An Bord Pleanála

Board Order
ABP-308876-20

Planning and Development Acts 2000 to 2021

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D20A/0660

DECISION QUASHED

Appeal by Alannah Smyth care of Tom Phillips and Associates of 80 Harcourt Street, Dublin against the decision made on the 11th day of November, 2020 by Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development.

Proposed Development: Construction of a two storey, four-bedroom dwelling house (gross floor area circa 37[illegible] square metres) and the provision of two number external amenity terraces at first floor level on the southern and eastern elevations. The proposed development will include the provision of a separate car parking area (at first floor level within the substantive site) to the west of the proposed dwelling with a new vehicular access at grade from the carriageway leading to Torca Road. The car parking area (with plantroom/store below) will accommodate two number car parking spaces, bin store and bike store. An external pedestrian link bridge will provide access from the parking area to the first-floor level of the proposed dwelling house. A second pedestrian entrance to the first-floor level will be provided at the eastern end of the site via a raised access from the existing carriageway leading to Torca Road. The proposed development will include for a green roof to the dwelling house and bin store. The proposed development will also

include for the widening of circa 84 metres of the carriageway leading to Torca Road to provide for a carriageway width of circa 3.7 metres – circa 4.2 metres; the regrading and re-surfacing of circa 54 metres of the carriageway and the associated relocation of four number existing public lighting standards. The proposed development will include for the removal of derelict ruins to the western boundary of the site, hard and soft landscaping, new boundary treatments, including the increase of height of the existing boundary wall between the site and the carriageway leading to Torca Road to generally match that of the San Elmo Lodge boundary, attenuation tank and associated drainage works, changes to site levels and all associated site development and excavation works above and below ground, all on a site of circa 0.291 hectares incorporating part of the carriageway leading to Torca Road and generally bounded to the south and west by San Elmo (Protected Structure (RPS reference 1622)), San Elmo Lodge and The Orchard. The site is bounded to the east by undeveloped lands to the rear of Mount Salus Road and to the north by undeveloped lands adjacent to Torca Road, Dalkey, County Dublin.

DECISION QUASHED

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to:

(a) the national policy objectives of Project Ireland 2040, the National Planning Framework,

(b) the regional policy objectives of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy,

(c) Section 28 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages)' (May 2009),

(d) the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, including in particular Policy Objectives GIB14 and HER13, and Specific Local Objective 130,

(e) the zoning objective for the main part of the site and its location in an urban area well serviced by public transport, including the Killiney Dart Station, and

(f) the pattern of development in the area, and the nature, design, scale and layout of the proposed development,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the Vico Road Architectural Conservation Area, the residential amenities of property in the vicinity, or the general amenities of the wider area, would not interfere with a protected view, and would be acceptable in terms of pedestrian, cyclist and vehicular traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

DECISION QUASHED

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that, subject to compliance with the conditions set out below, the proposed development of a single dwelling, with parking for two vehicles, and the minor improvements to the public right-of-way, by way of modest and localised widening, would be acceptable in terms of pedestrian, cyclist and vehicular traffic safety and convenience, would not detract from the character and amenity of the public right-of-way, or the Architectural Conservation Area, and would be in accordance with Policy Objectives GIB14 and HER13 and Specific Local Objective 130 of the current County Development Plan. In particular, and contrary to the Inspector's view, the Board noted that Policy Objective GIB14 does not specifically state that residential access through open space shall not be permitted.

DECISION QUASHED

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

   Reason: In the interest of clarity.

2. The final details of the proposed widening and landscaping of the public right-of-way shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that the extent of these works is kept to the minimum necessary to accommodate the proposed development.

3. 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.

4. Prior to commencement of development, the developer shall enter into a water and/or waste water connection agreement with Irish Water.

Reason: In the interest of public health.

5. 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 interest of visual and residential amenity.

DECISION QUASHED

6. Site development and building works shall be carried out only between 0700 hours to 1900 hours Mondays to Fridays, inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

7. 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.

DECISION QUASHED

8. The construction of the proposed development shall be managed in accordance with a Construction Environmental 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 proposed development, including noise management measures and off-site disposal of construction/demolition waste.

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

9. Prior to commencement of development, a landscaping scheme, including boundary treatment, shall be submitted to, and agreed in writing with, the planning authority. This scheme shall include details of all existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the proposed development is carried out. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

Reason: In the interest of visual amenity.

DECISION QUASHED

10. 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.

DECISION QUASHED

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

Dated this 7th **day of** September **2022.**