development Acts 2000 to 2018**

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

**Planning Register Reference Number: D18A/0609**

**Appeal** by Raymond and Eimear MacEntee of 85 Mount Eagle View, Leopardstown Heights, Dublin and by Floramount Limited care of PMCA Architects of 104 Francis Street, Dublin and by others against the decision made on the 20<sup>th</sup> day of November, 2018 by Dún Laoghaire Rathdown County Council to grant subject to conditions a permission to the said Floramount Limited in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Permission sought for the demolition of existing two-storey dwellinghouse, known as Mount Eagle, and ancillary outbuildings and sheds, and the construction of a residential development of 32 units in three blocks consisting of:- Block A - three-storey block containing two number one bedroom, two number two bedroom and four number three bedroom duplex units; Block B - three-storey block containing one number one bed; two number two bed; two number three bedroom and one number four bedroom duplex units; Block C - three, part four-storey apartment block consisting of 18 number two bedroom apartments with ancillary site works including parking for 37 number cars, 40 number bicycle racks, communal bin stores, boundary treatments, and main vehicle access from Kilgobbin Road;

all at site of 0.44 hectares, at Mount Eagle, Kilgobbin Road, Sandyford, County Dublin, as amended by the revised public notice received by the planning authority on the 24<sup>th</sup> day of October, 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 zoning objective for the site as set out in the Dún Laoghaire Rathdown County Council Development Plan 2016 – 2022, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government (2009), the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government (2018), and the overall scale, design and height 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 visual or residential amenities of the area or the

amenities of property in the vicinity, and would be acceptable in terms of pedestrian and 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 to the planning authority on the 24<sup>th</sup> day of October, 2018, and as amended by the plans and particulars submitted to An Bord Pleanála on the 25<sup>th</sup> day of January, 2019, 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. The proposed development shall be amended as follows: -
  - (a) the glazing within the windows on the west elevation of Blocks A and C, excluding the ground floor, shall be permanently fitted with opaque glazing,
  - (b) the screen along the western elevation of the south facing terrace and balcony serving duplex 2 in Block A, shall be permanently fitted with obscure glazing, and

- (c) car parking spaces numbers 31 and 32 shall be omitted, and motorbike parking shall be located adjacent to the cycle parking on the western side of the site, or as otherwise agreed with the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of protecting the residential amenities of adjoining properties and the amenity of the public open space.

- 3. 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.

- 4. 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.

- 5. The existing stone perimeter walls shall be retained and repaired. Prior to commencement of development, details of the proposed boundary treatments for the remaining boundaries shall be submitted to, and agreed in writing with, the planning authority.

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

6. Proposals for an estate/street name, house/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 and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

7. The internal road serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

8. The developer shall ensure provision of electric vehicle charging points for the minimum number of car parking spaces in accordance with section 8.2.4.12 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. All parking will be provided with ducting for electric charging.

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

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 interest of visual and residential amenity.

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

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

11. Prior to the commencement of development, full details of the proposed public lighting scheme, including the lighting levels within open areas of the development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

13. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

14. (1) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

- (2) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

15. Prior to commencement of development or any related construction or tree felling, the applicant shall –
  - (a) lodge a tree bond to a minimum value of €85,000 (eighty five thousand euro) with the planning authority to ensure the protection of trees on the site and to make good any damage caused during the construction period. The bond lodgement shall be coupled with an arboricultural agreement, empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on or adjoining the site, or the appropriate and reasonable 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. Any replacement planting shall use large semi-mature tree size(s) and species or similar as may be stipulated by the planning authority.



- (b) After the period of one year post practical completion, the developer shall submit an arboricultural assessment report and certificate signed by a qualified arborist to the planning authority. Any remedial tree surgery, tree felling works recommended in that report shall be undertaken by the developer at his/her expense, under the supervision of the arborist. The tree bond shall not be released until the report, certificate and any remedial works have been fully undertaken, to the satisfaction of the planning authority.

**Reason:** To ensure the protection and long-term viability of trees to be retained on site.

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 current Development Plan for the area.

17. 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 watermains, drains 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.

18. 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.

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

**Dated this            day of            2019.**