



An
Bord
Pleanála

Board Direction
BD-013730-23
ABP-313301-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/09/2023.

The Board decided by a majority decision of 2:1 to grant permission for the proposed development for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and would be in accordance with the relevant provisions of the current Development Plan. 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 reason for refusal and the rationale provided in respect of same, the Board considered the totality of the documentation on file, including the reports of the planning authority and the submissions of all parties and observers. The Board determined that the proposed development, subject to amendments at further information stage, would not seriously injure the amenities of the area or detract from the character of the area by way of visual obtrusiveness, or by reason of scale, mass, bulk or traffic impact. With regard to any potential for overlooking, the Board noted the commentary of the planning authority on foot of

receipt of further information, that the height of the screening elements could be reviewed to mitigate overlooking of adjoining properties. This is now confirmed by condition. Furthermore, the omission of the balcony element at further information stage was noted and deemed acceptable. The Board noted and shared the opinion of the planning authority at further information stage that the redesign of the ancillary building was considered acceptable. In overall terms the design and layout of the proposed dwelling would be acceptable in scale, form and layout.

On the matter of replacement of the existing dwelling on site, the Board determined that the relevant details submitted by the applicant provided a sufficient justification case by reference to paragraph 12.3.9 and policy CA6 of the current County Development Plan. The Inspector noted that while the existing dwelling is in habitable use, it is not of any architectural or other interest that would warrant its protection, nor does it contribute to the quality and character of its streetscape scene. In section 7.3.24 of their report, the Inspector acknowledges that, notwithstanding the policy of the planning authority in relation to demolition of structures, there is a need for balance in considering a replacement dwelling at this site, given the characteristics and limited contribution of the existing dwelling whereas there is the potential for a replacement dwelling to achieve a more qualitative architectural response to the site and context providing qualitative standards of residential amenity. The Board concurred with this need for a balanced approach.

Conditions

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 22nd day of February 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The height of screening elements above adjacent finished floor levels (to the windows of the side elevations of the proposed dwelling and of the external ground floor level terrace areas) are to be a minimum height of 1.8 metres to mitigate overlooking of adjacent properties. Revised drawings and details are to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To avoid overlooking

3. 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.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0900 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 amenities of property in the vicinity.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

6. 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 interests of public health and surface water management.

7. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann (formerly Irish Water).

Reason: In the interest of public health.

8. The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters.

Reason: In the interest of public safety.

9. The proposed entire dwelling shall be used as a single dwelling unit and shall not be sub-divided in any manner or used as two or more separate units. The proposed ancillary building shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To prevent unauthorised development and to restrict the use of the ancillary building in the interest of residential amenity

10. The construction of the proposed development shall be managed in accordance with a Final 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.

11. 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.

Board Member



Mary Cregg

Date: 28/11/2023