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**Planning and Development Acts 2000 to 2019**

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

**Planning Register Reference Number: D19A/0244**

**Appeal** by Timo Barry care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin against the decision made on the 4<sup>th</sup> day of June, 2019 by Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development.

**Proposed Development:** The development will consist of (a) 10 number houses (one number four bedroom semi-detached three-storey over basement dwelling (House No. 1), one number four bedroom semi-detached three-storey over basement dwelling with associated balcony (24.6 square metres) to the rear (House No. 2), three number three bedroom semi-detached three-storey dwellings with balconies (between 10.9 square metres - 26.4 square metres) to the rear and rooflights (House No. 3, 4 and 5), three number four bedroom semi-detached three-storey dwellings with balconies (between 12 square metres - 24.5 square metres) (House No. 6, 7 and 8), two number three bedroom semi-detached two-storey dwellings (House No. 9 and 10), each with private amenity space and two number car parking spaces; (b) one number four-storey apartment building with setback third floor level and green roof, consisting of 14 number apartments (one number one bedroom

apartment, 11 number two bedroom and two number three bedroom penthouse apartments) with associated private amenity space and balconies, including 14 number car parking spaces, 20 number bicycle parking spaces, four number motorcycle parking spaces, refuse storage and communal open space areas. The development also includes: (c) upgrade and widening of existing vehicular entrance on Castle Park Road, provision of internal roads, footpaths, shared surfaces within the proposed development and street lighting; (d) provision of communal open space with hard/soft landscaping, play area, kickabout space and landscaping works to include tree planting and provision of low formal hedging and boundary treatments; (e) SuDS surface water drainage, foul drainage, green roof and water connections; (f) demolition of existing two-storey dwelling, number 39 Castle Park Road, entrance gates, piers, splay walls and all ancillary outbuildings on site; (g) all other site works necessary to facilitate the development, all at a site of 0.464 hectares, Richmond, 39 Castle Park Road, Dalkey, 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

In coming to its decision, the Board had regard to the following:

- the site's location on serviced land, within an established residential area on lands with zoning objective A, which seeks to 'To protect and/or improve residential amenity', in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and where residential development is permitted;
- the policies set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- the 'Rebuilding Ireland Action Plan for Housing and Homelessness' (2016);
- the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying 'Urban Design Manual – a Best Practice Guide', issued by the Department of the Environment, Heritage and Local Government in May 2009;
- the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' issued by the Department of Housing, Planning and Local Government in March 2018;
- 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (including the associated Technical Appendices), issued by the Environment, Heritage and Local Government in November 2009;
- the 'Urban Development and Building Heights - Guidelines for Planning Authorities', issued by the Department of Housing and Local Government in December 2018;
- the 'Architectural Heritage Protection Guidelines for Planning Authorities', issued by the Department of Arts, Heritage and the Gaeltacht in November 2004;
- the nature, scale and design of the proposed development;

- the availability in the area of a wide range of social, community and transport infrastructure;
- the pattern of existing and permitted development in the area;
- planning history within the area;
- the submissions and observations received, and
- the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable infill residential development in this location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of the residential amenity of future occupants, would not detract from the character of the area, would be acceptable in terms of design, height and quantum of development, 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.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied that the proposed development would be in accordance with the zoning objective for the site, would be consistent with national and local planning policy, would be subject to compliance with the conditions attached, be acceptable in terms of architectural quality, be acceptable in terms of separation distances to site boundaries, would not seriously injure residential amenities in terms of overlooking or overbearing, and would provide for adequate communal public open and private open space.

## 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 received by An Bord Pleanála on the 1<sup>st</sup> day of July, 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) Omission of proposed communal open space and reinstatement of House Numbers 3, 4 and 5 shall be as shown on Drawing Numbers 2018-61-P-302 and 2018-61-P-303 received by the planning authority on the 10<sup>th</sup> day of April, 2019.
  - (b) Details of House Number 6 shall be as shown on Drawing Number 2018-61-P-303 received by the planning authority on the 10<sup>th</sup> day of April, 2019.

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 residential amenity.

3. This grant of permission is for 14 apartments and 10 houses only.

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

4. The materials, colours and finishes of the development, the treatment of surfaces and boundaries within the development and the landscaping of the site shall be in accordance with the details submitted with the application, except as may otherwise be required in order to comply with the conditions of this permission or the prior written agreement of the planning authority has been obtained for minor departures.

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

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water shall be submitted to, and agreed in writing with, the planning authority prior to commencement of works.

**Reason:** In the interest of public health, flood defence and to ensure a satisfactory standard of development.

6. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

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

7. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
- (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

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

8. 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 the exterior of the houses 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 interest of sustainable transportation.

9. 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 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:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

10. Site development and building works shall be carried only out 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.

11. All service cables associated with the proposed development (such as electrical, communal television, telecommunications and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

12. 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.

13. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

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

14. 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 carry out site testing and monitor all site investigations and other excavation works,
  - (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 (in situ or by record) of any remains that may exist within the site.

15. 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.

16. 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.

**Reason:** In the interest of orderly development and sustainable waste management.

17. (a) 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.
- (b) 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.

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. 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, public 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 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 the Board for determination.

**Reason:** To ensure the satisfactory completion of the development and maintenance of the development until taken in charge.

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

**Dated this                      day of                      2019**