



An  
Bord  
Pleanála

## Inspector's Report ABP315119-22

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<b>Development</b>	Extension to side and rear of house to accommodate independent living unit, new wastewater treatment plant, and retention permission for ground floor extensions and attic conversions
<b>Location</b>	Glenaraneen, Brittas, Co. Dublin
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD22B/0381
<b>Applicant(s)</b>	Keith & Josephine Justice
<b>Type of Application</b>	Permission and Retention Permission
<b>Planning Authority Decision</b>	Refuse Permission and Retention Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Keith & Josephine Justice
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> May 2023
<b>Inspector</b>	Andrew Hersey

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## 1.0 Site Location and Description

- 1.1. The proposed development is located in a rural area within the Dublin Mountains. There is a detached dwellinghouse on site set into large mature gardens with a stated site area of 0.6ha. The house is set well back from the road with only the front elevation visible from the roadside.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of the following:
- 43sq.m. 2-storey extension to the south side and rear (west) side of the existing house for the purposes of providing for an independent living and safe environment for a child with intellectual and physical disabilities
  - Internal alterations to allow for wheelchair access internally
  - New wastewater treatment plant
  - Retention of ground floor extension to the south and west which have a total floorspace of 74.11sq.m. and
  - Retention of first floor attic accommodation for the purposes of 2 bedrooms, 2 bathrooms a store and a landing. (total area 76sq.m.)

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse Permission

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the Planning Officer (dated 20<sup>th</sup> October 2022) reflects the decision of the Planning Authority. In summary the reasons for refusal are as follows:

- That the proposed development contravenes Rural Housing Policy

- That the proposed development would have an unacceptable impact on the receiving landscape
- That the proposed development will result in 3 separate and independent residential units

### 3.2.2. Other Technical Reports - Environmental Health

- Noted in the Case Planners Report. Proposal is acceptable subject to conditions

### 3.3. Submissions/Observations

- None

## 4.0 Planning History

### 4.1. The site has been subject to a number of planning applications as follows:

- SD22B/0098 for Permission for the construction of a single storey extension to the south side of the house, internal alteration, waste water treatment unit and all ancillary works. Retention permission is sought for a ground floor extension to the west side of the house, 1.5 storey extension to the south side of the house, attic rooms over the original house and approved extension to the north and roof windows to the front and rear. – Refused Permission and Refused Retention
- SD21B/0100 for permission for subdivision of existing site (overall site area 0.6168 ha app.) with new site boundaries (site A .3682 ha, site B .2486 ha); subdivision of existing residential unit into two separate residential units; Retention for sunroom/lounge to rear of existing dwelling; Retention for gable extension to existing dwelling on south end (ground floor and attic space); Single storey extension to side and rear of existing dwelling (west side) with an area of 92sq.m; Internal modifications to existing dwelling; Provision of extended parking area to front of dwelling; Upgrade of existing septic tank and percolation area to full waste water treatment system and new percolation

area (site A); Provision of new waste water treatment system and new percolation area (site B); Entrance area modifications to include new gates, piers, low boundary walls etc; Retention of 'Velux' roof lights to front of existing dwelling and all associated site works. Refused Permission and Refused Retention Permission

- SD97B/0234 Permission for single storey extension to north of bungalow – Granted Permission

## 5.0 Policy and Context

### 5.1. Development Plan

#### 5.1.1. South Dublin County Development Plan 2022-2028

- Site is located in an area zoned as 'HA-DM' in the South Dublin County Development Plan 2022-2028
- Section 6.9 Rural Housing Strategy Policy H16 – Management of single in rural areas and to restrict the spread of urban generated dwellings in the rural area designated 'HA-DM' and to focus such housing into existing settlements
- Section 6.8.2 Policy H15 Family Flats seeks to '*Support family flat development subject to the protection of residential and visual amenities.*
- H15 Objective 1 '*To favourably consider a family flat development where the Council is satisfied that there is a valid need for semi-independent accommodation for an immediate family member or members subject to the criteria outlined in Chapter 12: Implementation and Monitoring.*
- Policy H23 Rural Housing and Extension Guide - Ensure that any new residential development in rural and high amenity areas, including housing and extensions are designed and sited to minimise visual impact upon the character and visual setting of the surrounding landscape.

## 5.2. Natural Heritage Designations

The site is not located within or adjacent to any Natural Heritage Designations nor is there any hydrological link to the same

## 5.3. EIA Screening

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

A First Party Appeal was lodged by the applicants on the 16<sup>th</sup> November 2022

### 6.1. Grounds of Appeal

- That the three separate entries on the front elevation can be reduced to one entry so as not to give the appearance of three separate units and that the disabled access can be relocated to the rear
- That the proposal is being assessed as a new dwelling and is therefore subject to rural housing policy. The planning authority are not correct in this as it is clearly stated that the proposal is for an extension to the existing dwelling. The proposal therefore should not have been assessed under Rural Housing Policy.
- That the proposed development and proposed developments for retention are small and have no negative impact on the existing landscape and landscape character of the site and the surrounding area.
- That the applicant is happy that a condition be applied that the house will remain as a single residence.
- That the applicants have lived at this residence for the past 30 years and should be allowed to extend the house subject to planning permission.

- The proposal is not ad-hoc housing as presented by the planning authority.  
The proposal is simply an extension to an existing house
- The house is not visible in the wider landscape

## 6.2. **Planning Authority Response**

- None

## 6.3. **Observations**

None

## 6.4. **Further Responses**

None

## 7.0 **Assessment**

### 7.1. **Introduction**

7.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to the relevant local development plan policies, history files and other relevant guidance documents.

7.1.2. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-

- Principle of Development/Rural Housing Policy
- Visual Amenities
- Wastewater Treatment.

### 7.2. **Principle of Development**

7.2.1. The proposed development is located on lands zoned as 'HA-DM' in the South Dublin County Development Plan 2022-2028 the objective of which is *To protect and enhance the outstanding natural character of the Dublin Mountains Area*

- 7.2.2. The proposed development comprises of elements for permission and elements for retention. It is appropriate initially to consider the elements for retention.
- 7.2.3. The elements for retention comprise of two ground floor extensions on the south and west of the building which have a total floorspace of 74.11sq.m. The extension to the south is visible from the roadside elevation whereas the extension to the west is located to the rear of the house and will not be visible in the wider landscape.
- 7.2.4. The elements for retention also comprise of attic conversions to accommodate 2 further bedrooms and 2 further bathrooms. These elements are conversions of existing attic space and according to the drawings submitted these conversions do not result in any external change to the building.
- 7.2.5. It is important at this juncture to consider the use of these extensions. I understand that the house is occupied by three generations of the Justice Family. It is stated that
- the applicants Keith and Josephine live in the house with their two children
  - Both of Keith's parents live in the house
  - And the applicants brother Declan lives in the house along with his three children
- 7.2.6. All three families live under one roof as it were with a floorspace of 349sq.m.
- 7.2.7. The proposed development also includes for a minor extension to the south and west at ground and first floor. This extension along with internal changes is to accommodate Keith's daughter Ellie whom requires significant special needs support. The development description describes this extension as a 'Independent Living Unit'
- 7.2.8. The Planning Authority has serious concerns that the proposal would result in three independent living units. They have therefore assessed the proposed extension under rural housing policy which I consider is not warranted. Based on the information submitted with the application, including a letter from Ellie's rehabilitation centre, which states that Ellie's living accommodation needs to be futureproofed to provide for her ongoing medical needs and support. It is considered that this application therefore should be assessed under the Family Flat policy as set out below and not rural housing policy. It is clear from the development description that this is an extension to the existing dwelling for the purposes of a family flat to accommodate a family member with medical needs.



7.2.9. Section 12.6.8 of the South Dublin County Development Plan 2022-2028 sets out standard with respect of Family Flats. The section states that *'A family flat is to provide semi-independent accommodation for an immediate family member (dependent of the main occupants of an existing dwelling). A family flat is not considered to represent an independent dwelling unit and as such open space and car parking standards are not independently assessed. Proposals for family flat extensions should meet the following criteria:*

- *The applicant shall be required to demonstrate that there is a genuine need for the family flat;*
- *The overall area of a family flat should not generally exceed 50% of the floor area of the existing dwelling house;*
- *The main entrance to the existing house shall be retained and the family flat shall be directly accessible from the front door of the main dwelling via an internal access door, and the design criteria for dwelling extensions will be applied;*
- *Any external doors permitted (to provide access to private / shared open space or for escape from fire) shall be limited to the side or rear of the house;*
- *Conditions may be attached to any grant of permission that the family flat cannot be sold, conveyed or leased separately from the main residence, and that when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit.*

7.2.10. I note from the information submitted with the application that the proposed family flat is for a family member with a genuine need

7.2.11. The floorspace of the existing house is circa 349 sq.m. (of which 150sq.m. is seeking retention) and the proposed family flat extension is 43sq.m. The proposed floorspaces is therefore less than 50% of the floorspace of the existing house even when taking account of the area which is seeking retention.

7.2.12. Access to the family flat is via an internal door. There is an access to the rear garden via sliding doors which is shared private open space. There was a proposal for a separate front door on the proposed extension but this was removed by way of drawings submitted with the appeal documentation (drawing no. ZG05/P13 applies)

- 7.2.13. I consider that the principle of the proposed extension to be used as a family flat is acceptable. I would recommend that a planning condition be imposed stipulating the use of the proposed family flat extension
- 7.2.14. Regarding the extensions which are seeking retention, I have considered the planning authorities concerns regarding the potential for 3 independent living units. Firstly I note the revised ground floor layout plan submitted to the Board along with the appeal which shows for the omission of two of the front elevation entrances and shows for one central access to the house with a wheelchair access ramp. Other door accesses which exist on the front elevation have been omitted and replaced with windows. I note however that elevational drawings have not been submitted but I would consider that these could be submitted by way of planning condition. Limiting access to the front of the house to a single central door will I consider alleviate the planning authorities concerns. While internally, there is scope for 3 independent living units, these are all occupied by family members and I note that there are no policies in the current development plan restricting the same. Again I consider that a condition restricting its use to a single residence is appropriate in this instance.
- 7.2.15. With respect of the foregoing, I consider that the principle of the extensions for retention are acceptable.

### 7.3. Visual Amenities

- 7.3.1. The proposed development site is located in lands zoned as HA-DM' in the South Dublin County Development Plan 2022-2028 the objective of which is *To protect and enhance the outstanding natural character of the Dublin Mountains Area*
- 7.3.2. Policy H23 Objective 1 seeks to *'Ensure that all new rural housing and extensions within areas designated within Zoning Objectives Rural (RU), Dublin Mountain (HA-DM), Liffey Valley (HA-LV) and Dodder Valley (HA-DV);*
- *Is designed and sited to minimise impact on the landscape including views and prospects of natural beauty or interest or on the amenities of places and features of natural beauty or interest including natural and built heritage features; and*

- *Will not have a negative impact on the environment including flora, fauna, soil, water (including ground water) and human beings; and*
- *Is designed and sited to minimise impact on the site's natural contours and natural drainage features; and*
- *Retains and reinstates (where in exceptional circumstance retention cannot be achieved) traditional roadside and field boundaries; and*
- *Is designed and sited to circumvent the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls; and*
- *Would comply with the EPA's Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent less than 10) 2021 except where planning permission was granted prior to 7th June 2021 in which case the EPA's Code of Practice Wastewater Treatment Systems Serving Single Houses 2009 applies; and*
- *Would not create or exacerbate ribbon or haphazard forms of development'*

7.3.3. The proposed extension and extensions for retention comply with criteria as set out in the above policy.

7.3.4. With respect of the potential for the proposed development to impact upon the landscape, it is noted that the site is located within the Athgoe and Saggart Hills landscape area as designated in the South Dublin County Council Development Plan 2022-2028.

7.3.5. The Landscape Character Assessment as set out in Appendix 9 of the South Dublin County Council Development Plan 2022-2028 states that *'The integrity of the landscape character is derived from agriculture combined with other rural land uses including coniferous plantations. It forms a strong and valuable backdrop to the extensive and densely urbanised areas of the county. The integrity of its character, and of its value as a landscape setting have been compromised by housing developments in the area and through the use of non-vernacular styles very much in conflict with the local character'*

7.3.6. It would appear therefore that the council has accepted that the character and value of this landscape has already been degraded.

7.3.7. I note from Page 130 of the Landscape Character Assessment that the Athgoe and Saggart Hills landscape area is designated with a *High Landscape Value* and *Medium-High Landscape Sensitivity* rating which results in a *Negligible to Low Capacity Assessment*. A Negligible Capacity Assessment means that the said landscape is highly vulnerable to development and that development would result in a significant change to the landscape and should be avoided if possible. A Low Capacity Assessment means that there may be limited opportunity to accommodate development without changing landscape character.

7.3.8. Having regard to:

- The minor floorspace associated with the proposed extension.
- The relatively minor floorspace associated with the extensions for retention. The only visible element will be the south side extension which has again has a relatively minor floorspace of 41sq.m
- The fact that over half of the floorspace for retention is located in the roof space of the existing building
- The fact that the site boundaries and gardens are relatively mature
- The sizable plot associated with the dwelling which is 0.6ha (1.5 acres)
- The scattered rural housing in the vicinity of the site all of which already take from the character of the landscape

And notwithstanding the negligible to low capacity assessment attributed to the area in the Landscape Character Assessment, I consider that the proposed development will not have an undue impact upon the receiving landscape and will not impact upon the character of the landscape.

7.4. Wastewater

7.4.1. The proposed development includes for a new Wastewater Treatment Unit and polishing filter to replace and old a defunct septic tank which results in effluent ponding on the site. I would consider the replacement of the same with a new plant to be of planning merit. I note that the case planner in his report refers to an internal report from Environmental Health whom consents to the said treatment plant subject

to specific conditions. In this regard I find the proposal for a new wastewater treatment plant to be acceptable.

## 8.0 Recommendation

8.1. I recommend that permission is granted subject to the following conditions;

## 9.0 Reasons and Considerations

9.1. Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the zoning objective for the site and the policies with respect of family flats and rural extensions as set out in the South Dublin County Development Plan 2022 – 2028, would not seriously injure the visual amenities or the landscape character of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 16th day of November, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>(a) The external finishes of the proposed extension (including roof tiles) shall be the same as those on the existing dwelling in respect of colour and texture</p> <p>(b) Only one front door shall be allowed on the eastern elevation as shown in the ground floor plans received by the Board on the 16<sup>th</sup> November 2022. Existing doors on this elevation shall be replaced with windows as appropriate. Details of the same including elevational drawings showing the replacement window details shall be submitted to and agreed with the planning authority prior to the commencement of development. Access through these windows shall not be allowed and the said windows will be designed so as to restrict the same. These amendments shall be carried out in conjunction with the construction of the permitted extension. The extension shall not be occupied until these doors are replaced with windows as per the agreed drawings and photographic evidence of the same shall be submitted to the planning authority once the works are complete.</p> <p><b>Reason:</b> In the interests of visual amenity</p>
3.	<p>(a) The proposed extension to accommodate an independent living unit for a disabled family member shall be used solely for that purpose and shall revert to use as part of the main dwelling on the cessation of such use.</p> <p>(b) The proposed extension and proposed extensions for which retention permission are being sought shall be jointly occupied as a single residential unit and the extensions shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity [In order to comply with the objectives of the current development plan for the area.</p>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p>

	Reason: In the interest of public health
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Monday to Fridays, between 0800 and 1400 hours on Saturday and not at all on Sundays and Public Holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> To safeguard the residential amenities of adjoining property in the vicinity</p>
6.	<p>(a) The proposed wastewater treatment systems shall be located, installed and operated in accordance with the details submitted to the Planning Authority on 26/08/2022 and in accordance with the requirements of the Code of Practice on Wastewater Treatment and Disposal Systems serving Single Houses issued by Environmental Protection Agency 2009.</p> <p>(b) A maintenance contract for the lifetime of the treatment system shall be entered into with the suppliers of the wastewater treatment system or with an appropriate maintenance firm. Documentary evidence of an ongoing maintenance agreement shall be submitted to the Planning Authority within 4 weeks of the installation of the wastewater treatment system.</p> <p>(c) Within three months of the first occupation of the house, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the wastewater treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner, and that the polishing filter and/or percolation area is constructed in accordance with the requirements of the Code of Practice on Wastewater Treatment and Disposal Systems serving Single Houses issued by Environmental Protection Agency 2009.</p>

	<p>(d) The existing septic tank shall be fully decommissioned once the new treatment plant is installed and operational</p> <p><b>Reason:</b> In the interest of public health</p>
7.	<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><b>Reason:</b> 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.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way

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Andrew Hersey  
 Planning Inspector

28th May 2023