Planning and Development Act 2000, as amended

Planning Authority: South Dublin County Council

Planning Register Reference Number: SD26A/0100W

Appeal by Sean Kelly, Kenneth Kelly and Elaine O'Reilly against the decision made on the 15th day of June, 2026 by South Dublin County Council to refuse permission for the proposed development.

Proposed Development: An extended replacement seven number bed dormer/single storey dwelling with dormer family flat and two number home base offices, set out in blocks, pursuant to the substantial demolition without planning permission of pre-existing dormer/single storey dwelling, relocated vehicular access via shared communal area, 1.450 metre high internal retaining wall, precast concrete septic tank and percolation area and permission sought for proposed dormer connecting link between blocks, entrance, front (north) boundary treatment, landscaping works, SuDs (Sustainable Drainage Systems), adjust existing percolation area to be within three metres of eastern boundary and remaining ancillary site works/services, all at Lugg Lane, The Lugg, Saggart, 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.

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Reasons and Considerations

Having regard to the nature, scale and design of the proposed development and the scale of the existing dwelling that has been replaced, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location, would not cause any unacceptable impact on the landscape and would be acceptable in terms of visual amenity, traffic safety and safe disposal of treated effluent on site.

Furthermore, having regard to Policy considerations including Policy H19 (Rural Housing in HA – Dublin Mountains Zoning Policy) Objective 1 of the South Dublin County Development Plan 2022-2028, it is considered that the applicants have demonstrated that they meet the exceptional circumstances for consideration of a new or replacement house, on the basis of satisfying the relevant criteria. The Commission was satisfied that the development proposed and proposed to be retained would also be in accordance with H23 Objective 1 : rural housing within designated area including Dublin Mountain (HA-DM) and with the relevant wider provisions of the development plan and would therefore, be in accordance with the proper planning and sustainable development of the area.

The Commission agreed with the inspector's assessment on the appeal in relation to all matters except for the consideration of effluent treatment. In deciding not to accept the inspector's recommendation to refuse permission for the development on the basis that it has not been demonstrated that an adequate level of wastewater treatment would be achieved, with a consequential risk to public health, the Commission did not share this view. In considering the totality of information received, including the information submitted at appeal, the Commission found that it has been demonstrated that the effluent could be safely treated on site, underpinned by the documentary evidence that the proposal followed the requirements of the EPA Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent (PE) of less an 10) 2021.

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The Commission noted in accordance with Section 3.3 (wastewater flow) and Table 3.2, a PE of 10 is the appropriate figure to be used for the calculation of design capacity for an 8-bedroom house. On examining the Site Characterisation Form and the design details of the proposed wastewater treatment system. submitted at appeal stage, the Commission noted that the subsurface percolation value of 15.81 min/25mm, reported as having been encountered on site, lies within an acceptable range for safe on-site treatment of effluent by reference to table 6.4 of EPA Code of Practice - Percolation values. The Commission was satisfied that the design details presented at appeal stage, proposing a 'Batchpur' effluent treatment system for primary and secondary treatment of effluent followed by further tertiary treatment through a sand polishing filter is an acceptable design for the safe disposal of effluent on the basis that it follows the requirements of the EPA Code of practice requirements, informed by the ground conditions and the subsurface percolation value obtained through on-site testing.

On a procedural matter, the Commission was satisfied that the amended details submitted with the first party appeal can be considered in its assessment without the need for any new public notice as the effluent treatment design presented at this appeal stage was an improvement rather than a materially different design.

The Commission was also satisfied that any outstanding concerns regarding compliance of the proposed effluent treatment system can be dealt with by way of a planning condition, ensuring that the system with be installed in accordance with the Code of Practice.

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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 drawings and particulars received by the Commission on the 10th day of July 2926, 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. (a) The proposed dwelling and family flat shall be first occupied as a place of permanent residence by the applicants, members of the applicants' 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. Within three months of the date of this Order, 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 three months of the date of this order, the applicant shall submit to the planning authority a written statement of confirmation of the 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.

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Reason: To ensure that the proposed house 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.

3. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this appeal on the 10th day of July, 2026 and shall be in accordance with the standards set out in the document entitled "Code of Practice-Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10) " Environmental Protection Agency, 2021.

(b) Treated effluent from the wastewater treatment system shall be discharged to a sand polishing filter which shall further discharge to a tertiary infiltration area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

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4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing:

(i) Existing trees and hedgerows, specifying which are proposed for retention as features of the site landscaping

(ii) The measures to be put in place for the protection of these landscape features during the construction period.

(iii) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.

(iv) Details of any screen planting of site boundaries which shall not include cupressocyparis x leylandii.

(b) A timescale for implementation 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 order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.

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

Reason: In the interest of environmental protection and public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interest of visual amenity.

7. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

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

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such agreement, the matter shall be referred to An Coimisiún 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.

Patricia Calleary.

Patricia Calleary
Planning Commissioner of An Coimisiún Pleanála duly authorised to authenticate the seal of the Commission.

Dated this 12th **day of** November **2026**