

An
Bord
Pleanála

Board Order
ABP-310677-21

Planning and Development Acts 2000 to 2021

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D21A/0304

Appeal by Bartra Property Limited care of Thornton O'Connor Town Planners of number 1 Kilmacud Road Upper, Dundrum, Dublin against the decision made on the 3rd day of June, 2021 by Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development.

Proposed Development: Demolition of the existing two-storey dwelling 'Maple Tree House' (circa 289 square metres) and the removal of the foundation slab of the previously demolished 'Yonder', and the construction of a 104 number bedroom nursing home, ranging in height from part-two to part-five storey (total gross floor area measures 5,618.40 square metres). The development will also include the provision of vehicular entrances off Ulverton Road and the spur off Harbour Road; car and bicycle parking; green roofs; PV panels; ancillary signage; boundary treatments; hard and soft landscaping; plant; lighting; changes in level; and all associated site works above and below ground, all on a circa 0.06 hectare site, comprising the former residence 'Yonder', (previously demolished), Ulverton Road and 'Maple Tree House', Harbour Road, Bulloch Harbour, Dalkey, County Dublin.

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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 -

- (a) the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (b) the zoning designation for the site “to provide residential development and improve residential amenity while protecting the existing residential amenities” in the Dún Laoghaire-Rathdown County Development Plan 2022 to 2028 where assisted living accommodation is permitted in principle,
- (c) the existing, but underutilised, use of the site for residential development,
- (d) the location of the site in an urban area where community facilities, transport links and public piped services are available,

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- (e) the differing site levels within the site which has allowed for an acceptable quantum of development which respects the amenity of nearby residential development and the visual amenity of the wider area, and
- (f) the totality of the documentation submitted with the application including the Badger Conversation Plan, the submissions and observation made on the appeal, and the requirement under condition number 2 of this Order for adherence to the Guidelines for the Treatment of Badgers prior the Construction of National Road Schemes published by the National Roads Authority in 2006,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not endanger pedestrian or traffic safety, would not seriously injure the residential amenity of property in the area by reason of overshadowing or overlooking or the visual amenity of the wider area, would not give rise to unacceptable ecological impacts and would otherwise be in accordance with the provisions of the development plan and with the proper planning and sustainable development of the area.

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Conditions

1. The 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. During the construction phase, the developer shall adhere to the Guidelines for the Treatment of Badgers prior to the Construction of National Road Schemes, published by the National Roads Authority in 2006. In particular, there shall be no blasting or pile driving within 150 metres of an active badger sett during the breeding season (December to June) or construction works within 50 metres of such an active sett during the breeding season.

Reason: In the interest of wildlife protection.

3. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the

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National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

4. The developer shall enter into water and wastewater connection agreements with Uisce Eireann prior to commencement of development.

Reason: In the interests of clarity and public health

5. 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 and surface water management.

6. 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.

Reason: In the interest of visual amenity.

7. The site shall be landscaped in accordance with the detailed scheme of landscaping, which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site, boundary treatments and include measures for the protection of trees within and adjoining the site.

Reason: In order to ensure the satisfactory completion of the development.

8. Proposals for the name of the development and associated signage shall be submitted to and agreed the planning authority prior to occupation of the development. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

9. 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 employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.

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.

10. 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 installation of lighting. Such lighting shall be provided prior to the making available for occupation of the development.

Reason: In the interests of amenity and public safety.

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11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. 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.

12. 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.

13. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning



authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

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:
- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;
 - (b) 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; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or

drains. The measures detailed in the construction management plan shall have regard to guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland.

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, and public health safety.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

16. 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.

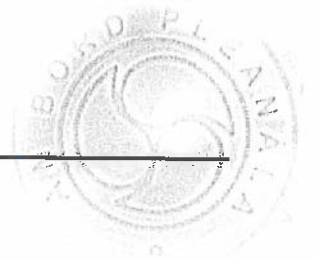


Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Peter Mullan

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



Dated this *6th* day of *July*, 2023.