

An
Bord
Pleanála

Board Direction
BD-009117-21
ABP-309227-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/09/2021.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the nature, scale, extent and design of the proposed development for the refurbishment and extension to the existing dwelling house, within the Howth Head Special Amenity Area on land zoned 'Other', it is considered that subject to the conditions set out below that the proposed development would not detract from the landscape character of this high amenity area, and it would be consistent with the policies and objectives of the Fingal County Development Plan, 2017 to 2023, as well as the Howth Special Amenity Area Order 1999. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Howth Head SAC (Site Code 000202) and the Rockabill to Dalkey Island SAC (Site Code 003000) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and the Revised Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file including those of the planning authority and consultants appointed by the planning authority, and the Inspector's assessment.

The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Howth Head SAC (Site Code 000202) and the Rockabill to Dalkey Island SAC (Site Code 003000), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i) The likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) The mitigation measures which are included as part of the current proposal, and
- iii) The conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the report carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the site's conservation objectives, with the exception of the following:

The removal of the hedgerow and erection of a wooden fence, for which retention permission is sought. With regard to this component, the Board carried out its own assessment and accepted the evidence as set out in the revised Natura Impact Statement that the fence line is not within the Howth Head SAC and the nature of the hedgerow material is such that any loss from its removal would not have impacted on the Howth Head SAC or its qualifying interests and that this component of the development in the absence of mitigation, would not be likely to have a significant effect on Howth Head SAC, or any other European Site and that this component would not have required an Appropriate Assessment before it was commenced.

The provision of the lower ground studio extension and associated works. With regard to this component, the Board carried out its own appropriate assessment and accepted the evidence as set out in the revised Natura Impact Statement, specifically the description at Table 4 which states, that excavation will be carried out on site but not within a vegetated sea cliff area. The Board considered that the information before it was sufficient to undertake a complete assessment of this component of the proposed development in relation to the site conservation objectives of Howth Head SAC (Site Code 000202) and the Rockabill to Dalkey Island SAC (Site Code 003000) and in overall conclusion the Board was satisfied that this component of the proposed development by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives and that there is no reasonable scientific doubt as to the absence of such effects.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives and that there is no reasonable scientific doubt as to the absence of such effects.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 23rd day of November, 2020 and submitted to An Bord Pleanála on the 16th February 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 home studio shall be occupied as part of the overall dwelling unit, and shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: In the interest of clarity and to ensure proper planning and sustainable development.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house or shall be erected on the site, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

4. The developer shall, within three months of the date of this Order, remove all timber boundary treatments and replace them with a concrete post and wire fence with brushwood matting.

Reason: In the interest of visual amenity.

5. (a) A schedule of all materials and appropriate samples of all materials to be used in the external treatment of the development shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. The submission shall also include 3D colour images of the proposed finishes within the context of the site and as viewed from vantages along the Cliff Path.

(b) All external window and door opening glazing shall be permanently fitted with solar and reflective control glass. The type of glazing shall be agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure an appropriate standard of development/conservation

6. A comprehensive boundary treatment and on-site 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 surfaces within the development.
- (b) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings.
- (c) Details of proposed boundary treatments at the perimeter of the site, including heights, materials, and finishes.
- (d) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.
- (e) An accurate tree survey of the site together with a topographical survey of the site and any modulation of grounds levels associated with landscaping including the provision of pathways, terraces and other surface amenity spaces which shall be carried out by an arborist or landscape architect, shall be submitted to the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.
- (f) Prior to the commencement of development, and in consideration of the environmental sensitivities of the site, a Consultant Arborist and a Consultant Ecologist shall be appointed to oversee and monitor the construction works and to ensure that all tree protection measures and eradication of invasive plants from the site are implemented in full.

All boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

7. The invasive plant management plan and public path protection shall be implemented prior to the commencement of site clearance works.

Reason: In the interest of the protection of the receiving environment and the proper planning and sustainable development of the area.

8. All mitigation measures contained in the revised Natura Impact Statement, and related documents, shall be implemented in full to protect the receiving environment.

Reason: In the interest of the protection of the receiving environment and proper planning and sustainable development of the area.

9. A comprehensive Construction Environmental Management Plan shall be submitted to the Planning Authority for its written agreement before the commencement of any construction work on the development site.

Reason: In the interests of the protection of the receiving environment.

10. All landscaping works including green roofs shall be completed in the first planting season following substantial completion of construction works. Any failures shall be replaced until such time that the green roof planting is established.

Reason: In the interest of the protection of the receiving environment and proper planning and sustainable development of the area.

11. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

12. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the

planning authority on the 8th day of January, 2020, and as revised by the further plans and particulars submitted on the 23rd day of November, 2020, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house after the completion of the refurbishment and extension works and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

Reason: In the interest of public health.

13. Site development and building works shall be carried out only between the hours of 0800 to 1900 Monday to Friday, and 0800 to 1400 on Saturday and not at all on Sundays or 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.

14. 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:

Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.

Location of areas for construction site offices and staff facilities.

Measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network.

Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.

Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

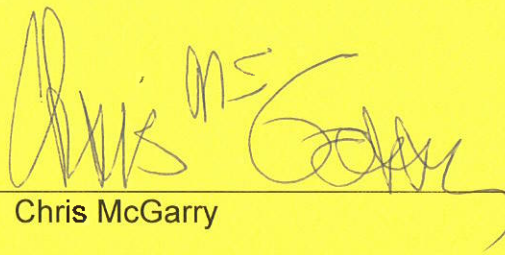
Reason: In the interest of amenities, public health, and safety.

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

Note: the Board noted the recommendation of the Inspector to the effect that the Board cannot be satisfied that the removal of the hedgerow and erection of a wooden fence, for which retention permission is sought is of a type of development that would not have required screening for Environmental Impact Assessment. However, the Board examined the totality of the documentation on file, including submissions from all parties and determined that, by reason of the modest scale of this component of the development, its location and the legislative categories of relevance for environmental impact assessment, that this component would not have required screening for environmental impact assessment before it was commenced.

Board Member


Chris McGarry

Date: 20/09/2021

