



An
Bord
Pleanála

Inspector's Report

ABP-313161-22

Development

Permission for a new flat roof, 4 bedroom, two-storey, contemporary dwelling and all ancillary site works including terraces, access road, on site parking, landscaping, and associated drainage works. The proposal is located to the rear of and within the curtilage of a Protected Structure.

Location

Saint Germans, Vico Road, Dalkey, Co. Dublin

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D21A/0931

Applicant(s)

John Sheridan

Type of Application

Planning Permission

Planning Authority Decision

Grant with Conditions

Type of Appeal

Third Party Appeals

Appellant(s)

Anthony and Sarah Cosgrove

Observer(s)	Rose Ivory Paula Ann and Ged Pierse and Sandra Williams
Date of Site Inspection	9 th December 2022
Inspector	Susan Clarke

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1.0 Site Location and Description

- 1.1. The rectangular shaped site, measuring a stated area of 0.1089 ha, is located on an elevated area to the rear (northwest) of Saint German's Vico Road, Dalkey, Co. Dublin. Access to the subject site is proposed via Torca Road at a point where vehicular access is restricted to a small number of residences including 'Torca Hill House', 'Thalassa', and 'Villa Christina'. The road provides for pedestrian access to Killiney Hill. There are a number of pedestrian linkages in close proximity to the site which link Torca Road with Vico Road.
- 1.2. Saint German's is a two storey, detached period dwelling, which is a designated Protected Structure (Ref 1627). 'Thalassa', a large detached property, is located to the northeast of the site, a wooded area and 'Pine Hill' a detached property accessed from Vico Road are located to the southwest. The site is located within the Vico Road Architectural Conservation Area.
- 1.3. The site is heavily overgrown with vegetation and trees. The site slopes downwards from Torca Road. Levels fall from c. 88m OD on Torca Road to c. 75m OD at the rear (south-eastern) boundary.
- 1.4. The general area is characterised by large houses on detached sites.

2.0 Proposed Development

- 2.1. The proposed development consists of the:
 - Construction of a flat roofed, 4-bedroom, two storey dwelling (230 sq m),
 - Provision of a new vehicular access/egress point on Torca Road with a sliding gate measuring 0.9m in height,
 - Repair works to the existing boundary wall along Torca Road and increasing its height from c. 0.75 to 0.9m
 - Landscape and boundary treatments including the removal of a stone rubble wall in close proximity to the eastern boundary of the site, and
 - Associated works.

2.2. Following a Request for Further Information, the Applicant proposed to omit the increase in height of the boundary wall along Torca Road. In addition, the sliding vehicular gate was reduced in height to 0.75m. Revised site layout and roof drainage details were also submitted.

3.0 **Planning Authority Decision**

3.1. **Decision**

Dun Laoghaire Rathdown County Council issued a Notification of Decision to Grant Permission on 2nd March 2022 subject to 11 No. conditions. Key conditions of note include *inter alia*:

Condition No. 4: Requires the preparation of a comprehensive landscape plan/landscaping and maintenance report (including an updated tree survey) and the written agreement in respect of same with the Local Authority prior to the commencement of the development.

Condition No. 6: Prior to the commencement of the development, the Applicant shall submit a detailed traffic management plan for written agreement with the Planning Authority. Subsection (d) requires that all necessary measures shall be taken by the Applicant and Contractor to avoid conflict between construction activities and pedestrian/vehicular movements on Torca Road and the surrounding roads during construction works.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports (2nd March 2022)

The Planner's Report forms the basis of the Local Authority's decision.

The Planning Officer stated: *Having regard to the Objective A zoning of the subject site, the reduced and amended nature of the proposed house, and associated access and boundary treatments, it is considered that 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, or*

built heritage of the surrounding area, including the protected structure and ACA, or impact on protected views and prospects to be preserved, and would be in accordance with the O/O objective of the site, subject to conditions, and would be in accordance with relevant policy and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.

3.2.2. Other Technical Reports

Conservation Section (2nd March 2022 and 30th November 2021): No objection

Drainage Section (21st February 2022 and 23rd November 2021): No objection, subject to condition.

Transportation Section (2nd March 2022 and 17th November 2021) No objection, subject to condition.

Senior Environmental Health Officer (26th November 2021): No objection.

3.3. Prescribed Bodies

Irish Water (24th November 2021): No objection, subject to condition.

The Heritage Council: No comments received.

An Taisce: No comments received.

An Comhairle Ealaion: No comments received.

Faite Ireland: No comments received.

Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media: No comments received.

3.4. Third Party Observations

Three third-party observations by local residents were submitted to the Local Authority in respect of the proposed development. The key points raised in the Observations can be summarised as follows:

- Proposal contravenes the Development Plan
- Overlooking of neighbouring properties
- The Tree Survey Report is out of date (June 2015)

- Invalid application
- Negative impact on protected views and ACA
- Additional photomontages necessary to determine the application
- Concerns regarding boundary treatments and drainage proposals
- Loss of landscaping
- Queries regarding excavation impacts and if blasting is required.
- Removal of historic wall
- Insufficient development described in statutory notices
- Pedestrian and vehicular traffic safety concerns

4.0 Planning History

- 4.1. **DLRCC Reg. Ref. D15A/0730:** Planning permission granted in May 2016 for a new flat roof, 4 bedroom, 2 and a half storey split level dwelling (290 sq m + 30 sq m carport) and all ancillary site works including access road, terrace, landscaping, and a carport.
- 4.2. **DLRCC Reg. Ref. D17A/0995:** Planning permission granted in February 2018 for amendments to Reg. Ref. D15A/0730 including a reduction in the dwelling from 290 sq m to 276 sq m and increasing the carport marginally.
- 4.3. **DLRCC Reg. Ref. D20A/0726/ABP Ref. 309079:** An Bord Pleanála upheld the Local Authority's decision to refuse planning permission in April 2021 for a new flat roof, 5 bedroom, split level, contemporary dwelling (426 sq m) and all ancillary site works including terraces, access road, on-site parking, landscaping, and associated drainage work. The Board refused permission for the development for the following reason:

*Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, in particular the policy objective LHB6: Views and Prospects, which seeks to preserve views, to the location of the proposed development within a 0/0 zone on Torca Road, and within the Vico Road Architectural Conservation Area, and to the planning history of the site, **it is considered, that the proposed development by reason of its roof level relative to Torca Road, its visibility within a preserved view area, and the***

extend of excavation required to facilitate the proposed development would detract from the character of the Vico Road Architectural Conservation Area. It is considered, therefore, that the proposed development would seriously injure visual and residential amenities in the area and would be contrary to the proper planning and sustainable development of the area. (Bold: my emphasis.)

- 4.4. **Section 96 Social Housing Exemption Certificate Reg. Ref. V/075/21:** A Social Housing Exemption Certificate was issued by Dun Laoghaire Rathdown County Council in respect of the proposal on 19th November 2021.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan, 2022-2028

Since the Local Authority issued a Notification of Decision to Grant Permission for the proposed development, a new development plan has been prepared and adopted for the County. The applicable plan is the Dun Laoghaire Rathdown County Development Plan, 2022-2028. I do not consider that there are material differences between the former Development Plan and the new Development Plan for the purposes of assessing this appeal case, with the exception that the O/O objective is no longer contained within the Plan following Ministerial Direction. This Objective related to areas where no increase in the number of buildings would normally be permitted and was previously applicable to the subject site.

The subject site is zoned Objective A “*To provide residential development and improve residential amenity while protecting the existing residential amenities*”.

The site is located within the Vico Road Architectural Conservation Area (ACA) and within the curtilage of ‘Saint Germans’, a Protected Structure (RPS No. 1627).

It is an objective of the plan to preserve views towards the sea from Torca Road (i.e. across the site to the sea) and views of Dalkey Hill as seen from Ulverton Road, Station Road and the East Pier.

Objective 130: To ensure that development within this objective area does not (i) have a significant negative impact on the environmental sensitivities in the area including those identified in the SEA Environmental Report, and/or (ii) does not significantly

detract from the character of the area either visually or by generating traffic volumes which would necessitate road widening or other significant improvements.

Section 12.3.7 refers to 'Additional Accommodation in Existing Built Up Areas' and sets out policies relating to infill development (12.3.7.7) which states that in accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/ gateways, trees, landscaping, and fencing or railings. This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from ACA status or similar.

The following other sections and policies are relevant:

- Policy Objective HER8: Work to Protected Structures
- Policy Objective HER13: Architectural Conservation Areas
- Policy Objective GIB6: Views and Prospects
- Section 12.3.1.1: Design Criteria
- Section 12.3.3: Quantitative Standards for Residential Development
- Section 12.3.7.5: Corner/Side Garden Sites
- Section 12.11.4: New Development within an ACA

Guidance for the Vico Road ACA is set out in the Vico Road Conservation Area Character Appraisal.

5.2. **Natural Heritage Designations**

The nearest Natura 2000 sites are Rockabill to Dalkey Island SAC Site Code 003000 c. 0.8m to the east and Dalkey Island SPA Site Code 004172 c. 0.9m to the east.

5.3. **EIA Screening**

Having regard to the nature and scale of the proposed development and its location within a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment arising from the proposed

development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Two Third-Party Appeals have been submitted to An Bord Pleanála opposing the Local Authority's decision from:

1. Rose Ivory, Vico Road, Dalkey, Co. Dublin.
2. Anthony and Sarah Cosgrave, Torca Road, Dalkey, Co. Dublin.

The grounds of appeal are largely the same in both Appeals, however I highlight that Anthony and Sarah Cosgrave's appeal is accompanied by a tree report by Arborist Associates and photomontages. The grounds of appeal can be summarised as follows:

- Concerns regarding the validity of the application that were raised in Observations to the Local Authority were not addressed by the Planning Officer in the assessment of the application.
- The Planning Officer did not consider the expert tree report submitted by Anthony and Sarah Cosgrave.
- The development includes for the demolition of part of a wall within the curtilage of the Protected Structure. No exceptional circumstances are provided justifying the demolition of the wall.
- Queries whether the Board can grant permission for the proposal having regard to alleged invalidities with the application.
- Proposal is contrary to former and current Development Plan in terms of protected views, infill development, 0/0 zones, trees and hedgerows, protected structures, and architectural conservation areas.
- The statutory notices do not sufficiently describe the proposal.
- The proposal will result in overlooking of Pine Hill and Thalassa.

- Anthony and Sarah Cosgrave request that permission is refused for the proposed development having regard to the findings of the tree report by Arborist Associates.
- Should the Board be minded to seek revised plans or be minded to grant permission without seeking further/revised plans that conditions be attached requiring the balconies facing Pine Hill and Thalassa to be removed and any floor to ceiling windows on the elevation facing towards Pine Hill and Thalassa to be fitted with permanent opaque glazing. Furthermore, Anthony and Sarah Cosgrave request that the bins should not block access to Thalassa, and a wheel wash should be in place during the construction period to ensure that adjoining areas/streets are kept free of dirt and debris.

6.2. Applicant Response

No response on file.

6.3. Planning Authority Response

No response on file.

6.4. Observations

An Observation from Paula Ann and Ged Pierse and Sandra Williams was received by the Board on 13th April 2021. The key points raised in the Observation can be summarised as follows:

- Should the Board be minded to grant permission for the proposal, request that Condition No. 6 attached to the Notification of Decision to Grant be clarified to prohibit The Green Road i.e. the laneway, off Torca Road, from being used for the delivery of materials, plant or equipment to the proposed development.
- Suggests that construction activity and access to the site from Vico Road may be a safer alternative.

6.5. Further Responses

None received.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submissions received in relation to the planning application, Third-Party Appeals and Observation, and inspection of the site, and having regard to relevant local/regional/policies and guidance, I consider that the main issues on this appeal are as follows:

- Principle of Development
- Visual Impact and Impact on Architectural Conservation Area
- Impact on Residential Amenity
- Boundary Treatment
- Trees
- Legal and Procedural Issues

Each of these items is addressed below.

7.1. Principle of Development

- 7.1.1. The site is zoned for residential development (Objective A: *to provide residential development and improve residential amenity while protecting the existing residential amenities*) in the Development Plan. Under this land use zoning objective residential is listed as a permitted in principle use. As outlined in Section 4.0 above, permission was previously granted for a dwelling on the subject site, albeit under the former Development Plan. I consider the proposed development to be acceptable in principle, subject to quantitative and qualitative safeguards in respect of design and amenity.
- 7.1.2. The Appellants make reference to the O/O objective, which related to areas where no increase in the number of buildings would normally be permitted. However, as stated above, this objective has been deleted from the Development Plan following Ministerial Direction and as such, is not relevant to the assessment of this case.
- 7.1.3. Section 12.3.7.7 of the Development Plan (infill development) states *inter alia* “*New infill development shall respect the height and massing of existing residential units.*” Section 5.9 of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* refers to infill residential development and includes:

“Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. These also provide: In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill”.

7.1.4. Therefore, while the principle of an infill can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development on the subject site would be sustainable on this site and would not be detrimental to the amenities of adjoining residential properties or the character of the area. Regard is had to these issues in the Assessment below.

7.2. Visual Impact and Impact on Architectural Conservation Area

7.2.1. The proposed development involves the construction of a contemporary style flat roofed, 4-bedroom, two storey dwelling, measuring 230 sq m. I note that the proposal is notably smaller in comparison to the dwelling that was permitted under Reg. Ref. D15A/0730 (290 sq m + 30 sq m car port) and Reg. Ref. D17A/0995 (275.8 sq m + 31 sq m car port) and the dwelling (426 sq m) refused permission in 2021 (Reg. Ref. D20A/0726/ABP Ref. 309079). The site is located on an elevated position above Saint German's with views overlooking the sea. The dwelling is set down below the level of Torca Road and the levels are stepped across the site in accordance with the topography, and as such will not impact the preserved views from this location (see Dwg. No. XT-516-006 and Photo 10 attached with this Report). The proposed green roof will further help integrate the dwelling into the landscape. As highlighted by the Appellants no visual impact assessment was submitted with the application, however I am satisfied from reviewing the planning drawings and visiting the site, that the proposal will not negatively impact on the visual amenity of the area. I note that Anthony and Sarah Cosgrave submitted photomontages of the proposal with their Appeal. Whilst these images are not rendered, and as such provide no detail in terms of building materials, they do illustrate that the proposal's height and massing will not restrict views from Torca Road towards the sea. Furthermore, the proposal will not impact on the preserve views of Dalkey Hill due to the topography and sylvan nature of the area, which screen the site. In addition, having regard to the size and stepped nature of the proposal, the amount of excavation work required will be relatively minor

in comparison to the previous application relating to the site. I highlight that the Local Authority's Conservation Officer had no objection to the proposal. Having regard to the contemporary style of the proposed dwelling and its proximity to Saint German's, I am satisfied that it will not negatively impact the character or setting of the Protected Structure. In my opinion, the proposal will not adversely impact the visual amenities of the area or the character of the ACA and as such is compliant with Policy Objectives HER13 and GIB6 of the Development Plan.

7.3. Impact on Residential Amenity

- 7.3.1. I concur with the Planning Authority that the development would not be overbearing nor would it cause any overshadowing or loss of daylight for neighbouring properties due to the proposal's height scale and massing, the site's orientation and the proposed dwelling's proximity to these properties; Saint's German is approx. 43m southeast of the proposal, Pine Hill is approx. 33m southwest and Thalassa is approx. 32m northeast.
- 7.3.2. I note the Appellant's concerns in relation to overlooking impacts, however having regard to the separation distances between the proposal and the neighbouring dwellings and the presence of large mature trees and vegetation in the immediate vicinity of the site, I do not consider that significant overlooking would occur. As such, in my opinion, a condition requiring the installation of permanent opaque glazing or omission of the side balcony's is not warranted in this case.
- 7.3.3. I consider that any construction disturbance impacts on adjoining properties will be only temporary and are inevitable and unavoidable aspects associated with urban development. This matter could be satisfactorily agreed by conditions requiring the submission of construction management proposals, including construction hours, to address any impacts.
- 7.3.4. I note the Observer's comments regarding construction traffic and request for construction traffic be prohibited from using 'The Green Road' i.e. the laneway off Torca Road. I acknowledge that Torca Road is relatively narrow, however having regard to the scale of the proposed development (i.e. one dwelling) and likely corresponding construction period to complete such a development, I do not consider it necessary to impose such a restrictive condition. Notwithstanding this, in the interest of protecting residential amenity during the construction period, I recommend that a

condition be attached requiring a traffic management plan to be agreed in writing with the Local Authority prior to the commencement of the development. Furthermore, having regard to the scale of the development, it would not generate significant traffic in the area.

- 7.3.5. In terms of the standard of accommodation that the dwelling could provide future residents, it has a relatively conventional layout, albeit that the living space is provided at first floor level and bedrooms at ground floor level due to the ground levels on the site, and is consistent with the Quality Housing for Sustainable Communities-Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). In addition, the proposal is compliant with the Development Plan's private open space provision.
- 7.3.6. In conclusion, having regard to the scale and nature of the proposed development, I do not consider that it would negatively impact on the area's residential amenity and is consistent with Policy Objective PHP19 and Section 12.3.7.7 of the Development Plan.

7.4. **Boundary Wall**

- 7.4.1. The Appellants query whether the partial demolition of the rubble stone wall, in close proximity to the eastern boundary of the site, is justified having regard to Saint German's protected structure status. I note that the Record of Protected Structures only makes reference to Saint German's as a house and no reference is made to any other features on the site. The proposed development also includes for the provision of a vehicular entrance off Torca Road, requiring the demolition of 3.5m of the boundary wall and lowering of the eastern section of the wall for a distance of 1.2m to provide adequate visibility for vehicles exiting the site. The Applicant proposes using the stone from the new entrance and the rubble stone wall to repair a damaged section of the existing wall to Torca Road (see Photos 5, 7 and 9 attached to this Report).
- 7.4.2. I highlight that the Local Authority's Conservation Officer had no objection to the proposed development. The Officer stated that "*the removal of a retaining wall within the site raises no major concerns. Its loss will have no significant negative impact on the setting of the Protected Structure. A number of retaining walls within the site are to be retained and on balance the loss of one of these walls is not considered significant.*" I similarly agree that the removal of the rubble stone wall will not negatively impact the character or setting of Saint German's. Furthermore, the proposal allows

for the construction of a dwelling in a serviced urban area, in close proximity to public transport. As such, I do not recommend that permission is refused on this basis.

7.5. Trees

- 7.5.1. Anthony and Sarah Cosgrave request that the proposed development is refused permission having regard to the impact that the proposed development will have on trees, on and surrounding the subject site. They commissioned Arborist Associates to carry out an arboricultural implication study of the development. The Study largely focuses on the trees along the boundary between the subject site and Thalassa, which were identified as Nos. 11-15 in the Tree Survey Report, dated June 2015, which was included with the application. The Study states that these trees add to the sylvan character of the area and that the proposal will impact upon them to some degree and some may need to be removed to facilitate the development. In addition, the Study states that tree No. 15 and an additional sycamore tree further east of this, which was not recorded in the 2015 survey, would require removal to facilitate a service pipe connection.
- 7.5.2. A total of 16 No. individual trees were assessed as part of the survey, which was submitted with the original 2015 application. One Sycamore tree (tag No. 11) outside the site, on the Thalassa property, was included in the survey due to its proximity to the site boundary (see Photo 6 attached to this Report). Of the trees surveyed, no trees were classed as category A, 4 No. were categorised as B, 12 No. trees were classed as category C and no trees were classed as U. The Report states that *“overall the trees on the land proposed for development are of comparatively low Arboricultural value; however they do contribute some landscape value/visual amenity, some (limited) conservation value plus some landscape screening/shelter to the site.”* Six trees are proposed for removal to facilitate the proposed development; two along the eastern boundary, three along the southern boundary and one in the centre of the site (these trees were classified as C, three of which were poor and three which were fair). With the exception of the tree in the centre of the site (tag No. 6), permission was previously granted for the removal of these trees. As highlighted by Arborist Associates’ study the site area is currently overgrown with scrub and weed species. I do not consider that the removal of the six trees would significantly alter the sylvan character of the area.

7.5.3. The Report states:

“Trees 11-15 down the eastern side of the site have potential to be impacted by construction would through root damage from groundworks and above ground injury to stems and branches etc. unless protected. Significant roots from these trees are unlikely to extend beyond the line of the old stone wall well inside the RPAs as shown in the tree survey drawing; however there may be some smaller roots present that have made their way under the wall; these should be protected from unnecessary damage wherever practicable.

Tree 11 in particular will be at risk of root damage from works to create the new entrance drive and all of the trees will be vulnerable to damage when the stone wall is demolished. Tree 11 is of moderate value (and also appears to be on the neighbouring land holding) and so care will be needed when undertaking the works in this area to minimise the impact on the tree, provided these works are well-managed the tree should not suffer any significant damage. The tree is set back some 3m from the existing stone wall separating the main site area and the garden of Thalassa and I would be confident that the root spread of the tree would be significantly limited by the presence of the wall and only minor feeder roots (if any) may be spreading into the main body of the site.”

7.5.4. Section 7 of the Tree Survey Report outlines a number of recommendations, including:

“I would recommend that the stone wall between the bulk of the site and Thalassa be left in situ during the main construction phase of the project; this would be a very effective way of limiting any impact on the trees east of the wall (tree 11 in particular). Demolition of the wall could then be carried out with due care and attention later in the project timetable. When the stone wall is demolished, this should be done with great care (preferably under the supervision of a qualified arborist) and in such a way that masonry is brought down towards the west, away from the trees....

If there are further significant construction works needed after the wall is removed; a sturdy fence (as shown in section 8 below) should be erected along the line of the old wall”

7.5.5. Whilst I acknowledge the concerns raised by the Appellant, I am satisfied that subject to the implementation of the recommendations in the Tree Survey Report, that the

trees along the eastern boundary of the site, including No. 11 on the Thalassa site, Tree No. 15 and a sycamore further east and a mature eucalyptus tree located along the southern boundary of Thalassa, could be protected during the construction of the development (see Photo 11 attached to this Report). I suggest that should the Board grant permission for the proposal, the implementation of the recommendations should be attached as a condition to the Order, including that the works near these trees are carried out under the supervision of a qualified arborist.

7.6. Legal and Procedural Issues

The Appellants raise a number of issues in relation to the validity of the application. At the outset, I highlight that it is my opinion that procedural matters, such as a determination as to the adequacy (or otherwise) of the public notices and the subsequent validation (or not) of a planning application, are generally the responsibility of the Planning Authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements.

Reference in the Statutory Notices to Previous Permissions

- 7.6.1. The Appellants highlight that the statutory notices make reference to the two permissions relating to the site (Reg. Refs. D15A/0730 and D17A/0996). In my opinion, there is no ambiguity in the notices, in that permission is being sought “*for a new flat roof, 4 bedroom, two storey, contemporary dwelling and all ancillary site works including terraces, access road, on site parking, landscaping, and associated drainage works.*” I note that reference is made at the end of the notices to the site’s previous permissions and that D15A/0730 has since expired, but importantly highlight that the proposal is not dependent on any aspect of the earlier permissions. Article 18(1)(d) of the Planning and Development Regulations, 2001, as amended, requires a newspaper notice to provide ‘a brief description of the nature and extent of the development’ and in this regard I am satisfied that the description of the subject proposal provides for a sufficient and reasonable explanation of the nature of the proposed works for the benefit / notification of third parties. I note that the notices were considered acceptable by the Planning Authority. Furthermore, I am satisfied that this matter did not prevent the concerned parties from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

Certificate of Exemption

- 7.6.2. The Appellants highlight that reference is made to previous Certificate U/136/15, which states that the Applicant “*is due to acquire an interest in the property*”. In addition, it is highlighted that a subsequent Certificate of Exemption V075/21 was sought after the planning application was lodged on 20th October 2021. I note that there is no expiry date referenced on the exemption (U/136/15). More importantly, I highlight that Part V requirements are not applicable to the subject development. Furthermore, I highlight that this matter has no bearing on the assessment of the case as outlined in the earlier sections.

Drawing Discrepancies

- 7.6.3. The Appellants note that some of the floor levels are incorrect on the drawings. Having reviewed the application documentation, I consider these points to be minor in nature and there is sufficient detail in the application to assess the full extent of the proposed development and to make a determination. As such, I consider that it would be unreasonable to refuse permission on this basis.

Landownership

- 7.6.4. The Appeals’ author, Sheehan Planning, states that they have been instructed that the Applicant does not own the subject site. No other information or explanation is provided in this regard. I do not consider there is sufficient grounds to refuse permission for the proposal having regard to this matter. Furthermore, I highlight Section 34(13) of the *Planning and Development Act 2000 (as amended)* states: “*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*” As such, should the Board be minded to grant permission for the development, it is the Applicant’s responsibility to ensure sufficient legal interest exists to implement the permission. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal.

Conclusion

- 7.6.5. Notwithstanding the foregoing, I would reiterate that procedural matters, such as the validation of a planning application, are generally the responsibility of the Planning Authority which in this instance took the view that the application documentation as lodged satisfied the minimum statutory requirements. I do not propose to comment

further on this matter other than to state that the right of third parties to make a submission or to subsequently lodge an appeal would not appear to have been prejudiced in this instance.

8.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development in an established urban area on serviced land, and the separation distance to the European sites to the subject site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the European Sites during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that planning permission be granted subject to the conditions outlined below.

10.0 Reasons and Considerations

- 10.1.1. Having regard to the site's land use zoning objective (A) in the Dun Laoghaire Rathdown County Development Plan 2022-2028, and to the nature, scale and contemporary architectural design of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would be consistent with Policy Objective PHP19 and Section 12.3.7.7 (Infill Development) in the Development Plan and would not seriously injure the residential amenities of the area due to overbearing, overlooking or overshadowing impacts, and would not be prejudicial to public health, or give rise to a traffic hazard. Furthermore, having regard to the design of the proposed development, including the retention of a significant number of trees on site, the proposal would not adversely impact on the visual amenities of the area or the Vico Road Architectural Conservation Area nor would it negatively impact the character or setting of Saint German's (Protected Structure), and as such is consistent with Policy Objectives HER13 and GIB6 of the Development

Plan, respectively. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>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 4th February 2021, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>All exterior glazing, including the glass guardrail / balustrade to the terrace shall comprise non-reflective glass only.</p> <p>Reason: To protect the visual and residential amenity of the area.</p>
3.	<p>The entire dwelling shall be used as a single dwelling unit and shall not be sub-divided in any manner or used as two or more separate habitable units.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>A) Prior to the commencement of development, the Applicant shall submit for the written agreement of the Planning Authority, a comprehensive landscape plan/ Landscaping and Maintenance Report, including an updated Tree Survey Report.</p> <p>B) Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant and Arborist throughout the life of the site development works and shall notify the Planning Authority of that appointment in writing.</p> <p>C) When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, a Practical Completion</p>

	<p>Certificate shall be submitted for the written agreement of the Planning Authority, as verification that the approved landscape plans and specifications have been fully implemented.</p> <p>D) Planting shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, with a period of 5 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.</p> <p>Reason: To protect the sylvan character and visual amenities of the area.</p>
5.	<p>The recommendations outlined in the Tree Survey Report, dated June 2015, submitted with the application, shall be carried out in full, except where otherwise required by conditions of this permission or agreed with the Local Authority.</p> <p>Reason: To protect trees and planting during the construction period in the interest of visual amenity.</p>
6.	<p>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, tree protection measures, noise management measures, off-site disposal of construction/demolition waste, and details to ensure that adjoining areas/streets are kept free of dirt and debris.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
7.	<p>Prior to the commencement of the development, a construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p>

	Reason: In the interest of traffic safety and residential amenity.
8.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
10.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: In the interest of public health.</p>
11.	<p>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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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Susan Clarke
Planning Inspector

22nd December 2022