



Planning and Development Acts 2000 to 2019

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D19A/0856

Appeal by Liam and Mary Rose McDonnell and others care of Reid Associates of 2 Connaught Place, Crofton Road, Dún Laoghaire, County Dublin against the decision made on the 10th day of January, 2020 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Bernard McEvoy care of Boyd Cody Architects Limited of 68 Dame Street, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing part three-storey, part single storey dwelling (located in an Architectural Conservation Area) and the construction in lieu of a new, part three-storey, part two-storey, single family dwelling with associated hard and soft landscaping, drainage and rainwater harvesting tank. Work to site boundaries to include general repair and a new privacy screen on top of the existing wall along the south-west boundary, all at 'La Scala', Vico Road, Killiney, 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 zoning provisions, as set out in the Dún Laoghaire-Rathdown County Development Plan 2016 – 2022, to the presence of an existing dwelling on the site, and to the nature, scale and layout of the proposed development, the Board is satisfied that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of public safety and would not impact on the safety of rail users and would also be acceptable in terms of the visual and residential amenity of adjoining properties and the amenity of future occupants. 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 is satisfied that the proposed development, including the demolition of an existing house and construction of a replacement dwelling, subject to compliance with the conditions set out below, would not have a negative effect on the stability and structural behaviour of the railway tunnel immediately beneath the site.

Furthermore, the Board is satisfied that the proposed development has adequately considered the impact of the operating railway beneath the site and the potential for negative impacts arising from vibration and is satisfied that, subject to compliance with the conditions set out below, would mitigate against any potential impacts. The proposed development would, therefore, be acceptable in terms of public safety.

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

Reason: In the interest of visual amenity.

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

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

4. 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.

5. The roof area of the proposed dwelling house shall not be used as a balcony, roof terrace, garden or similar amenity area.

Reason: In the interest of residential amenity.

6. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

7. 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.

Paul Hyde

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

Dated this day of 2020.