

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D23A/0483

Appeal by Alan and Aisline Metcalfe of 7 Mountain View Road, Killiney, County Dublin and by Others against the decision made on the 27th day of October, 2023 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Elaine O'Hora and Suvi Harris care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of (i) Demolition of four number existing ancillary sheds; (ii) The construction of two number detached flat-roofed dwellings (one number single storey and one number two-storey); (iii) The new dwellings will use the existing vehicular entrance to the east of the site via Shanganagh Terrace and there will be two number on curtilage car parking spaces per dwelling; and (iv) The development will include all associated works including landscaping (including tree protection measures), planting and boundary treatments, infrastructure, lighting, foul/surface drainage and site works necessary to facilitate the development. All at Number 15 Shanganagh Terrace, Killiney, County 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 Objective A zoning of the subject site, massing, scale and form, and associated access and boundary treatments, it is considered that, subject to compliance with the conditions as set out below, the proposed development would not adversely impact on the residential amenity of adjacent properties by reason of overshadowing, overlooking or overbearing appearance. In addition, it is considered that the proposed development would not significantly detract from the character of the surrounding area and would be in accordance with the relevant policy and provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. 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 decided:

1. That, in agreement with the planning authority, the quantum of open space was in excess of standards as set nationally and locally and that the owners have the option to increase open space further through the removal of remaining ancillary structures, should they wish to do so in the future.

2. That, in agreement with the Conservation Officer, the contemporary design of the new dwellings in conjunction with their scale, height and massing, is considered to be in line with Policy Objective HER13: Architectural Conservation Areas of the development plan.
3. That, in agreement with the Transportation Planning section of the planning authority, and subject to compliance conditions, the proposed development would not significantly endanger public safety by reason of traffic hazard or obstruction of road users.

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 the planning authority on the 6th day of October 2023 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 existing shed located to the rear of the existing building shall be removed in accordance with Drawing number FI003; dated: 09/05/2023; Proposed Site Layout Plan and Demolition Dwgs, submitted to the planning authority with further information on the 6th day of October 2023.

Reason: In the interest of on-site residential amenity.

3. The proposed dwellings shall be used as a single dwelling units only and shall not be sub-divided in any manner.

Reason: To prevent unauthorised development.

4. A Construction Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall provide, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters and surfacewaters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection, residential amenities, public health and safety and environmental protection.

5. All necessary measures shall be taken by the developer to avoid conflict between construction activities and pedestrian/vehicular movements on Shanganagh Terrace.

Reason: To protect the amenities of the area and in the interest of road safety.

6. An acceptable naming/numbering for each house, in both Irish and English, shall be submitted for the written agreement of the planning authority prior to the commencement of development or the erection of any advertising hoardings on site. In this regard, the use of name(s) reflecting local place names or local history would be acceptable.

Reason: In the interest of orderly development.

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

Reason: In the interest of visual and residential amenity.

8. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

9. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

10. The developers shall ensure that the proposed new driveway/parking area shall be constructed with sustainable drainage systems (SuDS) to the satisfaction of the planning authority. The developer shall ensure that drainage from the proposed new driveway/parking area shall not enter onto the Shanganagh Terrace.

Reason: In the interest of orderly development.

11. Any changes to the parking and hardstanding areas shall be constructed in accordance with the recommendations for 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 County Development Plan 2022-2028. Appropriate measures shall be included to prevent

runoff from driveways entering onto the public realm as required. Where unbound material is proposed for the driveway, parking or hardstanding areas, it shall be contained in such a way as to ensure it does not transfer on to the public road or footpath on road safety grounds.

Reason: In the interest of orderly development.

12. All of the parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

13. Prior to commencement of development, the developer shall appoint a qualified arborist as an Arboricultural Consultant for the entire period of construction.
 - (a) The developer shall inform the planning authority in writing of the appointment and name of the Consultant and their brief, prior to any mobilisation of plant, machinery or construction equipment. The Consultant's brief shall be as follows: the developer shall ensure protection of all trees on site during construction works by ensuring the erection of tree protective fencing on site according to BS 5837:2012 and according to drawing 221016-P-11, submitted with application; the protective fencing should be located outside the drip line of the trees as per the drawing by Arborist Mr.

McCorkell, and so instruct his/her contractors.

- (b) Prior to the commencement of development, and or any site clearance operations, the developer shall erect protective fencing around all retained trees, in accordance with Figs, 2 or 3 of BS 5837: 2012 and drawing 221016-P-11 submitted with the application, or as agreed with the planning authority. Notices shall be fixed to the fencing, stating that the trees within the fence area are protected within the fence exclusion zone. There shall be no incursions of machinery or storage of materials, equipment, spoil or soils within the fenced zone, unless by prior written agreement with the planning authority.
- (c) The Arboricultural Consultant shall certify, in writing, to the planning authority when they are satisfied that all protective fencing is fully erected, and that the notices are attached thereto, and that they have given a Toolbox Talk to the contractor's supervisory staff regarding tree protection measures.
- (d) The Arboricultural Consultant shall inspect the site at a minimum of bi-monthly intervals, to ensure full implementation of the Method Statement and Protection Plan, and to make any necessary adjustments thereto, in the light of on-going assessments during construction.
- (e) Ground protection measures shall be adhered to, as specified in Appendix C of the Tree Survey Report, using cellular confinement system (cellweb) et cetera, as needed and appropriate, to protect trees for retention from any kind of site traffic during works and within the root protection areas of the trees.

- (f) All Tree Works (felling, removal, surgery, etc.) recommended in the original Tree Report 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. If the recommendations for tree works are more than 12 months old, at commencement stage, the Arboricultural Consultant shall review and update (as necessary), the original recommended works, and submit an updated report to and for the agreement of the planning authority. All tree works shall be completed before occupation of any dwellings.
- (g) At practical completion of the development, the Consultant shall carry out a Post-construction Arboricultural Assessment of all retained trees, making recommendations for any necessary and additional Tree Works. The Consultant shall submit to the planning authority, for their written agreement, a signed Arboricultural Completion Certificate stating that all Tree Works were satisfactorily completed in accordance with their recommendations, including any additional items arising from the post-construction Assessment.

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.

- 14. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Any potential excessively noisy activities such as rock breaking/piling shall be limited to the hours of 0900 to 1700, Monday to

Friday. They shall also be carried out with prior consultation between the community liaison officer and potentially effected residents.

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

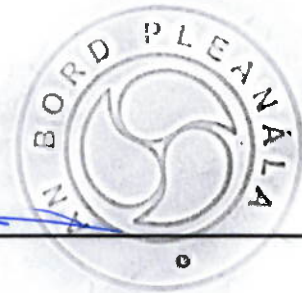
15. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of upgrading existing open space and landscaping works which benefit the proposed development, that is, improvements to Killiney Hill Park, which benefits the proposed development. 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 may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

16. 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 14th day of August 2024.