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**Planning and Development Acts 2000 to 2019**

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

**Planning Register Reference Number: D18A/0418**

**Appeal** by Thomas and Pauline Pitt and others of 6 The Rise, Barnhill Road, Dalkey, County Dublin and by others against the decision made on the 23<sup>rd</sup> day of January, 2019 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Melmoussa Devco 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:** A new mixed-residential development comprising: erection of (a) 13 number houses with private gardens comprising two number two-bedroom detached single-storey, two number three-bedroom end-of-terrace two-storey and nine number three-bedroom terraced two-and-a-half storey; (b) 23 number apartment units with associated private amenity space comprising nine number one-bedroom, 10 number two-bedroom (including one number private terrace area), and four number three-bedroom with private terraces in a three-storey over basement apartment building. The basement level will include 29 number car parking spaces, 42 number bicycle parking spaces, refuse storage, gym and associated courtyard, plant area and additional apartment storage units. Other works as part of the development to include: (c) 15 number car parking spaces and 24 number bicycle parking spaces at surface level; (d) upgrade of existing vehicular entrance on Barnhill

Road with provision of internal roads, footpaths, shared surfaces and street lighting; (e) provision of public open space including courtyard with landscaping works to include tree planting and provision of green areas and treatments to site boundaries; (f) surface water and foul drainage; water connections and alteration to site levels; (g) demolition of existing two-storey dwelling known as 'Dalkey Manor' (273 square metres), entrance gates, piers and splay walls and ancillary single-storey outbuilding and (h) all other site works necessary to facilitate the development on a site of circa 0.935 hectares. The proposed development is adjacent to "Dalkey Lodge" (a protected structure) on lands at Dalkey Manor, Barnhill Road, Dalkey, County Dublin. (As amended by the further public notice received by the planning authority on the 23rd 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 design, height, scale and massing of the proposed apartment scheme and the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not detract from the character or setting of the adjoining protected structure (Dalkey Lodge) and would adequately protect the residential amenity of adjacent properties and of properties within the scheme. 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 on the 4<sup>th</sup> day of May 2018, as amended by the further plans and particulars lodged on the 23<sup>rd</sup> day of October, 2018 and the 18<sup>th</sup> day of December 2018, for 36 number units, 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. This permission is for 13 number houses and 23 number apartments.

**Reason:** In the interest of clarity.

3. Prior to the commencement of development, the applicant shall provide, for the written agreement of the planning authority, full details of the proposed external design/finishes in the form of samples and on site mock ups. These details shall include photomontages, colours, textures, specifications which shall be submitted prior to the commencement of development, for the written agreement of the planning authority. Details of the longevity of the materials proposed and the overall long-term maintenance of same shall also be submitted and agreed in writing. Revised drawings, where required, 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 visual and residential amenities of the area.

4. The site shall be landscaped in accordance with the recommendations from the Aboricultural Report and with the landscaping and planting plan and details received by the planning authority on the 4<sup>th</sup> day of May, 2018, as amended by the further plans and particulars lodged on the 23<sup>rd</sup> day of October, 2018 and the 18<sup>th</sup> day of December, 2018. All landscaping 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.

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

5. 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. Any existing over ground cables shall be relocated underground as part of the site development works.

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

6. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, 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 dwelling unit.

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

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenity of property in the vicinity and the visual amenity of the area.

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. A Final Site Specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority, at least five weeks in advance of site clearance and site works commencing.

**Reason:** To protect the environment during the construction phase and to avoid impacts on water quality, sustainable drainage and flooding

10. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

- (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (b) The materials used in any footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (c) A detailed 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 and the location for storage of deliveries to the site.

- (d) All of the communal parking areas serving the apartments shall be provided with electric vehicle charging points, and all of the houses shall be provided with electric connections to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.”

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity and in the interest of sustainable transportation.

11. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) 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 for each apartment unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

12. (a) 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 and dust management measures and off-site disposal of construction/demolition waste.
- (b) Site development and building works shall be carried out only between the hours of 0800 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.
- (c) All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.
- (d) Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, details and methodology for the rock extraction and excavation works. This shall include timeframes and proposals to deal with vibration and noise.

**Reason:** To protect the amenities of the area.



13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

14. (a) Prior to the commencement of development, the developer shall carry out a detailed bat survey for the site and a spring amphibian survey of the ditch and submit results to the planning authority.

- (b) As necessary, detailed measures in relation to the protection of bat shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of wildlife protection.

15. Appropriate controls shall be put in place to ensure that the proposed works do not result in the spread of invasive alien species such as Japanese Knotweed (*Fallopia japonica*). A detailed site Management Plan outlining a three-five year programme for the control and monitoring of Japanese Knotweed on the site shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of controlling invasive species.

16. Proposals for building names and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all building signs, shall be provided in accordance with the agreed scheme. No advertisements/marketing signs 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.

17. No residential 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.

18. 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.

19. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of communal open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

20. 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.

21. 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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**Paul Hyde**

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

**Dated this            day of            2019.**