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**Planning and Development Acts 2000 to 2019**

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

**Planning Register Reference Number: D19A/0006**

**Appeal** by Ruth Igoe of 80 Beech Park Road, Foxrock, Dublin and by Liam and Karen Flannery care of Brian Donovan of 131 Rathgar Road, Dublin against the decision made on the 3<sup>rd</sup> day of July, 2019 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Tom Kennedy care of Simon Clear and Associates of 3 Terenure Road West, Terenure, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Demolition of the two existing dwellings, along with associated outbuildings and construction of two number apartment blocks (Blocks 1 and 2) linked at ground floor level via a glazed atrium, providing 45 number apartment units with associated balconies, comprising 17 number one bed units, 25 number two bed units and three number three bed units. Block 1 fronting Bray Road (N11) and Kill Lane is part three-storey, part four-storey and part five-storey providing 30 number apartments over basement level accommodating 41 number car parking spaces, bicycle parking, refuse stores and plant rooms. Block 2 is part three-storey and part five-storey fronting Kill Lane providing 15 number apartments. Vehicular access, basement entrance/egress at Kill Lane, landscaping, boundary treatments and all

associated site works and services, all at 51 (Clara House) and 52 (Montrose), Bray Road, Foxrock, Dublin. The proposed development was revised by further public notices received by the planning authority on the 7th day of June, 2019.

## **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, to the pattern of existing development in the area and to 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 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 development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as revised by the further plans and particulars submitted to the planning authority on the 7<sup>th</sup> day of June, 2019 and the further information received by An Bord Pleanála on the 23<sup>rd</sup> day of August, 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. (a) Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.  
  
(b) 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.

3. Details of 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. 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.

5. (a) The site access arrangements and the internal road network serving the proposed development, including parking areas, footpaths and kerbs, and the basement car park, shall be in accordance with the detailed requirements of the planning authority for such works.  
  
(b) All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply 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 orderly development and sustainable transport.

6. Details of all boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development (including any demolition works) on the site.

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

7. Prior to commencement of development, the developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.

**Reason:** To ensure full and verifiable implementation of the approved landscape design.

8. 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. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

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

9. Proposals for a development name and 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 development signs and 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 areas.

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

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

11. The mitigation measures outlined in the Bat Assessment 2019, submitted to An Bord Pleanála on the 23<sup>rd</sup> day of August 2019, shall be carried out in full except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the bat population.

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

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

13. 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 public 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.

14. 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.

15. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and shall include details of any relocation of existing street lighting. Such lighting shall be provided prior to the making available for occupation of any unit.

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

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 96(4) and 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 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 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 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.



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

**Dated this            day of            2020.**