



An
Bord
Pleanála

Board Order
ABP-312369-22

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 3632/21

Appeal by David Graham and others care of 24 Westbourne Road, Terenure, Dublin and by Eimear and Michael O'Doherty of 120 Rathfarnham Road, Dublin against the decision made on the 29th day of November, 2021 by Dublin City Council in relation to an application by Pdraig and Ciara Corrigan care of ABBD of Clonshanny, Clara, County Offaly for (1) Retention permission for alterations and amendments to house in so far as is constructed which differs from that previously approved on foot of planning register reference number 3316/19 (Site B) and including (i) "as-built" minor dimensional adjustments and an altered roof pitch and profile resulting in an increase in ridge height of 471 millimetres and (ii) for the construction of a retaining wall consisting of gabion cages on sloping bank to south of house under construction on lands zoned "Z9" in Dublin City Council's Development Plan. (2) Permission is also sought to complete the development and all ancillary site development works and services, all immediately adjacent to, and south of Number 122 Rathfarnham Road, Terenure, Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for retention for alterations and amendments to house in so far as is constructed which differs from that previously approved on foot of planning register reference number 3316/19 (Site B) and including (i) "as-built" minor dimensional adjustments and an altered roof pitch and profile resulting in an increase in ridge height of 471 millimetres and to

refuse permission for the construction of a retaining wall consisting of gabion cages on sloping bank to south of house under construction on lands zoned Z9 in Dublin City Council's Development Plan, in addition to permission to complete the development and all ancillary site development works and services).

Decision

GRANT permission for retention for alterations and amendments to house in so far as is constructed which differs from that previously approved on foot of planning register reference number 3316/19 (Site B) and including (i) "as-built" minor dimensional adjustments and an altered roof pitch and profile resulting in an increase in ridge height of 471 millimetres in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for the construction of a retaining wall consisting of gabion cages on sloping bank to south of house under construction on lands zoned Z9 in Dublin City Council's Development Plan, in addition to permission to complete the development and all ancillary site development works and services, based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the design, nature, scale, and extent of the dimensional adjustments and altered roof pitch and profile, to the "Z1" zoning objective pertaining to the site, and subject to compliance with the conditions set out below, it is considered that the development proposed to be retained would be satisfactory in the context of the visual amenities of the area, would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable in the context of surrounding ecology, and would, therefore, be satisfactory in the context of the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, 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 and the development shall be retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The terms and conditions of the permission granted for the original development under An Bord Pleanála appeal reference number ABP-306149-19 (planning register reference number 3316/19), shall be fully complied with, except, where modified by this permission. In particular, the boundary treatment of Number 122 Rathfarnham Road shall be completed in line with drawing number 1804 P200, received by the planning authority on the 21st day of June 2019.

Reason: In the interests of clarity and of the amenity of the area.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

4. The gabion walls filled with stone shall be removed within three months from the date of the final grant, in accordance with a methodology to be agreed in writing with the planning authority. Furthermore, the area shall be replanted with suitable understorey plants, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the next growing season.

Reason: In the interest of visual amenity and of proper planning and sustainable development.

5. The methodology for removal of the gabions from Zone 9 within the development site shall be agreed in writing between the developer and the planning authority. An independent arborist shall be employed to inspect the trees present in Zone 9 so as to allow an assessment of their current condition and the manner in which the gabions can be removed from around and against them with the least damage to the trees' trunks and root systems.

Reason: In the interests of residential and visual amenity.

6. 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.

Reasons and Considerations (2)

In relation to the construction of a retaining wall consisting of gabion cages on a sloping bank to south of house under construction on lands zoned Z9 in the Dublin City Council's Development Plan, in addition to permission to complete the development and all ancillary site development works and services, the Board considered that the completion of these works has significantly impacted on the special character of the riparian strip adjoining the banks of the River Dodder due to the clearance and cutting back of existing trees, and the destruction of the understorey plants without the required arborist or ecological report and as such the works are considered to be contrary to the Z9 zoning objective of the site which is 'to preserve, provide and improve recreational amenity and open space and green networks' and thus seriously impact on the amenity of the lands setting an unacceptable precedent for works of a similar nature. The Board considered the totality of submissions on the file and in particular from the Department of Housing, Local Government and Heritage highlighting concerns regarding the destruction of habitat that could potentially impact on protected species. As such, these works are contrary to the proper planning and sustainable development of the area.



Stephen Brophy

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

Dated this *10th* day of *May* 2023