



Planning and Development Acts 2000 to 2018

Planning Authority: Fingal County Council

Planning Register Reference Number: F18A/0390

Appeal by Thomas O'Brien care of O'Connor Whelan Limited of 222-224 Harold's Cross Road, Dublin and by The Moorings Residents Association care of Joe Caulfield of 24 The Moorings, Malahide, County Dublin against the decision made on the 27th day of November, 2018 by Fingal County Council to grant subject to conditions a permission to Purple Green Limited care of Brock McClure Consultants of 63 York Road, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: (A) Demolition of existing two-storey commercial building, and (b) construction of a four-storey residential development providing nine number apartments (four number two beds, five number three beds) all with associated balconies/terraces; solar PV panels at roof level; 15 surface level car parking spaces, a bin store, a bike store, communal open space areas; alterations to existing access points and all associated site development, service connections, landscape and boundary works, all at Oscar Taylor's Restaurant, Island View Hotel, Coast Road, Malahide, County 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.

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 objective for the site as set out in the Fingal County Development Plan 2017-2023, to the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018, to the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in May, 2009, to the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December, 2018, to the existing vehicular access/egress at the subject site, to the overall scale, design and height of the proposed development and to the associated extent and layout of open space, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience. 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 on the 5th day of November 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. Opaque glazed screens 1.8 metres in height, shall be erected at the sides of all rear balconies and at the sides of front balconies at second and third floor levels. Revised drawings, showing compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

4. In addition to the landscaping proposal submitted to the planning authority on the 5th day of November 2018, a scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the rear southern boundary consisting predominantly of mature trees, capable of growing to the minimum height of three metres and shall include the retention of existing trees along this boundary. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.
 - (a) Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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.
 - (b) All retained boundary walls shall be rendered in the interest of visual amenity and the proposed front boundary wall and railing along the Coast Road shall match the neighbouring property and be of natural stone finish, cut granite capping and galvanised black railings.

Reason: In order to screen the development, in the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of this development.

Reason: In the interest of clarity.

7. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any 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 visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

8. 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.

9. The developer shall ensure that the car parking spaces for the residential units must be sold off with the units and not sold separately, or let, to avoid non-take up by residents. The developer shall also give an undertaking in this regard, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason; In the interests of public safety and the proper planning and sustainable development of the area.

10. Each proposed apartment unit shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

11. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, 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. (a) 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

(b) All necessary measures shall be taken by the developer to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: In the interests of public safety and residential amenity.

13. Site development and building works shall be carried out only between the hours of 0800 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.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

15. 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 open spaces, roads, parking spaces and circulation 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.

16. Proposals for an estate/street name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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 placenames for new residential areas].

17. 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 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 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 of the development.

18. 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.

Chris McGarry

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

Dated this day of 2019.