



An  
Bord  
Pleanála

Board Order  
ABP-308883-20

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dún Laoghaire-Rathdown County Council**

**Planning Register Reference Number: D20A/0517**

**Appeal** by Brian and Paula Harrison of Rosbeg, Claremont Road, Carrickmines, Dublin and by Duncan Fox and Ruth Leggett care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, County Dublin against the decision made on the 17<sup>th</sup> day of November, 2020 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to the said Duncan Fox and Ruth Leggett in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of a detached four bedroom two-storey dwelling with ancillary canopy, carport, garden shed and two number car parking spaces all to the rear of Cranfield, the demolition of existing garage and alterations to roof of shed, widening of the existing entrance to facilitate a shared access together with all associated site works and services at Rear of Cranfield, Kerry Mount Avenue, Dublin, as revised by the further public notices received by the planning authority on the 22<sup>nd</sup> day of October 2020.

## **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 residential zoning of the site, to the planning history of the area, to the relevant policies and objectives of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 regarding infill developments and the densification of existing suburbs, and to the location of the proposed development within the Foxrock Architectural Conservation Area, it is considered that the proposed development would provide a satisfactory level of residential amenity for future occupants, would not seriously injure the visual and residential amenities of properties in the vicinity and would not adversely affect the character and setting of the Foxrock Architectural Conservation Area. 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 on the basis that the proposed development was backland development, the Board noted that the description of Backland Development in Section 8.2.3.4 on Additional Accommodation in Existing Built-up Areas in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 provided that residential development within the boundary of larger detached houses does not constitute backland development. In considering the proposed development, the Board, therefore, concurred with the planning authority and assessed the development in accordance with the provisions of the Development Plan pertaining to Infill Development and Sub-Dividing of existing Sites. Furthermore, the Board did not consider that the proposed development would have any negative impact on the character and setting of the Foxrock Architectural Conservation Area or on the residential and visual amenities of the area. The Board was, therefore, satisfied that the proposed development was in accordance with the proper planning and sustainable development of the area.

For the avoidance of doubt, the Board was also satisfied that the provisions of Condition Number 2 of the planning authority's decision to grant permission which required the use of permanent glazing in frosted glass in the north facing windows of Bedroom Number 3 was not necessary by virtue of the distance and orientation of this façade from the property to the north.



## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 22<sup>nd</sup> day of October 2020, 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. The width of the proposed widened vehicular entrance off Kerry Mount Avenue (including any proposed alterations to the existing vehicular entrance) shall not exceed the 4.0 metres maximum width for a shared vehicular entrance in accordance with the relevant provisions of the Dún Laoghaire-Rathdown Development Plan 2016-2022.

**Reason:** In the interest of clarity.

3. The glazing within the north facing window at first floor level of the family bathroom, as identified in Drawing Number 1920-PL-FF Plan F1 shall be manufactured frosted glass and shall be permanently maintained. The glazing of all the windows identified in the drawings submitted to be fitted with opal glass shall be manufactured opaque or frosted glass and shall be permanently maintained.

**Reason:** In the interest of residential amenity.

4. 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.

5. Water supply and drainage arrangements, including the disposal of surface water and drainage arrangements for the proposed green roof, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of residential and visual amenity.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays 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.

8. The landscaping scheme shown on Drawing Number 20DR02-DR-200, as submitted to the planning authority on the 22<sup>nd</sup> day of October, 2020 shall be carried out within the first planting season following substantial completion of external construction works. The developer is required to retain the services of an Arboricultural Consultant throughout the life of the site development works to ensure the protection of all trees shown for retention.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

9. 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, noise management measures and off-site disposal of construction/demolition waste.

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

10. 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.

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.

12. The developer shall pay to the planning authority a financial contribution in respect of 'the extension of Luas Line B1 – Sandyford to Cherrywood' in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

*DR. Maria FitzGerald*

**Maria FitzGerald**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**

Dated this *9<sup>th</sup>* day of *Sept.* 2021

