

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Dún Laoghaire-Rathdown County

Planning Register Reference Number: D16A/0603

An Bord Pleanála Reference Number: PL 06D.247882

APPEAL by David and Cherrie Lowe care of Kieran O'Malley and Company Limited of Saint Heliers, Saint Heliers Copse, Stillorgan Park, Blackrock, County Dublin against the decision made on the 13th day of December, 2016 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Eoin and Emma McDonald care of MBDA of Shamrock Chambers, 1-2 Eustace Street, Temple Bar, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Erection of new three-bedroom detached house on two levels with attic, plus off-street parking for two cars, plus hard and soft landscaping including removal of selected hedging and trees plus new boundary fencing and associated works with all being accessed via new gateposts and gate made in new opening in hedge on North-West boundary in order to facilitate vehicle and pedestrian connection to now constructed road within adjacent development (on foot of planning register reference number D11A/0054) known as Fey Yerra Woods, all at Bellevue House, Fey Yerra, Leopardstown Road, Dublin, as amended by the further public notice received by the planning authority on the 23rd day of November, 2016.

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 pattern of development in the vicinity, including other infill housing, and to the scale, layout and design of the proposed dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of neighbouring properties, would comply with the provisions of the current Development Plan for the area, particularly in terms of the encouragement of increased residential density and in relation to infill housing, and would be acceptable in terms of pedestrian and traffic safety. 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 did not consider that the proposed development would be overbearing in the context of adjacent residential property, and was of the view that, subject to the conditions set out in its order, the development would not cause overlooking of adjoining property or be injurious to the residential amenities of such property.

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 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. All glazing at first floor level on the winter garden (north-east) elevation, and on the rear (south east) elevation, including the upper two panes of the stairwell window facing south-east, shall be permanently fitted with opaque or frosted glass.

Reason: In the interest of protecting the residential amenities of adjoining properties.

3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwelling, and to protect the residential amenities of adjoining properties.

4. Water supply and drainage arrangements including the attenuation and disposal of surface water shall be in accordance with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Site development and building works shall be carried out only between the hours of 0700 to 1800 hours Monday to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall be allowed only in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of adjoining property in the vicinity.

6. Details of the external finishes of the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The roof shall be blue-back or slate-grey in colour only, including ridge tiles.

Reason: In the interest of visual amenity.

7. No access shall be taken from the subject site, whether vehicular or pedestrian, onto the adjoining housing development to the north-east (Torquay Wood estate).

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

8. Prior to the commencement of any permitted development or any related construction activity or tree felling on the site, the developer shall lodge a tree bond to the value of €10,000 (ten thousand euro) with the planning authority. This is to ensure the protection of trees on and immediately adjacent to the site to make good any damage caused during the construction development. This relates in particular to Tree number 0466, which shall be retained as part of the development. The bond lodgement shall be coupled with an Arboricultural Agreement, with the developer, empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on or immediately adjoining the site, or the appropriate and reasonable 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. Any replacement planting shall use large semi-mature tree size(s) and species or similar as may be stipulated by the planning authority.

Reason: To ensure the protection, safety, prudent retention and long term viability of trees to be retained on and immediately adjacent to the site.

9. Prior to the commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all the recommendations in the tree reports and plans. The developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the Arboricultural Method Statement and Tree Protection Plan in the submitted tree report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1st March – 22 August inclusive) or as stipulated under the Wildlife Acts, 1976 and 2000.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

10. Prior to the commencement of any permitted development, the developer shall agree in writing with the planning authority, a suitable landscaping plan prepared by a landscape architect or qualified landscape gardener in accordance with the arborist's report submitted with the application and to provide for replacement tree planting and suitable screening at a minimum 25-35 centimetres girth.

Reason: To mitigate against the loss of the mature trees and to retain the sylvan character of the site.

11. Prior to the commencement of development, the developer shall submit plans and drawings for a revised vehicular entrance which shall not exceed 3.5 metres in width. The height of the gate pillars shall not exceed 1.2 metres in height.

Reason: To protect the amenities of the area.

12. 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.

13. The developer shall pay to the planning authority a financial contribution as a contribution under section 49 of the Planning and Development Act 2000, as amended, in respect of the extension of LUAS line B from the Sandyford Depot to Cherrywood, namely LUAS line B1. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

Dated this day of 2017.