

**Donna Ryan,
Downey Planning
29, Merrion Square
Dublin 2**

**NOTIFICATION OF DECISION TO REFUSE PERMISSION
PLANNING & DEVELOPMENT ACT 2000 (as amended) AND
PLANNING REGULATIONS THEREUNDER**

Decision Order No.	1012	Date of Decision	08-Aug-2022
Register Reference	SD22A/0271	Date	14-Jun-2022

Applicant:

MSJA Ltd

Development:

(a) demolition of some existing structures on site; (b) the internal modification /reconfiguration and refurbishment of and extension to Prospect House (a protected structure RPS 340) and the renovation and modification of its associated coach house to provide for a 4-bed dwelling with associated private open space and car-parking provision; (c) the re-opening of a gap between Prospect House and its detached coach house to the rear to provide a gated access into the new communal gardens proposed to the west of Prospect House; (d) Reconstruction of the Gate Lodge (in ruins) to provide for a 2-bed, single storey dwelling 63.4sqm with associated private open space and car-parking; (e) the provision of 1 apartment block (3-storey plus setback penthouse level) to the western side of Prospect House to provide for 22 residential units (11 one bedroom units and 11 two bedroom units) over a single storey basement comprising a total of 25 car parking spaces, 2 motor bike spaces and 40 bicycle parking spaces; The basement will also include associated bin stores, plant and storage rooms; (f) Removal of a portion of the western boundary wall to provide a new vehicular & pedestrian access from Stocking Lane to the new apartment block; (g) All associated hard & soft landscaping, including the provision of a play area and an ESB sub-station & all associated engineering & site development works necessary to facilitate the development, all on a site of 0.51ha at Prospect House (a protected structure RPS 340).

Location:

Lands at Prospect House, Stocking Lane, Rathfarnham,

Time extension(s) up to and including:

DECISION: Pursuant to the Planning and Development Act 2000 (as amended), dated as above a decision to **REFUSE PERMISSION** is hereby made for the said development for the reason(s) set out on the Schedule hereto.

REASON(S)

1. The proposed development would detract from the Protected Structure on the basis of inappropriate height, mass (i.e. one single long block) and architectural design (materials, articulation and finishes). The proposal would be an irreparable detriment to the setting and visual integrity of Prospect House, the protected structure. The development would therefore constitute overdevelopment and would contravene Policies NCBH1 ‘Overarching’, NCBH19 ‘Protected Structures’, and NCBH25 ‘Placemaking and the Historic Built Environment’, of the South Dublin County Council Development Plan 2022 - 2028, and would be contrary to the proper planning and sustainable development of the area. Small-scale development within the walled garden area, sitting sensitively within this location and as part of the setting, thereby incorporating the original landscape setting of the protected structure and its curtilage, would provide for an acceptable development.
2. There are a number of deficiencies in terms of the particulars provided to support development on the site of a protected structure, Prospect House (RPS. 340), and as such the Planning Authority is not satisfied that the development would comply with Policies NCBH1 ‘Overarching’, NCBH19 ‘Built Heritage’, NCBH23 ‘Architectural Conservation and Design’, NCBH24 ‘Adapting and Reusing Historic Buildings’, and NCBH26 ‘Climate Change, Adaptation and Energy Efficiency in Traditional and Historic Buildings’ of the South Dublin County Council Development Plan 2022 – 2028, or conservation best practice. These issues are:
(a) The application does not include a Conservation Report carried out by a suitably qualified Conservation Architect. Any application for development on this site should be supported by such a report, to include a method statement for proposed works to the Protected Structure (Prospect House, RPS Ref. 340) including the works/proposed changes to the original built fabric to facilitate a new rear extension. The Gate Lodge and Coach House within the curtilage of the Protected Structure, should be included in the overall Conservation Report. A Conservation Report should include a room-by-room account and a Method Statement and Schedule of Works, along with an overall assessment of impact on the proposed works and mitigation for same.

(b) The Architectural Impact Assessment Report provides no detail on the proposed level and scope of works required to the protected structure and its associated structures (gate lodge and coach house) it fails to provide specifications and methodology for the works required along with details on insertion of services, fire safety and energy upgrading works in line with CDP climate change requirements with regard to thermal upgrading etc all of which should be included in a Conservation Report prepared by a Conservation Architect which will allow a proper assessment of the proposed works. A full assessment of the direct impact on the original built fabric of the protected structure is difficult as there is no method statement and schedule of works providing a

room-by-room account of the works required especially works to allow fire safety upgrades etc and insertion of additional services. The Architectural Impact assessment also fails to provide a proper overview and account of the entire site context and Protected Structure. There is very little information provided with regard to the justification for the removal of rear porch and WC and also a large section of original boundary wall to facilitate a new vehicular entrance.

3. There is evidence in the particulars provided that works have been carried out to include fire alarms and lighting with upgrading of services without planning permission being sought. It is unacceptable that the owners of the property have carried out any such works without the proper approval and formal permission. The applicant should apply for retention for these works and such application should be supported by a full survey, to be provided as part of the Conservation Report, in order to detail the current condition and the recent works undertaken, and to regularise these works in line with the policies set out in Chapter 3 of the South Dublin County Council Development Plan 2022 – 2028.
4. The proposed works at the site of the existing gate lodge (ruinous structure) have not been consistently represented in the particulars supplied, with adaptation and/or demolition of the structure noted in different instances. The demolition of the existing gate lodge (ruinous structure) has not been justified and no effort has been provided in order to retain the original structural elements and incorporate this into a new structure, thereby retaining the original fabric. It is considered that in order to facilitate any new development within the curtilage of the Protected Structure certain elements/architectural features and associated structures need to be retained in order to retain the overall character of the site and setting of the Protected Structure. It is therefore considered that the necessary detail and retention of elements should be submitted as further information. The proposed design for the gate lodge and the design ethos has been considered, however justification is required regarding the demolition or re-use of the original fabric. As such, the Planning Authority is not satisfied that the proposed development would comply with policies NCBH1, NCBH19, NCBH24 and NCBH26 of the South Dublin County Council Development Plan 2022 – 2028.
5. The proposed development is designed and oriented in such a way that single-aspect north-facing units predominate throughout the apartment block. The proposed development would therefore be contrary to s.28 guidelines ('Sustainable Urban Housing: Design Standards for New Apartments' (2020)) which discourage the provision of such units. The proposed development would adversely impact on the residential amenity of future occupants and is contrary to the proper planning and sustainable development of the area.
6. The applicant proposes to provide a new vehicle and pedestrian access from Stocking Lane and utilises an existing access. The proposed new access would be facilitated by way of a removal of a section of the existing boundary wall.

(a) Both the proposed and existing access have limited visibility splays considering the retention of the high walls along the boundary with Stocking Lane, the maximum height for forward visibility of a boundary wall is 900mm at an access location. The SDCC Roads Department has stated that an addition of another access near an existing one approximately 8m to the south of the site, would be considered a traffic hazard. The applicant has not adequately demonstrated that the development would not endanger public safety by reason of a traffic hazard.

(b) As per the proposed development, the visual link from the Protected Structure (Prospect House, RPS ref. 340) from Stocking Lane would be lost and the removal of a large section of original boundary wall would completely change the overall character of the site and area. No justification has been provided for the removal of a large section of original boundary wall. This concern was highlighted previously with regard to the impact and loss of original fabric. The Planning Authority is not satisfied that this element of the development would comply with Policies NCBH1, NCBH19, NCBH23 and NCBH25 of the South Dublin County Council Development Plan 2022 – 2028.

7. The applicant has failed to provide adequate information relating to proposals for natural SUDs features to be used on the site. The applicant has also failed to provide a Green Infrastructure Plan or a Green Space Factor calculation. The application therefore does not comply with Policies GI4 (Sustainable Drainage) or GI5 (Climate Resilience) of the South Dublin County Council Development Plan 2022 - 2028.
8. Adequate ecological impact assessment has not been undertaken, including in particular bat surveys for the site. Development of the site prior to the undertaking of adequate surveys, given its context and location, and the presence of multiple older structures and mature trees on the site, would not be in support of Policy NCBH 1 Overarching or Policy NCBH2 Natural Heritage of the South Dublin County Council Development Plan 2022 - 2028, and the Planning Authority is not satisfied that the development would comply with Policy NCBH5 Protection of Habitats and Species Outside of the Designated Areas by way of potential affording inadequate protection to those species that are protected under the Wildlife Acts 1976 to 2018 and other relevant Irish and European statute, or Policy NCBH11 Objective 3 as it relates to the protection and retention of existing trees, hedgerows and woodlands.
9. The applicant has provided inconsistent information relating to open space proposals, such that it is unclear if any publicly accessible open space is proposed to be made available on the site. The Planning Authority is therefore not satisfied that adequate provision has been made for public open space, either by way of on-site provision or by way of a contribution in-lieu of such provision, the following elements of the South Dublin County Council Development Plan 2022 - 2028:
 - Policy COS5 Parks and Public Open Space
 - Table 8.2
 - Policy GI6 Human Health and Wellbeing
 - Policy GI7 Landscape, Natural, Cultural and Built Heritage
10. The applicant has not provided a Green Infrastructure Plan, a Green Space Factor calculation, or an assessment/survey of Invasive Species. The Planning Authority is therefore not satisfied that the development would comply with the following policies of the South Dublin County Council Development Plan 2022 - 2028:
 - Policy NCBH10 Invasive Species
 - Policy NCBH11 Objective 3
 - Policy GI1 Objective 4
 - Policy GI2 Biodiversity
 - Policy GI5 Climate Resilience

- Policy GI5 Objective 4
- Policy GI7 Landscape, Natural, Cultural and Built Heritage
- Section 12.4.2 Green Infrastructure and Development Management


11. The applicant is proposing works outside the red line boundary of the Planning Application and without a letter of consent from the landowners (South Dublin County Council) to make the application. These works consist of the installation of surface water and foul drainage pipes to connect to existing pipes in the Prospect Manor estate to the north-east.

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001 (as amended). Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001 (as amended), have been considered in the determination of this application.

Register Reference: SD22A/0271

Signed on behalf of the South Dublin County Council.

Yours faithfully,


_____ 11-Aug-2022
for **Senior Planner**

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications related to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of two months beginning on the date of the Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(A) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála. The applicant or ANY OTHER PERSON who made submissions or observations to the Local Authority may appeal within FOUR WEEKS beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received).
1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. In the case of a third party appeal it must be accompanied by the acknowledgement by the Planning Authority of receipt of the submissions/observations. Appeals should be sent to:
 2. The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1.
 3. An Appeal lodged by an applicant/ agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below.
 4. A party to an appeal making a request to An Bord Pleanála for an Oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (g) below).
 5. A person who is not a party to an appeal must pay a fee to An Bord Pleanála when making submissions or observations to An Bord Pleanála in relation to an appeal.
 6. If the Council makes a decision to grant permission/grant permission consequent on a grant of outline permission and there is no appeal to An Bord Pleanála against this decision, PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION will be granted by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If any appeal made in accordance with the Acts has been withdrawn, the Council will grant the PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION/RETENTION as soon as may be after the withdrawal.
 7. Fees payable to An Bord Pleanála from 10th December 2007 are as follows:
 - (a) Appeal against a decision of a Planning Authority on a planning application relating to commercial development made by the person by whom the planning application was made. where the application relates to unauthorised development€4.500.00 or €9.000 if an E.I.A.R. is involved
 - (b) Appeal against a decision of a planning authority on a planning application relating to commercial development made by the person by whom the planning application was made. other than an appeal mentioned at (a)..... €1.500.00 or €3,000.00 if an E.I.A.R. is involved
 - (c) Appeal made by the person by whom the planning application was made, where the application relates to unauthorised development other than an appeal mentioned at (a) or (b)€660.00
 - (d) Appeal other than an appeal mentioned at (a), (b), (c) or (f)€220.00
 - (e) Application for leave to appeal.....€110.00
 - (f) Appeal following a grant of leave to appeal€110.00
 - (g) Referral€220.00
 - (h) Reduced fee (payable by specified bodies).....€110.00
 - (i) Submission or observations (by observer).....€50.00
 - (j) Request from a party for an Oral Hearing€50.00

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at

Telephone 01-858 8100