



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 2824/17

Appeal by Robert and Elizabeth Brant of “Suncroft” 764 Howth Road, Blackbanks, Raheny, Dublin and by others against the decision made on the 9th day of November, 2017 by Dublin City Council to grant subject to conditions a permission to Silveroak Blackbanks Limited care of Hughes Planning and Development Consultants of The Mash House, Distillery Road, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Mixed use development consisting of (i) demolition of existing single-storey garden centre building, associated single-storey out-building, three number single-storey greenhouses and plant-bed structures. Existing dwelling (D05 V1F2) to north-east of the site to be retained. (ii) Construction of a new two-storey (10.75 metres in height) replacement garden centre building including ancillary cafe use at ground floor level and ancillary office use at first floor level, modification and upgrade of vehicular entrance and driveway to existing dwellinghouse (D05 V1F2) to provide shared vehicular access to mixed-use (garden centre) building, car and bicycle parking. (iii) Construction of a new four-storey (13.275 metres in height) apartment building consisting of 30 number apartment units (11 number one-bedroom, 16 number two-bedroom and three number three-bedroom) with

private terraces/balconies, communal landscaped open space area on the northern end of the site, car and bicycle parking, upgrade to existing boundary wall and vehicular entrance along Howth Road to include pedestrian entrance.

(iv) New 1.8 metre high boundary wall separating apartment building from mixed-use (garden centre) building and existing dwellinghouse (D05 V1F2), SUDS drainage, and all associated site works necessary to facilitate the development all on lands at Blackbanks Garden Centre, 754 Howth Road, Raheny, Dublin, as revised by the further public notice received by the planning authority on the 13th day of October, 2017.

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.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the residential zoning of the area and provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would achieve an acceptable standard of urban design and provide a proper

level of amenity for its residents, which would not seriously injure the visual or residential amenities of the area. The proposed development would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would not lead to a risk of flooding of adjoining lands. 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 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 5th day of October, 2017 and by the further plans and particulars received by An Bord Pleanála on the 16th day of January, 2018, 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) Apartments 30 and 31 shall be reorganised to provide for one larger apartment unit.
 - (b) The ground level floor to ceiling heights of the apartment block shall be 2.7 metres.

- (c) The entrance doors to the lobby/lift areas to the rear of the apartment building serving the two rear wings shall be relocated further north on that elevation, to a similar position indicated for the western-most lobby/lift area.
- (d) Revised window treatments such as louvers, angled windows or another acceptable solution shall be utilised to reduce the level of direct overlooking between the windows serving Bedroom 1 in unit numbers 13, 17 and 21 and the opposing bedroom window serving unit numbers 29, 33 and 37.
- (e) All bathroom windows shall comprise obscure glazing.
- (f) The vehicular access to the development shall be redesigned with a footpath on the eastern side linking into the pedestrian paths within the scheme, details of which shall be agreed with the planning authority.
- (g) The entrance gates proposed across the vehicular entrance shall be omitted and no gates, security huts or security barriers shall be permitted at the entrance to the development. The development shall remain open and accessible at all times.
- (h) A 1 metre to 1.5 metre privacy strip shall be provided along the eastern and northern side of the apartment building.
- (i) The proposed loading bay on the eastern side of the proposed apartment block shall be omitted.

Revised drawings showing compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

3. This permission is for 40 apartment units only.

Reason: In the interest of clarity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

- (i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.
 - (ii) Details of screen planting and all boundary treatment.
 - (iii) Details of roadside/street planting.
 - (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.
- (d) Protection and enhancement measures for the existing hedgerow along the eastern boundary.

- (e) Protection measures for the existing mature tree, adjacent to the vehicular entrance that may be required during the construction works.
- (f) The areas of public open space shown on the lodged plans to the rear of the building shall be reserved for such use and the developer shall provide for a small play area (85 to 100 square metres in area) for the specific needs of toddlers and children up to the age of six, to be located within the open space to the rear of the building.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of three years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of amenity, ecology and sustainable development.

- 5. Details of the bin store shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual and residential amenity.

- 6. Details of the materials, colours and textures of all the external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. 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:
- (a) location of the site and materials compound including areas identified for the storage of construction refuse;
 - (b) location of areas for construction site offices and staff facilities;
 - (c) details of site security fencing and hoardings;
 - (d) details of on-site car parking facilities for site workers during the course of construction;
 - (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (f) measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - (i) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels;

- (j) 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;
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

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

8. The developer shall comply with the following requirements:

- (a) The car parking spaces shall be permanently allocated to the residential units within the development and shall not be sold, rented or otherwise sub-let or leased to other parties.
- (b) At the vehicular access point to the development, the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary to facilitate car entry/exit. Measures shall be implemented including contrasting materials, signing and road markings to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of-way.

Reason: In the interests of traffic safety and orderly development.

9. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

11. Water supply and drainage arrangements, including the attenuation and disposal of surface water, provision of SUDS measures, including permeable paving throughout the development, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

12. Site development and building works shall be carried out only between the hours of 0700 and 1800 Mondays to Fridays inclusive, between 0800 and 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.

13. 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.

14. Prior to commencement of development, the applicant 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.

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

16. 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 planning authority or a management company of roads, footpaths, watermains, drains, 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.

17. 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.

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

Dated this day of 2018.