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**Planning and Development Acts 2000 to 2022**

**Planning Authority: South Dublin County Council**

**Planning Register Reference Number: SD22A/0039**

**Appeal** by Pierce Mullarney of 49 Saint Patrick's Cottages, Rathfarnham, Dublin, and by Dungrey Limited care of Brock McClure of 63 York Road, Dún Laoghaire, County Dublin, against the decision made on the 21<sup>st</sup> day of September, 2022 by South Dublin County Council to grant subject to conditions a permission to Dungrey Limited in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The demolition of two existing habitable structures on site including a bungalow (Silveracre), an existing cottage (Number 6 Whitechurch Road) and a row of five derelict structures/cottages located along the western boundary of the site (extent of proposed demolition is 433 square metres); the construction of 22 four bed, three and four storey units ranging in size from 197 square metres to 214 square metres, all with associated private balcony/terrace areas. Vehicular and pedestrian access is proposed via new entrance on Whitechurch Road. The proposed development shall provide for 44 car parking spaces, a new single storey bicycle storage shed (approximately 34 square metres) and provision of bin storage to be provided at the front curtilage of the dwelling for all terraced units, all boundary treatment, all site services and all associated site works at Silveracre Bungalow, Whitechurch Road, Rathfarnham, 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:

- (a) the residential zoning objective (RES) of the site;
- (b) the provisions of the South Dublin Development Plan, 2022-2028;
- (c) the historical and established use on site and the character and pattern of development in the area; and,
- (d) the nature, scale, and design of the proposed development;

it is considered that, subject to compliance with the conditions set out below, the proposed development would provide an adequate level of residential amenity for future residents, would not seriously injure the residential or visual amenities of the area, would be acceptable having regard to the architectural character of the site and surrounding area, and would be acceptable in terms of the safety of pedestrians and road users. 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 in accordance with the plans and particulars lodged with the application, and as amended by further plans and particulars received by the planning authority on the 25th day of August 2022, and as amended at appeal stage by the documents received by the Board on 18<sup>th</sup> day of October 2022, 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 privacy screen shall be provided on the north-northeast side boundary of the roof terrace of Unit number 16. Opaque glazing shall be provided to any above ground floor windows on the north-northeast elevation of Unit number 16.

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

3. The palette of materials and finishes shall accord with the plans and particulars, as amended at appeal stage by details received by the Board on 18<sup>th</sup> day of October 2022. Samples and images of the final palette of materials and finishes should be provided to the planning authority for written agreement and shall include full details on materials and finishes for all elements of the development, including the boundary treatment along Whitechurch Road. In addition, a brick finish shall be utilised for the principal facades (front, side and rear) of Unit numbers 9 to 16 in lieu of the proposed render finish, similar to what is proposed for unit numbers 7 to 8.

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

4. (a) Prior to the commencement of the development as permitted, the developer or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act, 2000 (as amended), that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except whereafter not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the developer or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, and the common good.

5. (a) A Mobility Management Plan shall be completed within six months of the opening of the proposed development. The Mobility Management Plan shall be submitted for the written agreement of the planning authority.
- (b) Prior to the commencement of development, the developer shall agree in writing a public lighting scheme with South Dublin County Council Lighting Department. Once agreed, the scheme shall be constructed/installed to taking in charge standards at the expense of the developer and to the satisfaction of South Dublin County Council Lighting Department.
- (c) Prior to commencement of development, the developer shall submit a developed Construction Traffic Management Plan for the written agreement of the planning authority.

- (d) All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to commencement of development, the developer shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.
  
- (e) The boundary walls and gates at vehicle access points shall be limited to a maximum height of 0.9 metres, and any boundary pillars shall be limited to a maximum height of 1.2 metres, to improve forward visibility for vehicles.

**Reason:** In the interest of sustainable transport, traffic and pedestrian safety and the amenity of the surrounding area.

- 6. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Eireann and adhere to the standards and conditions set out in that agreement. All development shall be carried out in compliance with the Uisce Eireann Standards codes and practices.

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

- 7. All floor levels shall be a minimum of 500 millimetres above the highest known flood level for the site.

**Reason:** To ensure any risk of flooding is addressed.

8. (a) The drainage arrangements shall be carried out in accordance with the details set out in drawing number 21029-102-P2 received by the planning authority on 25<sup>th</sup> day of August 2022.
- (b) Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, a comprehensive SUDS Management Plan to demonstrate that the proposed SUDS features have reduced the rate of run off into the existing surface water drainage network. A maintenance plan shall also be included as a demonstration of how the system will function following implementation.

**Reason:** To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal is incorporated into the design and the build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the lifetime of the proposal, in accordance with the policies and objectives of the County Development Plan 2022-2028.

9. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, following consultation with South Dublin County Council's Public Realm Section if needed, a fully detailed landscape plan with full works specification, that accords with the specifications and requirements of the Council's Public Realm Section. This shall include the following:
  - (a) A comprehensive Landscape Design Rationale, the objective of this report is to describe the proposed landscape and external works as part of this proposed housing development.

- (b) A fully detailed planting plan to accompany the landscape proposals for the entire development. The developer should propose native species where possible to encourage biodiversity and support pollinators within the landscape. Street Frontage to the Whitechurch Road should include street trees planting where possible.
- (c) The landscape Plan shall include hard and soft landscape details; including levels, sections and elevations, detailed design of SUDS features including swales and integrated/bio-retention tree pits.
- (d) The developer shall submit a revised landscape plan to incorporate additional street trees. Proposed Street trees within the development shall be provided fully in public areas and not between private or management company driveways; street tree planting shall be located within the public realm and include SUDS features.
- (e) The developer shall submit a detailed play strategy for the written agreement of the planning authority.
- (f) A scheme for the maintenance and management of the landscape scheme for the lifetime of the development shall be submitted to the planning authority for approval. All works shall be maintained in accordance with the agreed scheme.

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



10. Prior to any occupation of the development, a scheme for the maintenance and management of the landscape scheme for the lifetime of the development shall be submitted to the planning authority for approval. All works shall be maintained in accordance with the agreed scheme.

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

11. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed units without a prior grant of planning permission.

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

12. A Green Space Factor (GSF) Worksheet shall be submitted by the developer for the proposed development detailing how they have achieved the appropriate the minimum Green Space Factor (GSF) scoring established by their land use zoning. Completed Green Space Factor (GSF) worksheets shall be submitted to South Dublin County Council with the Green Infrastructure Plan and Landscape Plan for the proposed development.

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

13. (a) The developer shall employ a qualified Archaeologist, licensed to carry out archaeological monitoring of all sub-surface works carried out within the proposed development site. This will include the archaeological monitoring of the removal of topsoil, the excavation of trenches for foundations, services, access roadway, et cetera, associated with the proposed development.

- (b) Should archaeological material be discovered during the course of archaeological monitoring, the developer shall facilitate the archaeologist in fully recording the material. The developer shall also be prepared to be advised by the Department with regard to the appropriate course of action, should archaeological material be discovered.
- (c) The archaeologist shall prepare and submit a report, describing the result of the archaeological monitoring, to the local authority and the Development Application Unit of the Department of Environment, Heritage and Local Government within six weeks following completion of archaeological monitoring.

**Reason:** To facilitate the recording and protection of any items of archaeological significance that the site may possess.

14. Proposals for a naming and 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 numbers shall be provided in accordance with the agreed scheme.

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

15. 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 overground cables shall be relocated underground as part of the site development works.

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

16. 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 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.

17. During the construction and/or demolition phase of the development, best practicable means shall be employed to minimise air blown dust being emitted from the site.

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

18. Prior to commencement of development, the developer 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 development plan of the area.

19. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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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**Una Crosse**

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

Dated this *28<sup>th</sup>* day of *November* 2023.