



An
Coimisiún
Pleanála

Inspector's Report ACP-323963-25

Question

Point of Detail Referral concerning
Condition no. 21 of Grant of
Permission relating to the required
payment of a Tree Bond for 7 trees.

Location

Harrow House, Church Road,
Killiney, Co. Dublin
A96 HV08

Declaration

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D25A/0101

Referral

Referred by

Louise Reynolds

Owner/ Occupier

None.

Observer(s)

None

Date of Site Inspection

None Required.

Inspector

Kenneth Moloney

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1.0 Introduction

- 1.1. This appeal refers to a dispute between the applicant and Dun Laoghaire Rathdown County Council regarding Condition no. 21 and of the decision of the Planning Authority under reg. ref. D25A/0101.
- 1.2. Condition no. 21 refers to a tree bond for seven trees, and the minimum value of the tree bond is €80,000.

2.0 The Referral

The following is a summary of the referrer's case.

General Description of Trees

- The trees are located on the southern boundary of the site.
- The tree survey identified and assessed 15 individual specimens and are generally in good / fair condition.

Condition no. 21

- The amount of the tree bond and its extent of time is questioned.
- The amount for the bond is out of proportion in relation to the number, quality and condition of the trees identified.
- The period of time is not appropriate for post practical completion.

CAVAT Valuation Method

- The Parks Dept. of DLRCC have used a CAVAT (Capital Asset Value for Amenity Trees) valuation method to calculate the amount of the tree bond in Condition no. 21.
- CAVAT was developed in 2008 for publicly owned trees and has limited value for calculating privately owned trees in private gardens.
- As the trees are privately owned, remote from public realm and will be located in private gardens, the CAVAT method is not an appropriate method.
- The Helliwell Tree Evaluation Criteria method is more appropriate for private tree monetary value calculations.

Helliwell Tree Evaluation Criteria

- Developed in 1967 it is an industry standard for the assessment of private trees and is recommended by the Arboricultural Association Ireland Branch.
- The criteria assesses the amenity of a tree under a number of categories and arriving at a score which is converted to a monetary value.
- Table 1 of the referrer's submission sets out the Helliwell Evaluation Criteria.
 - The overall tree value is obtained by scoring trees under headings.
 - Each score is multiplied by each score, and the total score is multiplied by the point value of €53.55.
- Table 2 of the referrer's submission sets out the Helliwell Evaluation of Tree values in Harrow House.
- The total valuation for 6 no. trees is €12,852 (16% of the bond value in Condition no. 21).
- The level of the tree bond value required by DLRCC is similar to the Existing Use Land Value of the development site.

Duration of Bond & Ownership

- The bond duration of two years is inappropriate when viewed in the context of Condition no. 4.
- Condition no. 4 places most trees identified within private gardens of future residents.
- Actions by residents in their private gardens is not under the control of the applicant / developer.
- Five of the six trees are located within private gardens which is a future risk.
- Post-completion it may not be possible for the developer to access these private gardens to undertake surveys of existing planting
- A draft compliance plan accompanies the referrers submission.
- Applicant / developer will have no control of the trees.
- Five of the trees to be retained in private gardens includes the following.

- T1259
- T1242
- T1244
- T1243
- T1249
- The cumulative value of these trees is €10,281.00.
- Tree T1248 will be retained in a communal garden, and the value of this tree is €2,570.00.

3.0 Planning Authority Response

- None

4.0 Planning History

4.1.1. The recent relevant planning history to this case includes the following.

Planning Authority Reg. Ref: D25A/0101:

Planning permission was **granted** for a development of 5 no. dwellings on a site in Killiney, Co. Dublin, on the 13th of October 2025. The PA granted permission, subject to 21 no. conditions. Of relevance to the subject point of dispute is condition no. 21:

Condition no. 21

21. Tree Bond for All Seven Trees

a. Prior to the commencement of development and construction activities, the applicant shall lodge a Tree Bond with the Planning Authority, as security for tree protection and a deterrent to wilful or accidental damages during construction. The Bond is based on a standard figure of the combined value – amenity and ecosystems services of the existing street tree(s). The minimum value of the Tree Bond shall be €80,000 and shall cover seven trees:

- T1248 (Ash) *Fraxinus excelsior* – category A tree

- T1259 (Hawthorn) *Crataegus monogyna* – category B tree
- T1242 (Yew) *Taxus baccata* – category B tree
- T1244 (Yew) *Taxus baccata* – category B tree
- T1247 (Beach) *Fagus Sylvatica* – category B tree
- T1243 (Sycamore) *Acer pseudoplatanus* – category B tree
- T1249 (Sycamore) *Acer pseudoplatanus* – category C tree

b. No heavy materials shall be located on the margins at this tree(s) or under its canopy/ their canopies; equally, no vehicles shall be parked on the margins which would damage its/their roots. The same applies to all the street trees in the vicinity of the site, with regard to construction vans or vehicles. No grass margins are to be parked on. Pedestrian type barriers are to be erected around the area containing the trees, to ensure that no vehicles use or park on this area, as heavy vehicles would compact the root systems of the trees.

c. Lodgement of the Bond shall be part of an Arboricultural Agreement signed by the developer, empowering the planning authority to apply the Tree Bond, or part thereof, for satisfactory protection of all retained trees on and immediately-adjoining the subject site, or the appropriate or adequate replacement of any such trees, which die, are removed or become seriously damaged or diseased within a period of 2-years from the substantial Practical Completion of the development. 'Before' photos (time-stamped), photos of the tree(s) prior to works starting, are to be submitted prior to the commencement of development by the applicant/developer to the Parks Department.

d. Sequestration of all or part of the bond shall be based on an estimate of the total costs of appropriate, compensatory tree planting at semi-mature sizes and in several numbers, because a juvenile tree cannot replace an established maturing tree. Replacement planting shall be of the same or similar species/varieties as those lost, or as may be specified by Dir Parks and Landscape Services.

e. Bond Release: 24 months – Inclusive of at least two growing seasons (May – September) – after Practical Completion of the permitted development, the developer shall submit to Dir Parks and Landscape Services 'After' photos of the trees to prove that the trees have not been damaged by the development works.

Reason: To provide security for the protection and long-term viability of trees to be retained on the site and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

- ABP-315000-22 (D22A/0617)

Construction of 4 houses and all associated site works. Permission **granted** by the Board, subject to 17 no. conditions (following a first party appeal against refusal). Part V was exempted.

5.0 Legislative Context

5.1. Planning and Development Act 2000, as amended

5.1.1. Section 34(5) of the Planning and Development Act, 2000, as amended

The relevant section of the Act states:

The conditions under subsection (1) may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person carrying out the development; if the planning authority and that person cannot agree on the matter, the matter may be referred to the Board for determination.

6.0 Policy Context

6.1. Dun Laoghaire-Rathdown County Development Plan, 2022 – 2028.

6.1.1. The appeal site is zoned ‘Objective A’ and the stated objective for such land use is

‘to provide residential development and improve residential amenity while protecting the existing residential amenities’.

6.1.2. Harrow House, the existing house on the site, is a Protected Structure (RPS. No. 2040) and there is a specific objective ‘to protect and preserve trees and woodlands’ on the subject site.

Chapter 12 – Development Management

6.1.3. Section 12.3.4.6 states the following.

'To ensure the satisfactory completion of development works, such as roads, surface water drainage, public lighting and open space, including the protection of trees, on a site which has been the subject of a grant of permission, a bond or cash lodgement may be required until the development has been satisfactorily completed. The bond or cash lodgement may be sequestered in part or in its entirety at the discretion of the Planning Authority where the development has not been satisfactorily completed. The amount of such bond or cash lodgement will be determined by the Planning Authority'.

6.1.4. Section 12.8.11 states

'A financial bond may be required to ensure protection of existing trees and hedgerows during and post construction'.

7.0 Assessment

7.1.1. The point of detail request in this case relates to Condition no. 21 of the Dun Laoghaire Rathdown decision under D25A/0101. Condition no. 21 relates to a Tree Bond as security for tree protection during construction. The condition sets the minimum value of the tree bond at €80,000 and relates to 7 no. specified trees.

7.1.2. Section 34(5) states that "the conditions under subsection (1) may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person carrying out the development; if the planning authority and that person cannot agree on the matter the matter may be referred to the Board for determination". The referral documents submitted to the Commission confirm that the developer and the planning authority did not agree on the amount of the tree bond. Condition number 21 the subject of this referral did not make provision for the matter of the bond being agreed between the planning authority and the person carrying out the development and therefore it is not open to the person carrying out the development to refer the matter to the Commission for determination. I conclude that this referral is therefore invalid, and I recommend that it should be deemed so by the Commission.

7.1.3. Notwithstanding the above, and should the Commission decide to give consideration to this referral I set out an assessment of the issues raised in the referral below and a draft order arising from the recommendation.

- 7.1.4. The grounds of the referrer's case argue that the system used to calculate the monetary value on the trees on the subject site, known as Capital Asset Value for Amenity Trees (CAVAT), is used primarily for publicly owned trees and has limited value for calculating privately owned trees in private gardens. Further it is submitted that an alternative method, i.e. the Helliwell Tree Evaluation Criteria, for calculating the monetary values of trees is more appropriate and is recommended in this case. Furthermore, the referrer submits that the bond duration of two years is inappropriate as the actions by residents in their private gardens will not be under the control of the applicant / developer.
- 7.1.5. I would also have regard to the DLRCC response from their Park's Dept. to the applicant on the 5th of December 2025, in relation to the compliance with Condition no. 21. This response concludes that the CAVAT methodology is industry standard and the preferred system for planning bonds, compensatory payments, and asset valuation of trees.
- 7.1.6. The Parks' Dept.'s response notes that CAVAT accounts for tree size and capital asset value, public visibility, population/community benefit, replacement costs and long-term amenity and ecosystem function. The Parks' Dept.'s also submit that the Helliwell system is not appropriate or robust for determining a financial bond for tree protection in a planning context and that it relates to an amenity scoring guide only, which is known to undervalue mature specimens.
- 7.1.7. I have noted above that DLRCC have set a minimum value of a Tree Bond of €80,000 for Condition no. 21, based on the CAVAT methodology. I also note that the Parks' Dept. response submits that the CAVAT methodology would produce a value in the region of €70,000 - €120,000, consistent with the €80,000 set in Condition no. 21.
- 7.1.8. I have reviewed the relevant planning history for this site, including ABP-315000-22 (D22A/0617), and it is notable from the Tree Survey Report, that accompanied that application, that six of the seven trees identified in the relevant Condition no. 21 are either designated A2 and B2 and in both cases these trees in groups would add landscape value to the subject site. I would also note from the Land Use Zoning Map 7 of the CDP that the referral site has an objective '*to protect and preserve Trees and Woodlands*'. Therefore, and in the interest of proper planning and sustainable

development, I would consider that it is reasonable to conclude that there is an onus on the developer / site owner to ensure that any redevelopment of the site involves the protection of these mature trees.

- 7.1.9. Section 12.3.4.6 of the Dun Laoghaire-Rathdown County Development Plan, 2022 – 2028, relates to bonds and states *‘to ensure the satisfactory completion of development works, such as roads, surface water drainage, public lighting and open space, including the protection of trees, on a site which has been the subject of a grant of permission, a bond or cash lodgement may be required until the development has been satisfactorily completed. The bond or cash lodgement may be sequestered in part or in its entirety at the discretion of the Planning Authority where the development has not been satisfactorily completed. The amount of such bond or cash lodgement will be determined by the Planning Authority’*. I conclude that the amount of the bond required by Condition no. 21 for the protection of the trees during construction is at the discretion of the planning authority, and the planning authority has used its discretion in this case to set a minimum value of a Tree Bond of €80,000, without explicitly stating that the amount in respect of the bond shall be agreed between the planning authority and the person carrying out the development.
- 7.1.10. Paragraph 7.13 of the Development Management Guidelines, 2007, states that *“it is essential that permissions for residential development are subject to a condition under which an acceptable security is provided by way of a bond, cash deposit or otherwise so as to ensure satisfactory completion. The amount of security, and the terms of which it is required to be given should enable the Planning Authority without costing themselves to complete necessary services (including roads, footpaths, water mains, sewers, lighting and open space) to a satisfactory standard. In the event of default by the developer the condition should require that the lodgement of security should be coupled with an agreement that would empower the Planning Authority to realise the amount of the security at an appropriate time and apply it to meet the cost of completing the specified works. Planning Authorities should also ensure that the bond is of sufficient duration to allow them time to inspect the development after the expiration of permission and still call in the bond if necessary... The bond should be refunded on the satisfactory completion of the development”*.

- 7.1.11. The advice in paragraph 7.13 is that security should be sufficient to ensure completion of the subject development and an important secondary objective is that this avenue should be available to the planning authority “*without costing themselves*”. I conclude therefore that the planning authority has a discretion to apply a bond condition specifying the form and amount it considers appropriate to the particular application.
- 7.1.12. I would acknowledge as submitted by the referrer, that the trees are privately owned, remote from public realm and will be located in private gardens and will be outside the control of the applicant / site developer. I would consider that the two-year period is a reasonable time period, allowing for the completion of the development.
- 7.1.13. I would conclude, having regard to the reasons outlined above, that the discretion is on the Planning Authority to determine the amount of the bond, and I recommend that Condition No. 21 is retained as required by the Local Authority.

8.0 Recommendation

- 8.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS by order dated the 13th day of October 2025, Dun Laoghaire Rathdown County Council, under planning register reference number D25A/0101, granted subject to conditions permission to Louise Reynolds for development comprising the construction for 4 no. houses, at Harrow House, Church Road, Killiney, Co. Dublin.

AND WHEREAS Condition no. 21 attached to the said permission required the developer to lodge a Tree Bond with the Planning Authority, as security for tree protection and a deterrent to wilful or accidental damages during construction. The Bond is based on a standard figure of the combined value – amenity and ecosystems services of the existing street tree(s). The minimum value of the Tree Bond shall be €80,000.

AND WHEREAS the developer and the planning authority failed to agree on the terms of the said condition and the matter was referred by the developer to An Coimisiun Pleanála on the 16th day of December 2025 for determination.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, hereby determines that Condition 21 shall be retained, as follows.

21. Tree Bond for All Seven Trees

a. Prior to the commencement of development and construction activities, the applicant shall lodge a Tree Bond with the Planning Authority, as security for tree protection and a deterrent to wilful or accidental damages during construction. The Bond is based on a standard figure of the combined value – amenity and ecosystems services of the existing street tree(s). The minimum value of the Tree Bond shall be €80,000 and shall cover seven trees:

- T1248 (Ash) *Fraxinus excelsior* – category A tree
- T1259 (Hawthorn) *Crataegus monogyna* – category B tree
- T1242 (Yew) *Taxus baccata* – category B tree
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- T1249 (Sycamore) *Acer pseudoplatanus* – category C tree

b. No heavy materials shall be located on the margins at this tree(s) or under its canopy/ their canopies; equally, no vehicles shall be parked on the margins which would damage its/their roots. The same applies to all the street trees in the vicinity of the site, with regard to construction vans or vehicles. No grass margins are to be parked on. Pedestrian type barriers

are to be erected around the area containing the trees, to ensure that no vehicles use or park on this area, as heavy vehicles would compact the root systems of the trees.

c. Lodgement of the Bond shall be part of an Arboricultural Agreement signed by the developer, empowering the planning authority to apply the Tree Bond, or part thereof, for satisfactory protection of all retained trees on and immediately-adjointing the subject site, or the appropriate or adequate replacement of any such trees, which die, are removed or become seriously damaged or diseased within a period of 2-years from the substantial Practical Completion of the development. 'Before' photos (time-stamped), photos of the tree(s) prior to works starting, are to be submitted prior to the commencement of development by the applicant/developer to the Parks Department.

d. Sequestration of all or part of the bond shall be based on an estimate of the total costs of appropriate, compensatory tree planting at semi-mature sizes and in several numbers, because a juvenile tree cannot replace an established maturing tree. Replacement planting shall be of the same or similar species/varieties as those lost, or as may be specified by Dir Parks and Landscape Services.

e. Bond Release: 24 months – Inclusive of at least two growing seasons (May – September) – after Practical Completion of the permitted development, the developer shall submit to Dir Parks and Landscape Services 'After' photos of the trees to prove that the trees have not been damaged by the development works.

Reason: To provide security for the protection and long-term viability of trees to be retained on the site and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

REASONS AND CONSIDERATIONS

An Coimisiún Pleanála, in considering this referral, had regard particularly to –

- (a) Section 34(5) of the Planning and Development Act 2000, as amended,
- (b) the provisions of the Dun Laoghaire-Rathdown County Development Plan, 2022 – 2028, and specifically Section 12.3.4.6 of the Development Plan,
- (c) Section 7.13 of the Development Management Guidelines issued by the Department of the Environment, Heritage and Local Government, in June 2007,
- (d) the planning history of the site and the overall development of which it forms a part, and
- (e) the proper planning and sustainable development of the area

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.

Kenneth Moloney
Senior Planning Inspector

25th August 2026