



An
Bord
Pleanála

Board Order ABP-318142-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D23A/0461

Appeal by Stephen and Paula Flood care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 5th day of September, 2023 by Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development.

Proposed Development: (i) The demolition of the existing single-storey, three number bedroom dwelling and associated single-storey garage, (ii) the construction of a replacement two-storey, four number bedroom dwelling and ancillary single-storey garage to shelter an existing well and water supply and (iii) all ancillary landscaping, engineering and site works necessary to facilitate development at Fuchsia Lodge, Carthy's Green, Ballyedmonduff Road, Dublin.

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 Dún Laoghaire-Rathdown County Development Plan 2022-2028, to the location of the site, to the zoning objective 'G' of the site to protect and improve high amenity areas where inter alia residential development is permitted in principle, to the massing, scale and form of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the site or of neighbouring dwellings, would maintain the landscape character of the area, and would not detract from the Historic Landscape Character 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, the Board noted the proposed development is a replacement dwelling that would not be readily visible from a protected viewpoint. While the proposed development results in an increase in height, mass and scale, the Board considered the proposed dwelling nestled into its local topographical context below the ridgeline to the rear and together with the design of the proposed development would not result in a visually incongruous or prominent feature in the Barnacullia Landscape Character Area.

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 received by An Bord Pleanála on the 2nd day of October 2023, except as may otherwise be required in order to comply with the conditions set out below. 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 on the ground floor window on the northern gable wall at ground floor level shall not be required to be manufactured of opaque or frosted glass.

Reason: In the interest of clarity.

3. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter (unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant). Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed dwelling is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

4. 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. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

5. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

6. 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.

7. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – The Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

8. 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.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this *28th* day of *June*, 2024.