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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3019/20**

**Appeal** by Valerin O'Shea of Saint Kevin's Cottage, Laragh East, Glendalough, County Wicklow and by Bartra Property Limited care of Thornton O'Connor Town Planning of Number 1 Kilmacud Road Upper, Dundrum, Dublin and by others against the decision made on the 25<sup>th</sup> day of November, 2020 by Dublin City Council to grant subject to conditions a permission to Bartra Property Limited in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Permission for a Build-to-Rent Shared Living Residential Development. The development will principally consist of the demolition of all structures on site (872 square metres) which are currently in guesthouse use, and the construction of a part three to part five number storey over part lower ground/part basement Shared Living Residential Development comprising 111 number bed spaces (96 number single occupancy rooms, three number accessible rooms and six number double occupancy rooms) with lift overrun at roof level (3,617 square metres). The development also consists of the provision of communal living/kitchen/dining rooms at each floor level from lower ground to fourth floor level to serve the

residents of each floor; communal resident amenity spaces for all residents including gymnasium, TV/cinema room and function room at basement/lower ground floor level and a reception/lounge at ground floor level, a roof terrace at third floor level (78 square metres) facing north-west, north-east and south-east and at fourth floor level (111.5 square metres) facing all directions; resident facilities including launderette, linen store, accessible WC/shower and bin storage; bicycle parking; hard and soft landscaping; solar panels; plant; and all other associated site works above and below ground, all on a 0.22 hectare site at Number 98 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

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

- (a) the location of the site in an established urban area, in an area zoned for residential use;
- (b) the policies and objectives of the Dublin City Development Plan, 2016-2022;
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) the National Planning Framework;
- (e) the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities”, issued by the Department of Housing, Local Government and Heritage in December, 2020;
- (f) the “Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 7 and Specific Planning Policy Requirement 9;
- (g) the “Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas (Cities, Towns and Villages)” and the accompanying “Urban Design Manual – a Best Practice Guide”, issued by the Department of the Environment, Heritage and Local Government in May, 2009;
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (i) the nature, scale and design of the proposed development and the availability in the area of a wide range of social and transport infrastructure;
- (j) the pattern of existing and permitted development in the area;

- (k) the planning history of the site;
- (l) the submissions and observations received;
- (m) the report of the planning authority; and
- (n) the report of the Inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable form of residential building in this accessible urban location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would be acceptable in terms of pedestrian and traffic safety and convenience, would not give rise to flooding in the area, and would provide an acceptable form of residential amenity for future occupants. 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 had regard to the location of the site within a central and accessible location within walking distance of Ballsbridge, which is a significant employment location, the proximity of the site to the city centre and to other employment clusters, and to the location of the site within reasonable walking distance of high frequency bus services, and considered that the proposed development would be in accordance with the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities", issued by the Department of Housing, Local Government and Heritage in December, 2020, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Furthermore, the Board noted that the proposed development provides communal facilities including a gym, function room, TV/cinema room, and reception/lounge seating area on a site which is located in an area replete

with civic amenities and considered that, subject to compliance with the modifying conditions, as set out below, which would result in the provision of circa 4.3 square metres of kitchen/dining space per resident, and the provision of cooking facilities within the individual rooms, the proposed development would be consistent with similar previously permitted developments and would achieve a satisfactory standard of communal facilities and amenities for future residents. The proposed development would be in accordance with national and local policies which seek to deliver attractive and desirable housing options in appropriate locations and 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 designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, either by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment would not, therefore, be required.

### **Environmental Impact Assessment – Preliminary Examination**

The Board agreed with the Inspector's examination, as set out in the Inspector's report, and her recommendation in respect of Environmental Impact Assessment (EIA) screening, and concluded that, having regard to the nature and scale of the proposed development, to its location on zoned and serviced lands in a built up area and to the existing pattern of development in the area, that it is outside of, and not connected to, any sensitive location, and

that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage and the Board is satisfied that a screening determination is not required.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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 following standard rooms which are adjacent to the kitchen / dining rooms on each level, from ground floor to fourth floor inclusive, shall be omitted and the resultant areas shall be absorbed into the respective kitchen / dining rooms in order to increase the areas of these rooms, as follows,
    - (i) Ground Floor - standard room number 20
    - (ii) First Floor - standard room number 20
    - (iii) Second Floor - standard room number 20
    - (iv) Third Floor - standard room number 14
    - (v) Fourth Floor - standard room numbers 13 and 14
  - (b) All bedrooms shall be provided with functional kitchens to include cooking hobs.

- (c) The cycle parking provided within the scheme shall be covered and weatherproof.
- (d) A total of 99 number shared living rooms are permitted.

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 interests of providing a satisfactory standard of residential amenity for occupants of the development.

- 3. The Shared Accommodation units hereby permitted shall operate in accordance with the definition of Build-to-Rent developments, as set out in the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities”.

**Reason:** In the interest of the proper planning and sustainable development of the area.

- 4. Prior to commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first ‘shared living units’ within the scheme.

**Reason:** In the interest of the proper planning and sustainable development of the area.

5. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a Shared Accommodation scheme. Any proposed amendment or deviation from the Shared Accommodation model, as authorised in this permission, shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity.

6. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the management company established to manage the operation of the development, together with a detailed and comprehensive Shared Accommodation Management Plan which demonstrates clearly how the proposed Shared Accommodation scheme will operate. This Shared Accommodation Management Plan shall also include proposed access times for the external terrace area at Fourth Floor level with a view to limiting such access after an appropriate hour in the evening and before an appropriate hour in the morning.

**Reason:** In the interests of orderly development, the proper planning and sustainable development of the area and residential amenity.

7. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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





8. The landscaping scheme submitted with the application shall be carried out within the first planting season following substantial completion of external construction works, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. 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 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.

9. The developer shall consult with the planning authority regarding the removal of the young Tilia (lime) tree set within a mass concrete pavement and the proposal to provide for a similar specimen along the site frontage, prior to commencement of development.

**Reason:** In the interests of proper planning and visual amenity.

10. (a) An accurate tree survey of the site, which shall be carried out by an arborist or landscape architect, shall be submitted to the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.
- (b) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.

**Reason:** To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of visual amenity.

11. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

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

12. 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 interests of public health and to ensure a satisfactory standard of development.

13. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling and walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

14. 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 amenities of property in the vicinity and the visual amenities of the area.

15. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

16. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

17. 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 the commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity and to ensure the provision of adequate refuse storage.

18. 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.

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

19. Proposals for the development name and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs 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.

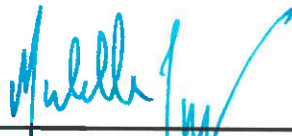
**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

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 reinstatement of public roads which may be damaged by the transport of materials to the site, 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 for Dublin City Council 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 16<sup>th</sup> day of June 2021.

