

John Taylor Architects
39, North Avenue
Mount Merrion
Co. Dublin

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

Decision Order No.	1320	Date of Decision	20-Oct-2022
Register Reference	SD22B/0381	Date	26-Aug-2022

Applicant:

Keith and Josephine Justice

Development:

43sqm single storey and part 2 extension to the side and rear of the house to accommodate independent living and a safe environment for a child with intellectual and physical disabilities. This will include a disabled bathroom, bedroom and treatment room. Widening of existing internal doors to accommodate wheelchair access throughout, a new wastewater treatment plant and retention permission for ground floor extensions to west and south sides of the house and conversion of attic rooms to habitable space with rooflights to front and rear.

Location:

Glenaraneen, Brittas, Co Dublin

Time extension(s) up to and including:

Additional Information

/

Requested/Received:

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 & REFUSE RETENTION** is hereby made for the said development for the reason(s) set out on the Schedule hereto.

REASON(S)

1. (a). The proposed extension and extension seeking retention and provision of independent living accommodation by reason of its design and functioning with direct external access via 3 no. separate front access doors would represent three separate independent substandard independent

residential dwelling units within the overall site which is out of character with the established pattern of development in the area and in the South Dublin County Development Plan 2022 - 2028 is contrary to the 'HA-DM' zoning objective and does not comply with Policy H23: Rural Housing in HA - Dublin Mountains Zone which states:

To consider new or replacement dwellings within areas designated with Zoning Objective 'HA-Dublin Mountains' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) where all of the following criteria are met:

- The applicant is a native of the area; and
- The applicant can demonstrate a genuine need for housing in that particular area; and
- The development is related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming; and
- The development would not prejudice the environmental capacity of the area, and that it would be in keeping with the character of the mountain area.

(b). The applicant would have had an opportunity to refer to a family flat in the description of works but has not done so. Therefore the Planning Authority has assessed this application as a new dwelling in the 'HA-DM' zone where it does not comply with Policy H23: Rural Housing in HA - Dublin Mountains Zone

2. (a). The proposed development is located in the Athgoe and Saggart Hills landscape area, which has been designated under the South Dublin County Council Development Plan 2022 - 2028 following a Landscape Character Assessment of South Dublin County undertaken in 2022 as an area with a medium to high landscape value and sensitivity and a Landscape Capacity which is negligible to low; meaning that the key characteristics of the landscape are highly vulnerable to development and that development would result in a significant change in landscape character and should be avoided if possible. Any increase in development in this area will have a negative impact on both the landscape value and sensitivity of this area and would therefore be contrary to the South Dublin County Council Development Plan 2022-2028 Policy NCBH14: Landscapes.
(b). The proposal would also be contrary to G17 Objective 2 of the SDCC Development Plan 2022-2028 which seeks:
'To protect and enhance the landscape character of the County by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the landscape, in accordance with the provisions of South Dublin's Landscape Character Assessment and the provisions of Chapter 3: Natural, Cultural and Built Heritage of this Development Plan'.
(c). Having regard to the 'HA-DM' land-use zoning of the area which seeks 'to protect and enhance the outstanding natural character and amenity of the Dublin Mountains Area', the relevant policies and objectives of the South Dublin County Development Plan 2022 – 2028, and the recommendations and the South Dublin House Extension Design Guide 2010, the development seeking permission would not accord with the proper planning and sustainable development of the area and would be contrary to the SDCC Development Plan 2022-2028.
(d). The application for retention and permission would be contrary to Policy H23: Rural Housing in HA - Dublin Mountains Zone (Sc.2.5.4 Development Plan 2022-2028) and would have an unacceptable impact on the site's landscape.
3. The applicant has not overcome previous reasons for refusal as per reg. ref. SD22B/0098 and reg. ref. SD21B/0100 and would therefore be contrary to the proper planning and sustainable development of the area.
(a). While this proposal no longer includes for the explicit subdivision of the house to use as

separate dwellings in the description of works in the public notices as was the case for previously refused SD21B/0100, the Planning Authority is concerned that it would still be used as such. Given that the existing dwelling is already subdivided, the Planning Authority is concerned that it would be subdivided a third time if permitted. This is given the layout of the existing dwelling, in combination with the extensions for retention and permission. Given that the existing dwelling already appears to be subdivided into two separate dwelling units (for which planning permission does not appear to have been sought) as can be seen from the layout of the existing dwelling where it currently has 3 entrances to the front of the house, two separate stairwells, four lounges and three kitchens it is considered that an additional subdivision would essentially be dividing the main dwelling into three separate residential dwelling units which would not be acceptable.

(b). Given the above it would be relevant to assess the subject application against policy relating to the provision of rural housing in the 'HA- DM' zone as was done with the previous application SD22B/0098. For this current proposal insufficient justification has been provided to demonstrate compliance with the objectives of Policy CS11: Rural Areas which seeks to Recognise that the rural area of South Dublin County is an area under strong urban influence for housing and restrict the spread of dwellings in the..... Dublin Mountain 'HA-DM' zones based on the criteria set out in the Rural Settlement Strategy contained within Chapter 6: Housing.

(c). This proposal has not overcome the first previous reason for refusal as per reg. ref. SD22B/0098 as the information submitted does not comply with all of the above criteria for housing in this area outlined under Policy H23 Objective 1 and is contrary to the proper planning and sustainable development of the area. See first previous reason for refusal (SD22B/0098) below:

1. The site is located on lands zoned Objective HA - DM in the South Dublin County Council Development Plan 2016 – 2022. It is the policy of the Council that within areas designated with Zoning Objective HA - DM (to protect and enhance the outstanding natural character of the Dublin Mountain Area) proposals for dwellings and extensions should be assessed under Policy H27 -Rural House and Extension Design. It is Council policy only to allow housing in the Dublin Mountain Area where:

- 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 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 Code of Practice Wastewater Treatment Systems Serving Single Houses, EPA (2009) or other superseding standards; and
- Would not create or exacerbate ribbon or haphazard forms of development.

On the basis of the information submitted, the proposed development does not comply with all of the above criteria for housing in this area outlined under Policy H27 Objective 1 and is contrary to the proper planning and sustainable development of the area.

(d). This proposal has not overcome the second previous reason for refusal as per reg. ref. SD22B/0098 as the applicant has not applied for a family flat, therefore the application cannot be assessed using the criteria for a family flat as set out in the SDCC Development Plan 2022-2028,

Policy H15: Family Flats subject to the criteria outlined in Chapter 12: Implementation and Monitoring. See second previous reason for refusal (SD22B/0098) below:

2. In accordance with Policy H19, the requirements of paragraph 11.3.3 (ii) should be met. These are:

- (1) The applicant shall be required to demonstrate that there is a genuine need for the family flat.
- (2) The overall area of a family flat should not exceed 50% of the floor area of the main dwelling house.
- (3) The family flat should be directly accessible from the main dwelling via an internal access door; and
- (4) The design criteria for dwelling extensions will be applied.

On the basis of the information submitted, the proposed development does not comply with all of the above criteria for housing in this area outlined under Policy H19 / Paragraph 11.3.3 (ii) and would therefore be contrary to the objectives set out in the South Dublin County Council Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

(e). This proposal has not overcome the third previous reason for refusal as per reg. ref. SD22B/0098 as any increase in development in this area will have a negative impact on both the landscape value and sensitivity of this area and would therefore be contrary to the South Dublin County Council Development Plan 2022-2028 Policy NCBH14: Landscapes which states:
- Preserve and enhance the character of the County's landscapes, particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity and to ensure that landscape considerations are an important factor in the management of development.

The proposal would also be contrary to G17 Objective 2 of the SDCC Development Plan 2022-2028. which states:

To protect and enhance the landscape character of the County by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the landscape, in accordance with the provisions of South Dublin's Landscape Character Assessment and the provisions of Chapter 3: Natural, Cultural and Built Heritage of this Development Plan. See third previous reason for refusal (SD22B/0098) below:

3. The proposed development is located in the Athgoe and Saggart Hills landscape area, which has been designated under the South Dublin County Council Development Plan 2016 - 2022 following a Landscape Character Assessment of South Dublin County undertaken in 2015 as an area with a high landscape value and sensitivity and a Landscape Capacity which is negligible to low; meaning that the key characteristics of the landscape are highly vulnerable to development and that development would result in a significant change in landscape character and should be avoided if possible. Any increase in development in this area will have a negative impact on both the landscape value and sensitivity of this area and would therefore materially contravene the South Dublin County Council Development Plan 2016 - 2022 Policy (HCL7) 'to preserve and enhance the character of the County's landscapes particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity'. The proposal has also not demonstrated the impact upon the important non-designated features, such as hedges, trees and woodlands, in accordance with Policy HCL15 and would be contrary to the proper planning and sustainable development of the area.

(f). This proposal has not overcome the fourth previous reason for refusal as per reg. ref. SD22B/0098 as having regard to Policy NCBH6: Dublin Mountains, the proposed development would still result in the encroachment of ad hoc housing within a landscape area of High Amenity

as set out in the South Dublin County Development Plan 2022-2028. See fourth previous reason for refusal (SD22B/0098) below:

4. With regard to Policy HCL9 - Dublin Mountains, the proposed development would result in the encroachment of ad hoc housing within a landscape area of High Amenity as set out in the South Dublin County Development Plan 2016 - 2022, where it is an objective to protect and preserve significant views. Having regard to the location of the proposed development within a visually vulnerable landscape which is under strong development pressure, taken in conjunction with the existing development in the general vicinity, the proposed development and development to be retained would be a further addition of suburban-like ad hoc development, would be visually obtrusive, would adversely affect these significant views, would adversely affect the character and amenity of the landscape, and would detract to an undue degree from the rural character and scenic amenities of the area and the lower slopes of the Dublin Mountains. Thus, the proposed development and development to be retained would seriously injure the amenities of property in the vicinity, would contravene the zoning objective of the area, and would be contrary to 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/0381

Signed on behalf of the South Dublin County Council.

Yours faithfully,

Pamela Hughes 20-Oct-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