



Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D21A/1137

Appeal by Annette Dempsey of Raglan, 16A Tivoli Road, Dun Laoghaire, County Dublin and by others against the decision made on the 23rd day of September, 2022 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Atria Living Limited care of Thornton O'Connor Town Planning of 1 Kilmacud Road Upper, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The demolition of the existing building (205 square metres); and the construction of a part-two to part-three storey over partial basement apartment block (circa 705 square metres), comprising four number one-bedroom units, two number two-bedroom units, one number three-bedroom unit and one number two-bedroom live-work unit over two levels. The proposed development also includes a bin and bike store; pedestrian entrances off York Road and Tivoli Road; a vehicular entrance off Tivoli Road; eight number ancillary car parking spaces; a green roof; PV solar panels; balconies and terraces; hard and soft landscaping; boundary treatments; and all other associated site works above and below ground on a 0.073 hectare site at Tivoli Lodge, Tivoli Road, Dún Laoghaire, County Dublin. Further public notices were received by the planning authority on the 29th day of August, 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:

- (a) the site's location on lands primarily zoned 'A' where residential is a 'permissible use',
- (b) the policies and objectives in the Dún Laoghaire-Rathdown County Development Plan 2022-2028,
- (c) the nature, scale and design of the proposed development,
- (d) the pattern of existing development in the area,
- (e) Housing for All – A New Housing Plan for Ireland, 2021,
- (f) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018,
- (g) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in July 2023,
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in 2018,

- (i) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2024, and
- (j) the submissions received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The Board also considered that demolition of the existing building is justified on the basis that it cannot be incorporated into the proposed development layout, which facilitates a significant increase in density. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of identification of the European Sites which would potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans and projects, on these European Sites in view of the site's conservation objectives and that a Stage 2 Appropriate Assessment 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 further information received on the 29th day of August 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, or as otherwise stipulated by conditions hereunder, 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 to provide a minimum of one number disabled car parking space. The revised plans and particulars showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of proper planning and orderly development.

3. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. 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.

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

Reason: In the interest of public health.

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.

Reason: In the interests of visual and residential amenity.

7. Proposals for an apartment naming/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 names 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. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartments. The lighting scheme shall form an integral part of landscaping of the site.

Reason: In the interests of public safety and amenity and to prevent light pollution.

9. 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 where prior written approval has been received from the planning authority.

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

10. 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 and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety.

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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

12. 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.

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.

14. 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 provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge.

15. 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 Contribution Scheme made under section 48 of the Act be applied to the permission.

Eamonn James Kelly

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

Dated this *9th* day of *April*, 2024.