

Planning and Development Acts 2000 to 2021

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Register Reference Number: D21A/0161.

Appeal by Oak View Property Developments Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin against the decision made on the 22nd day of April, 2021 by Dun Laoghaire Rathdown County Council to refuse a permission to the said Oak View Property Developments Limited for the proposed development.

Proposed Development: Permission for development consisting of:- conservation works to Thornhill House, to upgrade the house as a single family residence 494 square metres; the provision of five number own door two-storey two bedroom dwellings to the rear of Thornhill House through the renovation, conversion and extension of an existing return and outbuildings located around an existing rear stable yard; and the provision of a terrace of five number one-and-a-half storey mews dwellings located to the south of Thornhill House. The proposed conservation works and interventions to the house are to include - (i) formation of new ope in partition to proposed kitchen in basement, (ii) removal of door and alteration to window to rear hall at ground floor level, (iii) modifications to WC and bathroom at landing level, (iv) modifications to master ensuite at first floor level, (v) removal of inappropriate

internal doors to basement; and external architectural interventions/enhancements to include - (i) removal of existing perspex screens to front portico, (ii) removal of security grilles to windows and the rationalisation of soil pipes to the elevations, (iii) provision of new painted hardwood doors replacing inappropriate modern joinery elements to basement, (iv) improvements to external areas on eastern and western sides at basement level, (v) removal of fixed maintenance ladders and gates to rear courtyard wall and provision of a private garden with associated railings, gates, soft and hard landscaping to the south and west of Thornhill House. Works to return and outbuildings to include creation of new opes, removal of sections of external wall and interior partitions, roofs to be removed and existing slates to be reused in new extension, removal of external courtyard wall and removal of corrugated roof over covered external space, wrought iron trusses and column supports, provision of new sash windows, refurbishment of existing original sash windows, replacement of non-original windows/doors, and demolition of existing boiler room and WC to south-east of external courtyard. The proposed development will consist of the reconfiguration of the permitted (planning register reference number D17A/0240; An Bord Pleanála reference number PL 06D.300244) internal road layout, amendments to hard and soft landscaping, boundary treatment works including the provision of opes in the existing eastern stone wall and replacement of low wall and railings, and all associated works above and below ground; all on site of circa 1.39 hectares at Thornhill House [a Protected Structure (RPS No. 936)], Cherry Garth, Mount Merrion, Blackrock, 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.

Reasons and Considerations

Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016 - 2022, the zoning objective for the site, the National Planning Framework 2018 - 2040, the "Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in May, 2009 and the overall layout, scale and design 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 or residential amenities of the area or the amenities of property in the vicinity, would not have a detrimental impact on the architectural heritage, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the concerns of the Inspector regarding the discrepancies/inconsistencies between the subject proposal and the site layout approved pursuant to planning register reference number D20A/02432, An Bord Pleanála reference number ABP-308150-20 (inclusive of amendments required by condition), and considered that sufficient clarification had been submitted in response to the notice issued under section 132 of the Planning and Development Act, 2000, as amended, to enable the Board to adequately assess the subject proposal.

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 received by An Bord Pleanála on the 4th day of May, 2022, 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) the proposed two metres high painted timber boundary treatment of the rear gardens of Units 60 to 62, and Units 63 to 64, as indicated on drawing number ABP.RFI.01, shall be omitted and a boundary treatment of hedging shall be used instead,
 - (b) the proposed openings in the existing stone wall along the eastern boundary shall be omitted,
 - (c) the side elevations of Units 16 and 20 as shown on drawing number PP.04 shall include the windows to the reception rooms as indicated on drawing number PP.03,
 - (d) the window at first floor of Bedroom 02 of Unit No. 20 as indicated on drawing number PP.03, shall be redesigned to avoid overlooking of numbers 39 and 41 South Avenue.

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 interests of the visual amenity of the Protected Structure and the preservation of structures of architectural and historic significance, and in the interests of clarity.

3. The developer shall comply with all conditions of the parent permission granted under planning register reference number D20A/02432, An Bord Pleanála reference number ABP-308150-20 except as amended in order to comply with the conditions set out in this Order.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

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

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

6. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS.

Reason: In the interest of amenity and of traffic and pedestrian safety.



7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

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. 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, details of which shall be submitted to, and agreed with, the planning authority prior to the commencement of development.

Reason: In the interest of public health.

10. The developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water prior to commencement of development.

Reason: In the interest of public health.

11. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, to facilitate the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority before making available by the developer for occupation of the residential units in the proposed development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles in the interest of sustainable transportation.

12. Proposals for an estate/street name, house 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 house numbers, shall be provided in accordance with the agreed scheme. 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.

13. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

14. The developer shall inform the planning authority and the National Parks and Wildlife Service of the Department of Culture, Heritage and the Gaeltacht as soon as possible after receiving notification of the granting of planning permission of the methods of disposal of Japanese Knotweed and Knotweed contaminated soil from the site, whether by burial or off site, and in the case that the latter method is to be employed, apply to the National Parks and Wildlife Service for a licence permitting the transport of Japanese Knotweed from the site to a licensed disposal facility.

Reason: To ensure that an invasive species is properly disposed of in the interest of environmental protection.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

16. (a) An accredited Conservation Architect RIAI Grade 1 or 2 shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.
- (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the "Architectural Heritage Protection Guidelines for Planning Authorities" issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings), staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

17. 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.

18. Site development and building works shall be carried out only between the hours of 0700 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.



19. 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

20. 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 provisions of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

21. 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 the commencement of the 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.

22. 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 public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

23. Prior to the commencement of any housing unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

24. 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 current Development Plan for the area.

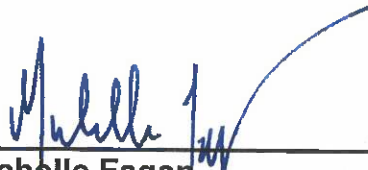
25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection 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.

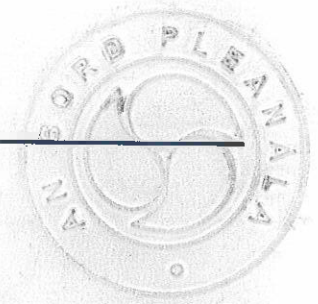


26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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



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



Dated this 17th day of August 2022.