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**Planning and Development Acts 2000 to 2022**

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

**Planning Register Reference Number: D21A/0739**

**Appeal** by Graham and Fiona Mongey care of Murphy Design John Murphy Architect of 17 Odin's Way, Taylors Lane, Rathfarnham, Dublin, and by Others, against the decision made on the 26<sup>th</sup> day of April, 2022 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Breege Muldowney Aclare Nursing Home care of Tony Manahan of Manahan Planners, 38 Dawson Street, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Demolition of existing conservatory and extensions to the rear of the existing nursing home in Number 4 and 5, the demolition of the mews building adjoining Number 6 Tivoli Terrace South and its replacement by a new three-storey extension containing new primary entrance to expanded and renovated nursing home, the change of use of Number 6 from residential use to nursing home use, plus the alterations, extensions in part three-storey, two-storey and single-storey extensions to rear of Number 4, 5 and 6, including a basement area of circa 97 square metres. The proposed development will comprise of an additional 30 number rooms for total of 46 number rooms and 49 number bed spaces; landscaped open space to rear; new primary reception area and ancillary communal

rooms, residents lounge, dining room, internal landscaped courtyards and new lift shaft provision; six number car parking spaces to front of Number 4 and 5, two of these spaces to be disability accessible; 10 number bicycle spaces; loading area, bin store, alterations to existing front boundary wall, landscaping to front of Number 6 and all other associated site works at this site of 0.15 hectares. The application involves a greater set back from the boundaries and a reduction in scale of the proposed extensions in response to the recent decision of the planning authority on Register Reference Number D21A/0154 dated 20<sup>th</sup> April 2021, all at 4/5/6, Aclare Nursing Home, Tivoli Terrace South, Dún Laoghaire, County Dublin. The proposed development was revised by further public notices received by the planning authority on the 31<sup>st</sup> day of March 2022.

## **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 provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 particularly in relation to the zoning of the site, the pattern of development in the area, the scale and design of the proposed development as well as its consideration of adjoining residential amenity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenity of the area, would not be prejudicial to public health and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## Conditions

1. The proposed 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 22nd day of December 2021 and revised by clarification of further information submitted to the planning authority on the 31st day of March 2022, except as may otherwise be required in order to comply with the conditions set out below. 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. 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:** To ensure adequate servicing of the development, and to prevent pollution.

3. (a) All foul sewage and soiled water shall be discharged to the public foul sewer. Details of proposals to discharge and connect to the existing wastewater network, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any development on the site.  
  
(b) Only clean, uncontaminated stormwater shall be discharged to the surface water drainage system.

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

4. Prior to commencement of development the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

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

5. 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.

6. The window opening serving room Number 21 shall be glazed with obscure glass, and room Number 21 shall not be used as a habitable room. Details in this regard shall be agreed in writing with the planning authority.

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

7. 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.

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



8. (i) Prior to the commencement of development, the developer shall make arrangements with Dún Laoghaire-Rathdown County Council - Parking Control Section to address any necessary amendments to 'Pay and Display' parking bays (or part thereof) on Tivoli Terrace South, Dún Laoghaire, resulting from the proposed revised vehicular entrances to Numbers 4, 5 and 6 Tivoli Terrace South, Dún Laoghaire, which are included in the proposed works. These works shall be undertaken at the developer's expense and in compliance with the terms and conditions set forth by the planning authority (Municipal Services Department). Such terms and conditions include a fee/charge for the loss of any 'Pay and Display' parking bays (or part thereof).
- (ii) The footpath in front of the revised vehicular entrances to Numbers 4, 5 and 6 Tivoli Terrace South shall be dished and reinforced at the developer's expense. This includes any necessary relocation or adjustment of water cocks/chamber covers, all of which shall be completed to the satisfaction of the relevant utility company and the planning authority. The remaining portion of the footpath in front of Numbers 4, 5 and 6 Tivoli Terrace South, shall also be reconstructed as required, at the developer's own expense, with a full-height road kerb. Any relocation or adjustment of water cocks/chamber covers shall be carried out to the satisfaction of the appropriate utility company and the planning authority. For guidance on the construction of the footpath in front of 4/5/6 Tivoli Terrace South, Dún Laoghaire, the developer shall contact the Council's Road Maintenance & Control Section to ascertain the necessary specifications for the works and to obtain any required permits. Details in this regard shall be agreed in writing with the planning authority.

**Reason:** In the interest of road and pedestrian safety.

9. All of the communal parking areas serving the nursing home 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 sustainable transportation.

10. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority the following provisions related to cycle parking facilities:

The developer shall provide secure, covered long-stay (staff) cycle parking spaces, with a minimum provision of one space per five staff members, in compliance with the requirements specified in Dún Laoghaire-Rathdown County Council's Standards for Cycle Parking and associated Cycling Facilities for New Developments (January 2018), Section 4.2.

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

11. A comprehensive 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;  
and



- (c) details of proposed street furniture, including bollards, lighting fixtures and seating.

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

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

- 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, including noise management measures particularly in relation to the construction of the basement.

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

- 13. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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



14. Prior to commencement of development, the developer 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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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.

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

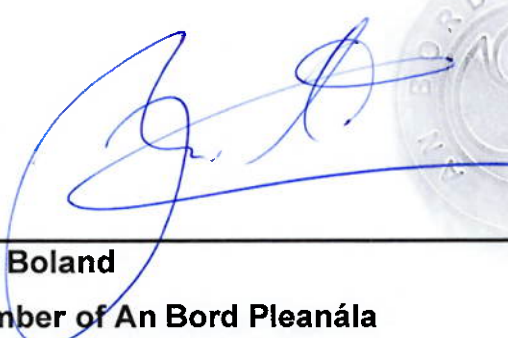

**Reason:** In order to safeguard the amenities of property in the vicinity.





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.

**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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**Joe Boland**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

Dated this *16<sup>TH</sup>* day of *January* 2024.