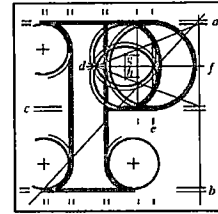


Our Case Number: ABP-314851-22

Planning Authority Reference Number: SD22B/0175



An  
Bord  
Pleanála

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24

Land Use Planning & Transportation

20 OCT 2022

South Dublin County Council

Date: 19 October 2022

Re: Extension of house and all ancillary site works.  
Ballymaice House, Ballymaice, Bohernabreena, D24 TV70

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

**Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.**

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, **within a period of 2 weeks beginning on the date of this letter, the following documents:-**

- (i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,
- (ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,
- (iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,
- (iv) a copy of the notification of decision given to the applicant,
- (v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,
- (vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure,

Teil  
Glao Áitiúil  
Facs  
Láithreán Gréasáin  
Ríomhphost

Tel  
LoCall  
Fax  
Website  
Email

(01) 858 8100  
1890 275 175  
(01) 872 2684  
www.pleanala.ie  
bord@pleanala.ie

64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902

- (vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,
- (viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,
- (ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,
- (x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,
- (xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:- Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

- a) Certified Manager's Order,
- b) the site location, site layout maps, all plans and
- c) particulars and all internal reports.
- d) details of any extensions of time given in respect of previous decisions.

#### **Copies of I-plan sheets are not adequate.**

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a **period of 4 weeks beginning** on the date of this letter. Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

#### **Contingency Submission**

5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. In particular, your authority may wish to comment on appropriate conditions which might be attached to a permission in accordance with section 48 and/or 49 of the 2000 Planning Act (Development / Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act. Any such contingency submission, in circumstances which your

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Glao Áitiúil	LoCall	1890 275 175
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Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



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## 1.0 INTRODUCTION

David Mulcahy Planning Consultants Ltd have been instructed by **Joseph Costello** of **Ballymaice House, Ballymaice, Bohernabreena, D24 TV70**, to prepare a first party appeal concerning the decision by South Dublin County Council to refuse permission for an application to extend over existing linear cottage to create a two storey house etc at Ballymaice House, Ballymaice, Bohernabreena, D24 TV70.

The appeal relates to a domestic dwelling and is **€220**. There is no retention, NIS or EIAR involved.

The Notification to Refuse Permission was issued by the Council by Order dated 19<sup>th</sup> September 2022 and therefore the appeal deadline is **17<sup>th</sup> October 2022 at 5.30pm**. This appeal meets this deadline.

A copy of the Council's decision to refuse permission which provides a full description of the proposed development as per the public notices is **enclosed**.

This appeal will demonstrate that the Council's decision to refuse permission is unreasonable and should be overturned.

Please acknowledge receipt of this appeal and send all correspondence on this matter to this office.

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## 2.0 GROUNDS OF APPEAL

Permission was refused for 3 no. reasons as follows:

*The proposed site is located in an area zoned Objective HA-DM in the South Dublin County Development Plan 2022 -2028 which seeks 'To protect and enhance the outstanding natural character of the Dublin Mountain Area'. It is considered that the site of the proposed development is situated in an area under strong urban influence and therefore, constitute the proliferation of urban generated housing in a rural area and hinder the achievement of the policies and objective of the National Planning Framework to consolidate existing urban settlements and contribute to compact growth within the Dublin Region. It is therefore considered that the proposed development would be contrary to the provisions of the South Dublin County Development Plan 2022 -2028 including Policy H19 Objective 2 and would contravene the zoning objective for the area and, as such would be contrary to the proper planning and sustainable development of the area.*

Policy H19 refers to:

*New or replacement dwellings within areas designated Zoning Objective 'HA-DM' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) will only be considered in exceptional circumstances.*

Objective 2 refers to:

*To generally prohibit development within restricted areas identified on the Bohernabreena / Glenasmole Reservoir Restricted Areas Map contained in Appendix 5.*

The applicant applied for permission to

- extend over existing linear cottage to create a two storey house;
- extend to the front (east) with a two storey residential wing;
- re-model existing stables

- 
- and erect small hay and fodder storage shed within an enclosed courtyard;
  - up-grade existing septic tank to a proprietary waste water treatment system, and all ancillary site works.

The Planners Report notes that the cover letter submitted refers to the existing property being neglected and the intention to rebuild in the same position as is there at the moment. This was interpreted as the application being for a new build/replacement dwelling, with the planner referring to the dwelling being derelict on inspection and needing to be rebuilt.

It is submitted that there is no intention to demolish the existing dwelling on the site and this assessment is wholly unreasonable. The dwelling will be modified and extended. It is not a derelict dwelling and the use has not been abandoned. It is a habitable dwelling with four walls, a roof and windows. Local Property Tax has been paid on the house since 2012 – see evidence **enclosed**. As per the Revenue website "A residential property is not liable for LPT if it is both *unsuitable as a dwelling and is unoccupied*".

The new notices requested by the Council did not require any reference to a replacement dwelling.

The restoration and improvement of an existing dwelling represents proper planning and sustainable development. The alternative is that this dwelling, which is considered to be a fine example of vernacular architecture, will fall into disrepair which does not make any rationale sense in a housing crisis.

*2. The proposed development would be located on a substandard rural road network which is narrow in width, has poor vertical and horizontal alignment, lacks pedestrian, public lighting and drainage facilities and is saturated with one-off houses. Having regard to this, the proposed development would endanger public safety by reason of traffic hazard. The road network in the area is*

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*incapable of catering for the continuation of ribbon development and as such, the proposed development would be contrary to the proper planning and sustainable development of the area.*

The application is for extensions to an existing dwelling and it will not generate any additional traffic movements. This reason for refusal is considered to be unreasonable.

*3. The proposed development requires the removal of indigenous hedgerows and existing mature trees which is in contravention of Policy NCBH11 Objective 5 of the South Dublin County Development Plan 2022-2028 which seeks To ensure that intact hedgerows / trees will be maintained above the 120m contour line within the County ensuring that the strong rural character will not be diluted, and that important heritage features and potential wildlife corridors are protected, and, therefore would not be in accordance with the proper planning and sustainable development of the area.*

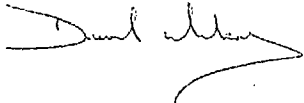
It is submitted that the level of tree/hedgerow removal is minimal and it is unreasonable to include this as a reason for refusal. The applicant welcomes a condition of planning permission for replacement planting to be provided.

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### 3.0 CONCLUSION

In conclusion it is submitted to the Board that the Council have not assessed the application as applied for and have pushed the applicant down a route involving an entirely different application which ultimately resulted in a refusal. We submit that the house is habitable and is not abandoned or derelict. We now rely on the Board to assess the application de novo on this basis and grant permission.

Signed:



David Mulcahy

**David Mulcahy Planning Consultants Ltd**  
**CHARTERED PLANNING CONSULTANTS**

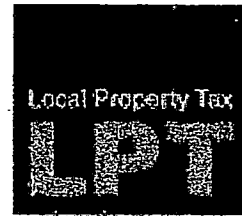
#### **SEPARATE ENCLOSURES**

- A Copy of the Notification to Refuse permission
- B Evidence of LPT tax being paid since 2012



Revenue

Cáin agus Custaim na hÉireann  
Irish Tax and Customs



## Statement of Account

Property: 3726638FH

Address: BALLYMANA LANE, DUBLIN 24, D24 C8P8

Overall Balance: €0.00

Date of Issue: 12/05/2021

### 2021

Debit: €191.00 Credit: €191.00 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€191.00	€191.00
11/01/2021	Payment	€191.00	€0.00	€0.00

### 2020

Debit: €191.00 Credit: €191.00 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€191.00	€191.00
11/01/2021	Payment	€191.00	€0.00	€0.00

### 2019

Debit: €220.99 Credit: €220.99 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€191.00	€191.00
18/12/2020	Interest Charge	€0.00	€29.99	€220.99
11/01/2021	Payment	€191.00	€0.00	€29.99
11/01/2021	Interest payment	€29.99	€0.00	€0.00

### 2018

Debit: €236.25 Credit: €236.25 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€191.00	€191.00
18/12/2020	Interest Charge	€0.00	€45.25	€236.25
11/01/2021	Payment	€191.00	€0.00	€45.25

11/01/2021	Interest payment	€45.25	€0.00	€0.00
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2017

Debit: €251.52 Credit: €251.52 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€191.00	€191.00
18/12/2020	Interest Charge	€0.00	€60.52	€251.52
11/01/2021	Payment	€191.00	€0.00	€60.52
11/01/2021	Interest payment	€60.52	€0.00	€0.00

2016

Debit: €266.83 Credit: €266.83 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€191.00	€191.00
18/12/2020	Interest Charge	€0.00	€75.83	€266.83
11/01/2021	Payment	€191.00	€0.00	€75.83
11/01/2021	Interest payment	€75.83	€0.00	€0.00

2015

Debit: €282.10 Credit: €282.10 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€191.00	€191.00
18/12/2020	Interest Charge	€0.00	€91.10	€282.10
11/01/2021	Payment	€191.00	€0.00	€91.10
11/01/2021	Interest payment	€91.10	€0.00	€0.00

2014

Debit: €350.30 Credit: €350.30 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€225.00	€225.00
18/12/2020	Interest Charge	€0.00	€125.30	€350.30
11/01/2021	Payment	€225.00	€0.00	€125.30
11/01/2021	Interest payment	€125.30	€0.00	€0.00

2013

	Liability	€0.00	€112.00	€112.00
18/12/2020	Interest Charge	€0.00	€66.88	€178.88
11/01/2021	Payment	€112.00	€0.00	€66.88
11/01/2021	Interest payment	€66.88	€0.00	€0.00

2012

Debit: €200.00 Credit: €200.00 Balance: €0.00

Date	Description	Credit	Debit	Balance
	Liability	€0.00	€200.00	€200.00
11/01/2021	Payment	€200.00	€0.00	€0.00

John Loney  
Brooklands  
Barrettstown Road  
Newbridge  
Co. Kildare

**NOTIFICATION OF DECISION TO REFUSE PERMISSION  
PLANNING & DEVELOPMENT ACT 2000 (as amended) AND  
PLANNING REGULATIONS THEREUNDER**

<b>Decision Order No.</b>	<b>1182</b>	<b>Date of Decision</b>	19-Sep-2022
<b>Register Reference</b>	SD22B/0175	<b>Date</b>	23-Aug-2022

**Applicant:** Joe Costello

**Development:** Extend over existing linear cottage to create a two storey house; extend to the front (east) with a two storey residential wing; re-model existing stables and erect small hay and fodder storage shed within an enclosed courtyard; up-grade existing septic tank to a proprietary waste water treatment system and all ancillary site works.

**Location:** Ballymaice House, Ballymaice, Bohernabreena, D24 TV70

**Time extension(s) up to and including:**

**Additional Information Requested/Received:** 20-Jun-2022/23-Aug-2022

**Clarification of Additional Information Requested/Received:**

**DECISION:** Pursuant to the Planning and Development Act 2000 (as amended), dated as above a decision to **REFUSE PERMISSION** is hereby made for the said development for the reason(s) set out on the Schedule hereto.

**REASON(S)**

1. The proposed site is located in an area zoned Objective HA-DM in the South Dublin County Development Plan 2022 -2028 which seeks 'To protect and enhance the outstanding natural character of the Dublin Mountain Area'. It is considered that the site of the proposed development is situated in an area under strong urban influence and therefore, constitute the proliferation of urban generated housing in a rural area and hinder the achievement of the policies and objective

of the National Planning Framework to consolidate existing urban settlements and contribute to compact growth within the Dublin Region. It is therefore considered that the proposed development would be contrary to the provisions of the South Dublin County Development Plan 2022 -2028 including Policy H19 Objective 2 and would contravene the zoning objective for the area and, as such would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would be located on a substandard rural road network which is narrow in width, has poor vertical and horizontal alignment, lacks pedestrian, public lighting and drainage facilities and is saturated with one-off houses. Having regard to this, the proposed development would endanger public safety by reason of traffic hazard. The road network in the area is incapable of catering for the continuation of ribbon development and as such, the proposed development would be contrary to the proper planning and sustainable development of the area.
3. The proposed development requires the removal of indigenous hedgerows and existing mature trees which is in contravention of Policy NCBH11 Objective 5 of the South Dublin County Development Plan 2022-2028 which seeks To ensure that intact hedgerows / trees will be maintained above the 120m contour line within the County ensuring that the strong rural character will not be diluted, and that important heritage features and potential wildlife corridors are protected, and, therefore would not be in accordance with the proper planning and sustainable development of the area.

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001 (as amended). Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001 (as amended), have been considered in the determination of this application.

**Register Reference: SD22B/0175**

Signed on behalf of the South Dublin County Council.

Yours faithfully,

*Pamela Hughes* 21-Sep-2022  
for Senior Planner

## NOTES

### **(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION**

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications related to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of two months beginning on the date of the Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

### **(A) APPEALS**

1. An appeal against the decision may be made to An Bord Pleanála. The applicant or ANY OTHER PERSON who made submissions or observations to the Local Authority may appeal within FOUR WEEKS beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received).
1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. In the case of a third party appeal it must be accompanied by the acknowledgement by the Planning Authority of receipt of the submissions/observations. Appeals should be sent to:
  2. The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1.
  3. An Appeal lodged by an applicant/ agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below.
  4. A party to an appeal making a request to An Bord Pleanála for an Oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (g) below).
  5. A person who is not a party to an appeal must pay a fee to An Bord Pleanála when making submissions or observations to An Bord Pleanála in relation to an appeal.
  6. If the Council makes a decision to grant permission/grant permission consequent on a grant of outline permission and there is no appeal to An Bord Pleanála against this decision, PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION will be granted by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If any appeal made in accordance with the Acts has been withdrawn, the Council will grant the PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION/RETENTION as soon as may be after the withdrawal.
  7. Fees payable to An Bord Pleanála from 10th December 2007 are as follows:
    - (a) Appeal against a decision of a Planning Authority on a planning application relating to commercial development made by the person by whom the planning application was made, where the application relates to unauthorised development .....€4,500.00 or €9,000 if an E.I.A.R. is involved
    - (b) Appeal against a decision of a planning authority on a planning application relating to commercial development made by the person by whom the planning application was made, other than an appeal mentioned at (a)..... €1,500.00 or €3,000.00 if an E.I.A.R. is involved
    - (c) Appeal made by the person by whom the planning application was made, where the application relates to unauthorised development other than an appeal mentioned at (a) or (b) .....€660.00
    - (d) Appeal other than an appeal mentioned at (a), (b), (c) or (f) .....€220.00
    - (e) Application for leave to appeal .....€110.00
    - (f) Appeal following a grant of leave to appeal .....€110.00
    - (g) Referral .....€220.00
    - (h) Reduced fee (payable by specified bodies).....€110.00
    - (i) Submission or observations (by observer).....€50.00
    - (j) Request from a party for an Oral Hearing .....€50.00

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at

Telephone 01-858 8100