



An
Bord
Pleanála

Board Order
ABP-314989-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D22A/0489

Appeal by Mary Gilligan and Tony Kirwan care of Diarmuid O Grada of 16 Louvain, Roebuck Road, Dublin and by Nigel Brennan, Gavan Neary and Others care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, County Dublin against the decision made on the 13th day of October, 2022 by Dún Laoghaire Rathdown County Council to grant subject to conditions a permission to Stephen and Brigitta Lannen care of OC Architects and Design of 67 Ranelagh Village, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: (i) Subdivision of the existing site into two separate sites, (ii) set back of north boundary wall of the proposed subdivided site, (iii) construction of a two-storey, three-bedroom, detached infill dwelling with rooflights, to the rear of the site, (iv) formation of a new vehicular entrance on Charleville, (v) existing trees and hedges along existing grass verge adjacent to the set back of north boundary wall of the proposed subdivided site to be relocated and replanted, and (vi) two number on-curtilage car parking spaces; private amenity space, boundary treatment, landscaping, SuDS drainage and all ancillary works necessary to facilitate the development at Glenholme, Churchtown Road Lower, Churchtown, Dublin. The proposed development

was revised by further public notices received by the planning authority on the 20th day of September, 2022.

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.

Reasons and Considerations

Having regard to the Objective A zoning of the site (To protect and/or improve residential amenity), and to the policies and objectives as set out in the Dún Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that the proposed development, subject to compliance with the conditions set out below, would not detract from the amenities of the area and would be consistent with the provisions of the 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 recommendation to refuse permission, the Board agreed with the planning authority that the applicant has sufficient legal interest to lodge a planning application, while noting that Section 34(13) of the Planning and Development Act 2000 states "A person shall not be entitled solely by reason of a permission under this section to carry out any development."

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 20th day of September, 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The glazing within the ensuite window on the ground floor shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

Reason: In the interest of residential amenity.

3. The boundary treatment on the eastern boundary of the site shall consist of a two metre high rendered wall with granite capping.

Reason: In the interest of clarity.

4. The surface water runoff generated by the development shall not be discharged to the public sewer but shall be infiltrated locally to a soakaway, as detailed in the application, in accordance with Section 10.2.2.6 Policy Objective EI6: Sustainable Drainage Systems (SuDS) of the development plan. The soakaway shall not have an overflow. The

soakaway shall be designed to BRE Digest 365, shall be at a minimum five metres from foundations, three metres from adjacent property boundaries and shall have no impact on neighbouring properties. If a soakaway is not a feasible solution, then prior to commencement for development, the developer shall submit for the written agreement of the planning authority a report signed by a Chartered Engineer showing an infiltration test (with results and photos) and shall propose an alternative SuDS measure.

Reason: In the interest of sustainable development.

5. Any changes to parking and hardstanding areas shall be constructed in accordance with the recommendations of the Greater Dublin Strategic Drainage Study for sustainable urban drainage systems (SuDS), that is, permeable surfacing, and in accordance with Section 12.4.8.3 Driveways/Hardstanding Areas of the development plan. Appropriate measures shall be included to prevent runoff from driveways entering onto the public realm as required. Where unbound material is proposed for driveway, parking or hardstanding areas, it shall be contained in such a way to ensure that it does not transfer on to the public road or footpath on road safety grounds.

Reason: In the interest of sustainable development.

6. Prior to commencement of development, the developer shall submit the following for agreement with the planning authority:
- (a) A schedule of works in accordance with BS 3998:2010. The tree protection measures for retained trees shall be installed before clearance, enabling or construction works on site begin.

- (b) A Tree Protection Plan: All street trees and hedging in the verge adjacent shall be excluded from construction activities, compound(s), site office(s), parking, plant, equipment, utility works and materials storage,
- (c) A timescale for implementation of all proposals, including the specified landscape maintenance operations. The landscape contract shall include a post-Practical Completion Certificate (signed by the landscape consultant) and a Defects Liability Clause of 18 months minimum to ensure trees and hedging establish.

Reason: To ensure and give practical effect to the retention, protection, and sustainability of trees during and after construction of the permitted development, and to verify that protection measures are in place.

7. The verge within the construction site shall be maintained in good condition and suitably reinstated so that planting conditions for new replacement trees and hedging are not compacted and will allow for establishment of replacement planting.

Reason: In the interest of sustainable development.

8. All Tree works (felling, removal, surgery) shall be undertaken by a suitably qualified and insured Tree Surgeon, in accordance with British Standard BS 3998:1989 Recommendations for tree work and with current Health and Safety requirements. All tree works shall be completed before the occupation of the additional dwelling.

Reason: In the interest of sustainable development.

9. Vegetation clearance including scrub and tree removal shall take place outside the bird breeding season (March 1st to August 31st), as per section 40 of the Wildlife Act 1976, as amended by Section 46 of the Wildlife (Amendment) Act 2000 unless a derogation licence is held. A copy of the derogation licence shall be submitted to the planning authority. Consultation with the National Parks and Wildlife Service is therefore highly recommended. The intention to or the submission of a planning application does not supersede any requirements around tree felling under the Forestry Act.

Reason: To protect birds and bird breeding habitats during the nesting season.

10. The width of the proposed new vehicular entrance shall be a maximum of 3.9 metres and the existing concrete kerb and grass verge in front of the vehicular entrance shall be replaced with a new dished concrete kerb and concrete apron at the developers' expense including any moving/adjustment of any water cocks/chamber covers and all to the satisfaction of the appropriate utility company and the planning authority. With regard to the new concrete dished kerb and concrete apron in front of the vehicular entrance, the developer shall contact the planning authority to ascertain the required specifications for such works and any required permits.

Reason: In the interest of traffic safety.

11. All necessary measures shall be taken by the developer and Contractor to avoid conflict between construction traffic/activities and traffic/road users, particularly pedestrians and cyclists, on the public road/footpath, during construction works.

Reason: In the interest of traffic safety.

12. The developer shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site construction works and repair any damage to the public road arising from carrying out the works.

Reason: In the interest of traffic safety.

13. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

14. 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, 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.

15. 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.


Liam Bergin

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 23rd day of November 2023.