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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3760/18**

**Appeal** by Margaret Walsh and Tony Carlin of 3 Laurelton, Bushy Park Road, Dublin and by Trevor Lloyd of 4 Laurelton, Bushy Park Road, Dublin and by others against the decision made on the 4<sup>th</sup> day of January, 2019 by Dublin City Council to grant subject to conditions a permission to Red Rock BPRKH Limited care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Demolition of the existing dwelling and outbuildings; and construction of eight number contemporary style dwellings, consisting of (i) three number five-bedroom three-storey over basement terrace dwellings fronting Bushy Park Road. Each dwelling to include a rear garden, two number on-curtilage car parking spaces and a south facing balcony at first floor level; (ii) one number three-bedroom two-storey detached dwelling located in the middle of the site, to include a rear garden and two number on-curtilage car parking spaces; and (iii) a terrace of four number dwellings to the rear of the site, consisting of one number four-bedroom two-storey over-basement dwelling; two number four-bedroom three-storey

dwellings, and one number five-bedroom three-storey over-basement dwelling. Each dwelling to include a rear garden, two number on-curtilage car parking spaces and a south-facing balcony at first floor level. The development also comprises (a) widening and upgrade of the existing vehicular entrance on Bushy Park Road and creation of an additional vehicular entrance on Bushy Park Road; (b) removal of existing front boundary wall to Bushy Park Road and replacement with a new 900 millimetre high wall; landscaping, boundary treatment, SuDS drainage and all other ancillary works necessary to facilitate the development at 59 Bushy Park Road, Rathgar, 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 Z1 zoning objective for the area in the Dublin City Development Plan 2016-2022, and to the national policy, as set out in the National Planning Framework in National Policy Objective 35, which provides for increased residential densities within existing urban areas including the

provision of infill development schemes, and having regard to the layout and form of the proposed development and the pattern of existing development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would generally be in accordance with the national and local planning policy, would not seriously injure the amenities of adjacent residential property, would not be out of character with the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

1. The proposed 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 29<sup>th</sup> day of November, 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. The proposed development shall be amended as follows:-
  - (a) The proposed second floors of dwellings numbers 6, 7 and 8 shall be omitted, so that these three houses are reduced to two-storeys in height over ground level to match the height of proposed dwelling number 5. Basements may be provided for houses 7 and 8 to match the proposed basement of house number 6.

- (b) The first-floor window on the eastern elevation of proposed house number 4 serving the master bedroom shall be replaced by a high-level window, and the first-floor window serving bedroom number 2 on this elevation shall be replaced by a high-level window, or alternatively by a full height window on the southern elevation.
- (c) All windows serving landings, bathrooms and w.c.'s shall be permanently fitted with frosted glass.

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 interest of protecting the residential amenities of adjoining properties from undue levels of overlooking.

- 3. 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.

- 4. (a) The tree protection provisions as outlined in the submitted arborist's report, tree protection plan and landscaping plans shall be carried out prior to commencement of any other works on the site (including demolition and foundation works).

- (b) 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 in writing his/her opinion on compliance of the completed landscape works with the approved landscape scheme within six months of substantial completion of the development hereby permitted.

**Reason:** In the interest of ensuring the protection of trees and hedging, as provided for in the application, and in the interests of the residential amenity of future occupants of the development.

5. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

6. (a) Entrances from the public road and the internal road and turning area serving the proposed development shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects within the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport. Existing utility poles, if interfering with sightlines from the proposed entrances, shall be relocated, or the overhead cables bounding the front of the site on which these poles depend, shall be undergrounded and the poles removed, in accordance with the requirements of the relevant utility companies, at the developer's expense.

- (b) The proposed cycle parking shall be roofed, details of which shall be agreed in writing with the planning authority, and shall be provided prior to the making available by the developer for occupation of houses numbers 4, 5, 6, 7 and 8.
- (c) All of the car parking areas serving the dwellings shall be provided, by the developer at his expense, with electric vehicle charging points.

**Reason:** In the interest of pedestrian and traffic safety, and in the interest of ensuring sustainable transportation connectivity.

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

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

- 8. Site development and building works shall be carried out only between the hours of 0700 to 1900 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.

9. Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs and house 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 advertisement/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 interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

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:
  - (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets.
  - (b) 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; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or

deposit of clay, rubble or other debris on the public road network.

- (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (d) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (f) Structural surveys and monitoring of basement construction to ensure no adverse impacts on adjoining properties or property boundaries.

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. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

**Reason:** In the interests of amenities, public health and safety.



11. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings, and to allow the planning authority to assess the implications of any such development on residential amenity through the statutory planning process.

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 “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.

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

13. (a) The proposed housing scheme including all roads, footpaths, lighting, open spaces, surface water drains and attenuation provisions, and all other services, as permitted under this order, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.

- (b) The development shall be maintained by the developer until taken in charge by the planning authority and shall not be operated or maintained by a private management company.

**Reason:** In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.

14. 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, and other services required in connection with the development, coupled with an agreement empowering the planning 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.

15. 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.

16. 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, as amended, in respect of public 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 the changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the Central Statistics Office.

**Reason:** It is considered reasonable, having regard to the fact that no public open space is provided as part of the subject development, 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, in the provision of public open space in the area, and which will benefit the proposed development.

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**Philip Jones**

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

**Dated this            day of            2019.**