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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3743/19**

**Appeal** by Stephen McArdle care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin against the decision made on the 29<sup>th</sup> day of May, 2020 by Dublin City Council to grant subject to conditions a permission to Davy Platform ICAV on behalf of its sub-fund Elm Real Estate Investments care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The development will consist of: - part three, part four, part five, part seven and part nine-storey residential building providing for 73 number apartments (one studio, 10 one-bedroom, 56 two-bedroom and six three-bedroom units) with terraces, balconies and winter gardens to south, east and west elevations; the proposed residential development is located immediately south of the existing 'The Links' building which is situated to the west of the overall campus; revisions to basement layout resulting in the provision of an additional 52 number car parking spaces and 73 number bicycle parking spaces; bin storage and access cores to service the residential development; provision of playground and associated landscaping to west of 'The Links' building; all associated works, site development,

landscaping, utilities infrastructure, temporary construction works, plant and PV panels; all at Elmpark Green, Merrion Road, 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 Land-Use zoning objective for the site, as set out in the Dublin City Development Plan 2016-2022, which is “to protect, provide and improve residential amenities”, to 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, to the National Planning Framework issued by the Department of Housing, Planning and Local Government according to which new residential development in cities should be directed into locations within the existing built up serviced areas, the location of the subject site within a well serviced, inner

suburban area in proximity to the city centre, public transport facilities and a good local road network, and a wide range of community and social facilities, to the size and configuration of the site which has the capacity to accept a development that is compatible with the established development in the area, and to the site layout, footprint, scale, mass, height and design of the proposal, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not adversely impact the visual amenity or character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay Special Area of Conservation (Site Code: 000210) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) or any other European site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, required.

## 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 8<sup>th</sup> day of April, 2020, 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. 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.

3. Fritted glazing to all balconies and roof terraces on the southern elevation shall be implemented as indicated in the further information submitted to the planning authority on the 8<sup>th</sup> day of April, 2020.

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

4. 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 prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works, and
- (c) provide satisfactory arrangements for recording and removal of any archaeological material which may be considered appropriate to remove.

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

5. The car parking facilities, hereby permitted, shall be reserved solely to serve the proposed development and shall provide for the following:
- (a) a total of 73 number car parking spaces shall be reserved to serve the proposed residential units,
  - (b) a number of car parking spaces, to be agreed with the planning authority, shall be reserved for persons with impaired mobility. The layout and design of such designated spaces shall be in accordance with the guidance set out in the document “Building for Everyone: A Universal Design Approach” published by the National Disability Authority.

**Reason:** To ensure that adequate parking spaces are permanently available to serve the proposed residential units and other commercial uses within the development.

6. 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 shall be relocated underground as part of the site development works.

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

7. 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.

8. Communal waste storage areas within the basement shall be designed and managed in accordance with the proposals within the outline Operational Waste Management Plan lodged with the planning application. Waste materials shall be transferred to the designated surface level space on the day of collection only.

**Reason:** In the interests of residential and public amenities.

9. The landscaping scheme shown on the Landscape Plan 1 and 2 drawing numbers ch.08-DR-201 and ch.08-DR-202, as submitted to the planning authority on the 13<sup>th</sup> day of August, 2019, 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 interest of residential and visual amenity.

10. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

**Reason:** In the interests of the visual and residential amenities of the area.

11. 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.

12. 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.

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

13. 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 of the area.



14. 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                    2020.**