

30th November 2021

Development, Economic and Transport Planning Department
South Dublin County Council
County Hall
Tallaght
Dublin 24

RE: Application for Extension of Duration of Permission Register Reference No. SD16A/0171
Applicant: Ciaran Reilly

Dear Sir/Madam,

We act for the applicant, **Ciaran Reilly**, in relation to this matter.

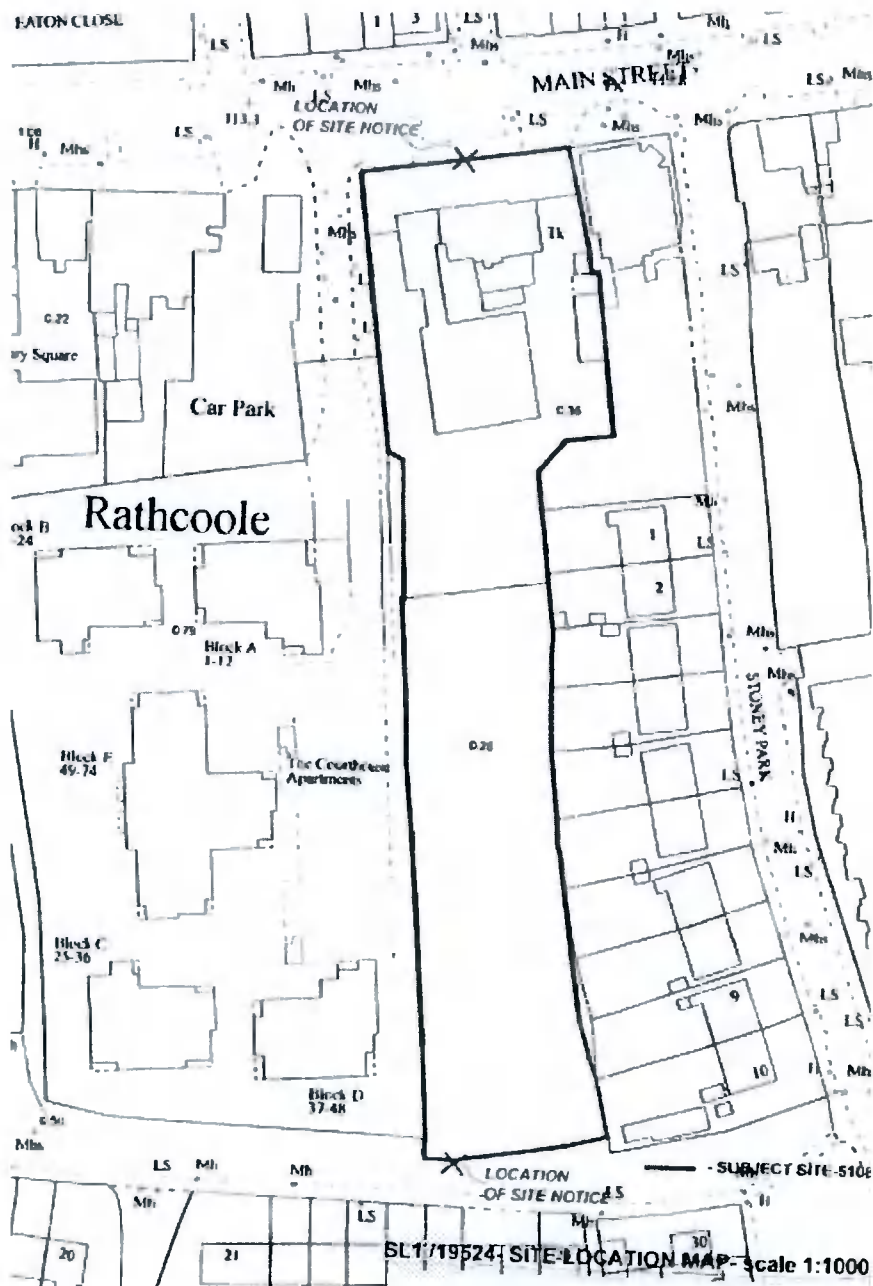
This is an application by Ciaran Reilly for an extension of duration of permission Reg. Ref. No. SD16A/0171 pursuant to Section 42(1)(a)(ii) of the Planning and Development Act 2000, as amended, for the construction of 8 3-storey, 4 bedroom semi-detached houses and 4 3-storey, 3 bedroom semi-detached houses at the back of Protected Structure RPS No. 323 with associated car parking spaces at Main Street, Rathcoole, Co. Dublin.

The Planning Register will confirm that by Order dated 7th February 2017, South Dublin County Council granted permission for the development described in the public notices and on the lodged plans and particulars as follows.

Construction of 8 3-storey, 4 bedroom semi-detached houses and 4 3-storey, 3 bedroom semi-detached houses at the back of Protected Structure RPS No. 323 with associated car parking spaces. The development also includes the demolition of shed & workshop located to the rear of the Protected Structure RPS. No. 323 and the provision of 18 new car parking spaces, the construction of a new access road from Main Street and all ancillary site development works and services connections.

1.0 BRIEF DESCRIPTION OF THE PERMITTED DEVELOPMENT

1.1 The application site comprises approx. 0.51 hectares and it is outlined red on the image below. The subject site is a long and roughly rectangular shaped in plan on the southern side of Main Street, Rathcoole. There is a two storey office building (a protected structure) at the front, a large shed/garage building to the rear and beyond that building the site is vacant. The site abuts residential units at Stoney Park to the east and The Courthouse Apartment scheme to the west.



1.2 Drg. No. FI-01 by Collins Maher Martin Architects (submitted as part of further information response to County Council on 23rd November 2016) shows the approved site layout plan comprising 8 no. 3-storey, 4 bedroom semi-detached houses and 4 no. 3-storey, 3 bedroom semi-detached houses on the vacant part of the site to the rear of the Protected Structure (RPS No. 323). The site layout plan also shows the construction of a new access road at Main Street and 18 no. car parking spaces.

2 TIME LINE OF THE EXISTING GRANT OF PERMISSION REG. REF. NO. SD16A/0171

2.1 South Dublin County Council granted planning permission on 7th February 2017, copy attached, and it has a five years duration as per Section 40(3) of the Planning and Development Act 2000 as amended.

2.2 Section 251 of the Planning and Development Act, 2000 as amended provides that the nine days over Christmas/New Year holiday period shall be disregarded for the purposes of calculating any

appropriate period or other time limit under the Act. Here, allowing for the five years duration of the existing planning permission (i.e. 45 days in total) pursuant to Section 251 of the Act and a further 56 days pursuant to Section 251A of the Act in respect of the COVID 19 civil emergency, the date of expiry of the existing permission is therefore **18th May 2022** (i.e. 6th February 2022 + 45 days + 56 days).

Date of Final Grant of Permission: **7th February 2017**
Date of expiry of Existing Grant: **18th May 2022**

- 2.3 Having regard to the above dates, and in accordance with Section 42(1)(d) of the Planning and Development Act, 2000, as amended, "the application is duly made prior to the end of the appropriate period".

3 PERIOD OF EXTENSION SOUGHT

- 3.1 This application seeks a five years extension of duration of this permission. Applying the same principles as above in respect of the calculation of the appropriate period, then the five years extension period provides for an additional nine days per annum in accordance with Section 251 of the Principal Act.
- 3.2 Accordingly, **Ciaran Reilly** therefore is applying for an extension of duration of this planning permission to **1st July 2027** (i.e. 18th May 2027 + 45 days).

Extension of Duration of Permission sought: **1st July 2027**

4 APPLICATION TO EXTEND THE APPROPRIATE PERIOD PURSUANT TO SECTION 42 OF THE PLANNING AND DEVELOPMENT ACT, 2000, AS AMENDED

- 4.1 The procedures for extending the duration of a grant of permission are set out at Section 42(1) of the Planning and Development Acts, 2000-2020, as follows:

"On application to it in that behalf a planning authority shall, as regards a particular permission, extend the appropriate period by such additional period not exceeding 5 years as the authority considers requisite to enable the development to which the permission relates to be completed provided that each of the following requirements is complied with:

(a) *either*

(i) *the authority is satisfied that -*

(I) *the development to which the permission relates was commenced before the expiration of the appropriate period sought to be extended,*

(II) *substantial works were carried out pursuant to the permission during that period, and*

(III) *the development will be completed within a reasonable time,*

or

(ii) *the authority is satisfied -*

- (I) *that there were considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially militated against either the commencement of development or the carrying out of substantial works pursuant to the planning permission,*
- (II) *that there have been no significant changes in the development objectives in the development plan or in the regional development objectives in the regional spatial and economic strategy for the area of the planning authority since the date of permission such that the development would no longer be consistent with the proper planning and sustainable development of the area,*
- (III) *that the development would not be inconsistent with the proper planning and sustainable development of the area having regard to any guidelines issued by the Minister under section 28, notwithstanding that they were so issued after the date of the grant of permission in relation to which an application is made under this section,*
- (IV) *where the development has not commenced, that an environmental impact assessment, or an appropriate assessment, or both of those assessments, if required, was or were carried out before the permission was granted.*

- (b) The application is in accordance with such regulations under this Act as apply to it,*
- (c) Any requirements, of, or made under those regulations are complied with as regards an application, and*
- (d) The application is duly made prior to the end of the appropriate period”*

4.2 Commencement of development pursuant to this grant of permission has not yet started, so this application to extend the duration of the permission is made pursuant to sub-section (a)(ii) of Section 42(1) of the Principal Act.

4.3 Each of the requirements at sub-sections (I) to (IV) inclusive is addressed in turn below.

(I) Reasons that Development has not yet commenced

4.4 Following receipt of the final grant in February 2017, it was considered that there was too much economic uncertainty, in particular, highly restrictive access to development funding and limitations on mortgage lending, to commence development on the site. As a result, our client pursued an alternative development in Dublin City Centre with the intention of commencing construction of the approved development in 2020. To do so, it required his contractors at a commercial development in Dublin City Centre to finish, so that they could be moved to this site in Rathcoole.

4.5 However, like many builders and contractors, the COVID 19 pandemic seriously disrupted his plans with the construction site at Pembroke Street Lower being shut down for substantial parts of 2020 and 2021. There was also significant delays experienced with the delivery of construction materials and the loss of employees who left Ireland and returned home, which further delayed completion of his development in Dublin City Centre. As a result, it has not been possible to commence construction at Rathcoole and even the provision of the 56 no. Covid days has not enabled him to

yet commence construction with a view to completion or substantial completion before the planning permission will expire.

- 4.6 Annex 2 of the Department's Circular Letter PPL 1/2010 provides guidance to planning authorities in relation to commercial or economic considerations under sub-section (I) above and as is seen in the following extract.

"In relation to considerations of a commercial or economic nature, whether these are advanced in relation to large developments or smaller developments (including single houses) it is not considered necessary for planning authority to seek evidence as to the personal financial or commercial situation of the applicant. The planning authority may base its decision on matters such as relevant national and local conditions affecting the property and development market or availability of credit, having regard to e.g.

- *Data published by official agencies or independent research bodies such as the ESRI relating to economic growth, employment rates, availability of credit, at a national level and/or*
- *Local property market data, such as the existence of a high level of vacant or unsold property comparable to the type of development for which the permission was granted."*

- 4.7 Having regard to the guidance in Circular PPL 1/2010, the Council is invited to agree that there has been unprecedented challenges of a commercial, economic, and technical (public health) nature since March 2020 that has prevented the commencement of development at this site. The Council is therefore invited to agree that there are commercial, economic or technical reasons beyond the applicant's control which have substantially militated against the commencement of development at this site.

(II) Complies with Regional Planning Guidelines And Development Plan

- 4.8 We reviewed the objectives and provisions in the South Dublin County Development Plan 2016-2022 and consider the development remains consistent with the proper planning and sustainable development of the area as set out below.

Regional Planning Guidelines/Regional Spatial and Economic Strategy

- 4.9 Permission was granted in February 2017 within the timeframe of the Regional Planning Guidelines for the Greater Dublin Area 2010-2022. These Guidelines link the strategic policies and objectives in the National Spatial Strategy with local development plans and provide a policy framework to direct the medium to long term growth of the Greater Dublin Area. The site is located within the Metropolitan Area. A core principle for the delivery of the Vision in the Metropolitan Area is to accommodate increased population within existing built up areas supported by enhanced public transport thereby achieving compact urban growth. Those Guidelines came into effect in June 2010 and were in force when permission was granted.

- 4.10 The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly has replaced the regional planning guidelines and is the current regional plan. The RSES provides a growth strategy for the Region to deliver sustainable regional growth in accordance with the national strategic outcomes in the National Planning Framework (NPF). This framework is underpinned by the investment priorities in the National Development Plan, a 10 year public capital investment plan, which together with the NPF comprises Project Ireland 2040: Building Ireland's Future. The strategy in the NPF aligns investment with spatial planning. Future growth is based upon a compact growth model which seeks to develop stronger regions with accessible regional centres of scale.
- 4.11 Significant population and employment growth is planned for the Eastern and Midland Region to 2040 comprising 490,000 to 540,000 additional persons [National Policy Objective 1b] and 320,000 additional jobs [NPO 1c]. A significant proportion of the future growth will be provided in the Dublin Metro Area in accordance with the Metropolitan Area Strategic Plan (MASP) set out at Chapter 5 of the RSES. The RSES directs this future growth into existing built up areas with the Metropolitan Area as per NPO 3b to create compact sustainable communities with improved housing choice, access to social and economic opportunities, enhanced services and amenities for a rapidly growing population.
- 4.12 The permitted development comprises 12 no. dwelling units and ancillary works. The development proposed remains fully compliant and consistent with the objectives in the regional spatial and economic strategy for the region.

South Dublin County Development Plan 2016-2022

- 4.13 The development plan is unchanged from the when the application was assessed and granted in February 2017. None of the approved variations to the plan affect the schemes compliance with the development plan or the overall proper planning and sustainable development of the area.
- 4.14 There is no material change in the zoning objective and other development objectives pertaining to the proposed development of 12 no. dwellings, car parking, and ancillary facilities at the site.

(III) Complies with Ministerial Guidelines

- 4.15 The Minister for the Environment, Heritage and Local Government has issued a number of Guidelines pursuant to Section 28 of the Principal Act since permission was granted in February 2017. From a review of these Ministerial Guidelines, none apply to the proposed development.

(IV) Environmental Impact Assessment and Appropriate Assessment

- 4.16 The development has not commenced, and it is necessary therefore to consider the requirements in respect of Environmental Impact Assessment (EIA) and Appropriate Assessment (AA).

Environmental Impact Assessment Report (EIAR)

- 4.17 The proposed development comprises 12 no. dwellings. The threshold for EIAR for residential development is 500 no. units, so this proposal equates to 2.4% of the threshold. As noted by the

planning officer in assessing the original application that EIA did not apply, it is submitted that this should remain unchanged in assessing this extension of duration application.

Appropriate Assessment (AA)

- 4.18 This was screened out by the planning authority in the original application with the following from the planning officer's report:

Screening for Appropriate Assessment: The site is not within 100m of a river or stream and would be connected to the existing drainage systems serving the village. The site is not proximate to a Natura 2000 site, nor a downstream vector to Dublin Bay. It is not considered that the proposal, being for 12 houses, car parking and ancillary works would therefore require appropriate assessment.

- 4.19 It should follow that appropriate assessment still does not apply to the proposal.
- 4.20 The analysis above demonstrates compliance with the relevant sections of the Act, i.e. sub-sections (I) to (IV) inclusive. the planning authority must be satisfied that (i) to (iv)

5 PERIOD OF EXTENSION SOUGHT

- 5.1 Applying the same principles as above with respect to the life of the existing grant of permission whereby the calculation of any appropriate period or timeframe in the Planning and Development Act, 2000 as amended should allow an additional nine days per annum in accordance with Section 251 of the said Act.
- 5.2 Accordingly, the applicant seeks an extension of duration of this permission until **1st July 2027** (i.e. 18th May 2027 + 45 days).

6 CONCLUSION

- 6.1 This is an application for extension of duration of the grant of permission Reg. Ref. No. SD16A/0171, which complies with the requirements of section 42(1)(a)(ii) of the Planning and Development Act 2000 (as amended) as follows:
- This application is made within the statutory timeframe;
 - Development works were not commenced because of commercial and economic considerations beyond the control of the applicant;
 - The permitted development accords with all Ministerial Guidelines, and planning policies and objectives in the relevant national, regional and local development plans.
 - The permitted development can be completed within the extension date sought – i.e. within five years of the expiration of the permission; and
- 6.2 The legislation requires that the planning authority **shall** extend the duration of a planning permission where the provisions of section 42(1)(a)(ii) are satisfied. As summarised above, those provisions are satisfied, so we respectfully request the planning authority to grant this extension of duration of permission Reg. Ref. No. SD21A/0171 up to 1st July 2027.

Please acknowledge receipt of this extension of duration application and direct all future correspondence to this office.

Yours faithfully,



Raymond O'Malley

Kieran O'Malley & Co. Ltd.

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| Enclosures | 1. | Application Fee € 62.00 |
| | 2. | Completed Application Form |
| | 3. | Copy of South Dublin County Council decision SD16A/0171 |