



An  
Bord  
Pleanála

Board Order  
ABP-312043-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 2685/21**

**Appeal** by Seamus Fitzpatrick care of Reid Associates of 2 Connaught Place, Crofton Road, Dún Laoghaire, County Dublin and by Merrion Courtyard Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin against the decision made on the 28<sup>th</sup> day of October, 2021 by Dublin City Council to grant subject to conditions a permission to Merrion Courtyard Limited in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Demolition of first and second floor rear extension to number 18 Merrion Road (the existing ground floor restaurant at 18 Merrion Road is excluded from this application), single storey elements to rear of numbers 1 and 2 Ballsbridge Avenue and ancillary single storey sheds and outbuildings in the associated rear yards (demolitions total circa 264 square metres) to provide for the construction of nine number residential units in a part one, part two and part three-storey building accessed off Ballsbridge Avenue, incorporating the existing buildings at numbers 1 and 2 Ballsbridge Avenue and linking to number 18 Merrion Road at first and second floor level. There are six number residential units (two number studios, two number one bed, two number two bed and all with balconies/terraces) in the new building

and three residential units (two number one beds at first and second floor of number 18 Merrion Road and one number one bed in number 2 Ballsbridge Avenue) in existing buildings. Number 1 Ballsbridge Avenue is to remain as is existing in office use at ground floor level, with refurbished interior. The development includes the provision of 16 bicycle parking spaces within the scheme, new bin storage area at ground floor level on Ballsbridge Avenue, and all landscaping, plant, boundary treatment, site development works and site services above and below ground, all on a site of circa 515 square metres at 18 Merrion Road, numbers 1 and 2 Ballsbridge Avenue (including associated rear yards of number 18 Merrion Road and numbers 1 and 2 Ballsbridge Avenue), Ballsbridge, 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.**

## **Reasons and Considerations**

Having regard to the urban location of the site in close proximity to a wide range of existing and proposed public transport options, the provisions of the Dublin City Development Plan 2022-2028, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2020 and the updated 2022 version, the Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2018, and the National Planning Framework, which seeks for compact development of brownfield sites, the pattern and character of development in the area, and the

design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development in this accessible urban location, would not seriously injure the amenities of surrounding properties in terms of overbearing, loss of privacy, overshadowing/loss of daylight or seriously detract from the character 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 amended by the further plans and particulars submitted to the planning authority on the 1<sup>st</sup> day of October, 2021, 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) Proposed Unit 3, to the rear of number 3 Ballsbridge Avenue, shall be omitted from the scheme.
  - (b) The bin storage area shall be relocated from the side of number 18 Merrion Road to the position where Unit 3 is proposed. The area shall be screened, adequately ventilated, drained and illuminated.

- (c) The proposed bin storage area to the side of number 18 Merrion Road shall only be used as a staging area for refuse collection.
- (d) Covered bicycle parking shall also be provided in the location of where Unit 3 is proposed.

Having regard to the above amendments, a revised courtyard layout and a detailed landscape management plan (including privacy measures for the proposed ground floor units) shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of protecting the residential amenity of existing and proposed properties and the visual amenity of the area.

- 3. The mitigation measures outlined in Section 5.6 of the Site-Specific Flood Risk Assessment Report (dated March 2021) submitted with the application shall be implemented in full. In addition, a flood warning and evacuation plan shall be submitted and agreed in writing with the planning authority prior to commencement of development.

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

- 4. 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.



5. Drainage arrangements, including the 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.

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

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

7. Proposals for a development name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and 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 and to ensure the use of locally appropriate place names for new residential areas.

8. Site development and building works shall be carried out only between the hours of 0700 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 subject to the prior written agreement of the planning authority.

**Reason:** In the interest of residential amenities of surrounding properties and in the interest of clarity.

9. 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 management measures for noise, dust and dirt, construction traffic management proposals, and details of how the trees on the public realm corner of Merrion Road and Ballsbridge Park/Avenue will be protected during the construction of the project.

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

10. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

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

12. Any alterations to the public road/footpath shall be in accordance with the requirements of the planning authority and where required, all repairs shall be carried out to the satisfaction of the planning authority at the developers' expense.

**Reason:** In the interests of clarity, public safety and 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.

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14. 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.

15. 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 visual and residential amenities.

16. 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.

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



Dated this 13<sup>th</sup> day of April 2023