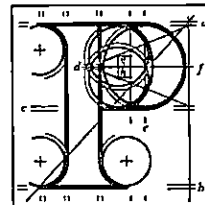


Our Case Number: ABP-315119-22

Planning Authority Reference Number: SD22B/0381



**An
Bord
Pleanála**

Land Use Planning & Transportation

22 NOV 2022

South Dublin County Council

South Dublin County Council
Planning Department
County Hall
Tallaght
Dublin 24

Date: 21 November 2022

Re: 43sqm single storey and part 2 extension to the side and rear of house to accommodate independent living, including disabled bathroom, bedroom and treatment room, widening of existing internal doors throughout, 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.
Glenaraneen, Brittas, Co Dublin

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,

Tell Tel (01) 858 8100
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Facs Fax (01) 872 2684
Láithreán Gréasáin Website www.pleanala.ie
Ríomhphost Email bord@pleanala.ie

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

(vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure,

(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

Teil	Tel	(01) 858 8100
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AN BORD PLEANÁLA
LDG- 059148-22
ABP-
16 NOV 2022
Fee: € 660 Type: cheque
Time: B.30 By: hand

John Taylor
Architect Limited

39 North Avenue
Mount Merrion
Co. Dublin
Telephone 087 285 1411

email: jtaylorarchitects@gmail.com

John M. Taylor B.Arch FRIAI

16th November 2022

The Secretary,
An Bord Pleanála,
64, Marlborough Street,
Dublin 1.

RE: Re: Glenaraneen Brittas Co Dublin

APPLICATION The development will consist of: development comprising 43 sq m single storey and part two extension to the side and rear of the house. This is 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 waste water 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 at Glenaraneen, Brittas, Co Dublin

APPLICANT Keith and Josephine Justice

LOCAL AUTHORITY: South Dublin County Council

REGISTER REF: SD22B/0381

DECISION DATE: 20 October 2022

APPEAL First Party Appeal

FEE €660.00 (Attached)

Dear Sirs,

We act for Keith and Josephine Justice of Glenaraneen Brittas Co Dublin and we are instructed to submit a First Party Appeal against the Decision by South Dublin County Council to Refuse Permission (Reg. Ref SD22B/0381) for the above development.

PROPOSED DEVELOPMENT

Permission was sought for: "development comprising 43 sq m single storey and part two extension to the side and rear of the house. This is 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 waste water 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 at Glenaraneen, Brittas, Co Dublin

Over

DECISION

The Decision of South Dublin County Council was to Refuse Permission and Refuse Retention for the Development in its entirety. The reasons given for the refusal are as follows:

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.

Over

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.*

SITE LOCATION AND DESCRIPTION

The site is 0.6 ha in area and accommodates a 1.5 storey detached dwelling of 349 sq m in area located within the Dublin Mountains in a rural area (HA-DM). There is varying topography across the site whereby the land slopes from east to west. There is also mature landscaping/vegetation surrounding the site. It is noted that there are some other isolated dwellings in the area. It is to be noted that the dwelling is currently occupied by three generations of the one family who have lived and grown up together in the same dwelling since 1991

FAMILY BACKGROUND.

The Justice family comprising parents Joseph and Jean along with their two sons Keith and Declan moved into the house at Glenaraneen in 1991.

When the two sons married and started their own families, they continued to live in the family home.

Declan, his wife Gillian and their two children live in the extension granted planning permission Reg Ref S97B/0234.

Keith and his wife Josephine and their two children share the original house along with Keith's parents.

The families are heavily involved in the local community and the children have all attended the local St Martin's National School in Brittas before going on to Secondary School at St MacDara's National School in Templeogue.

Keith's daughter Ellie May suffered a most unfortunate injury as she entered her teenage years and now requires significant special needs support. Keith, without the benefit of professional advice and in an effort to meet some of Ellie May's special needs, constructed an extension to the house without the benefit of planning permission. Ellie may's needs have become more acute as she gets older and it is necessary to move most of the bedroom accommodation to the ground floor. It is for this reason that it is now proposed to extend the house a little further and re-arrange the accommodation to facilitate the requirements of Ellie May while at the same time regularizing the unauthorized development.

RELEVANT PLANNING POLICY

The site is located in an area zone "Objective HA-DM – *To protect and enhance the outstanding natural character of the Dublin Mountains area.*"

The relevant policy in the South Dublin County Council Development Plan 2022-2028 is H23 as set out below.

H23 Objective 1: 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;*

Over

- *Will not have a negative impact on the environment including flora, fauna, soil, water (including ground water) and human beings*
- *Is designed and sited to minimise impact on the site's natural contours and natural drainage features; Retains and reinstates (where in exceptional circumstance retention cannot be achieved) traditional roadside and field boundaries;*
- *Is designed and sited to circumvent the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls;*
- *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 EPAs Code of Practice Wastewater Treatment Systems Serving Single Houses 2009 applies;*
- *Would not create or exacerbate ribbon or haphazard forms of development"*

REBUTTAL OF REFUSAL

Reason No 1(a) for the refusal states:

"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"

RESPONSE

We submit that the Planning Authority has taken a particularly rigid view of the Justice Family living arrangements and has not examined the plans in great detail. The proposal shows two entrances / exits at the front of the dwelling not three as referred to in reason 1(a) of the refusal. The Justice family would be happy to reduce the number of entrances to one as shown on the attached plan drawing No ZG05/P13 where the main entrance is located in the centre of the front elevation and a separate disabled access is provided at the rear. Such a modification to the plans would remove any perception of there being three independent substandard residential units and therefore would not be "out of character with the established pattern of development in the area"

Reason No 1(b) for the refusal states:

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`

RESPONSE

The Planning Authority states in reason 2(b) of the refusal that it has assessed this application as new dwelling in the HA-DM zone. The application as stated in the public notices was for an extension to an existing dwelling and for retention of extensions to the existing dwelling. The Planning Authority was incorrect in its assessment of the Application as a new dwelling and therefore reason 1(b) of the refusal is not valid and should be rejected.

Reason No 2(a) for the refusal states:

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

Over

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.

RESPONSE

It is clear from the application documentation that the proposed extension to the house and the extensions to be retained are quite small and will have minimal impact on the existing site and no impact on surrounding sites and therefore the proposed development will have not negative impact on the landscape value and sensitivity of the area and therefore should be rejected.

Reason No 2(b) for the refusal states:

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'.

RESPONSE

The application documentation clearly shows that the development has no negative impact on the existing landscape or the landscape character of the site and the surrounding area and for this reason should be rejected as a reason for refusal.

Reason No 2(c) for the refusal states:

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.

RESPONSE

We submit that this proposal meets the requirements of Policy H23 as set out above as follows:

- The development has been designed to minimise the impact on the landscape as set out in our comments regarding reason 2(b) above
- Has no negative impact on the on the environment including flora, fauna, soil, water (including ground water) and human beings.
- The development has been designed to minimise the impact on the sites natural contours and natural drainage features.
- There is no change proposed to the roadside frontage and therefore the proposed development complies with the requirement to retain and reinstate traditional roadside and field boundaries.
- There are no intrusive engineered solutions required as part of the proposed development.
- The proposed waste water installation complies with the Code of Practice Wastewater Treatment Systems Serving Single Houses, EPA (2009) or other superseding standards
- The proposed development does not create or exacerbate ribbon or haphazard forms of development.

On the basis of the above the proposed development meets the requirements of Policy H23 of the Development Plan.

Reason No 2(d) for the refusal states:

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.

RESPONSE

We have shown in our response to Reason 2(c) in the refusal that the proposed development meets the requirements of Policy H23 of the Development Plan and does not have a negative impact on the site's landscape.

Reason No 3(a) for the refusal states:

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.

RESPONSE

We submit that the Planning Authority has not taken into account the particular circumstances of the Justice family as set out in the background section of this report above. They have not looked at this application afresh but have looked at it through the prism of the earlier applications and have not taken on board the significant differences between this application and the earlier applications.

Over

We have stated in our response to reason for Refusal 1(a) that the Justice Family are happy to modify the proposal to only have one entrance at the front of the house with a disabled access to the rear as set out in the attached drawing No ZG05/P13.

In addition the Justice Family are happy to accept a condition in a permission that the house will always be considered as a single dwelling without sub-division.

Reason No 3(b) for the refusal states:

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.

RESPONSE

As stated in our response to Reason no 1(b) The Planning Authority in our view was incorrect in its assessment of the Application as a new dwelling and therefore reason 1(b) and 3(b) of the refusal are not valid and should be rejected.

Reason No 3(c) for the refusal states:

(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.

RESPONSE

This is the same reason for refusal as reason 2(b) and we have demonstrated how the proposed development meets the requirements of G17 Objective B of the Development Plan and for this reason should be rejected.

Over

Reason No 3(d) for the refusal states

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.*

RESPONSE

The application as stated in the public notices was for an extension to an existing dwelling and for retention of extensions to the existing dwelling. It is not an application for a family flat and the Planning Authority is incorrect in assessing the application for something that was not applied for and therefore the reason for refusal 3(d) is inappropriate and should be rejected.

Reason No 3(e) for the refusal states

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.

RESPONSE

This Reason for refusal is the same as Reasons 2(a) and 2(b) and these have been addressed in our response to Reasons 2(a) and 2(b) above.

Reason for Refusal 3(e)

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:

RESPONSE

We submit that the proposal relates to an extension and retention of works to an existing house which was originally granted permission. The current owners of the house have lived in the house for over 30 years and are entitled to continue to live in this location and should be allowed to extend the house subject to planning permission to meet the needs of the family. This does not represent ad-hoc housing as it is not a new house on a new site where such development could be considered as ad hoc housing.

Reason for Refusal 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.

RESPONSE

As stated in our response to the Reason for Refusal 3(e) the proposed development is not ad-hoc housing as presented by the Planning Authority. The proposed development will have no impact on the significant views of the High Amenity of the Dublin Mountains as the house is not visible from surrounding properties let alone from afar but is enclosed within a well forested and landscaped area. In addition the proposal has avoided carrying out alterations to the existing entrance or road frontage of the property thereby protecting the High Amenity status of the Dublin Mountains. This is not a suburban-like ad hoc development but is an extension to an existing rural house and as shown above will not be visually obtrusive, will not adversely affect significant views, will not affect adversely affect the character and amenity of the landscape and will not detract from the rural character and scenic amenities of the area and lower slopes of the Dublin Mountains. The proposed development and development to be retained by reason of its low scale being 1.5 storey bungalow extension nestled with-in a well landscaped site with no major site works and no disruption to mature trees and planting will not injure the amenities of property in the vicinity, does not contravene the zoning objective of the area and is not contrary to the proper planning and sustainable development of the area.

CONCLUSIONS

We submit that the Planning Authority has not considered this application on the basis of its description in the public notices but has considered it based on incorrect criteria and therefore should be overturned. The Planning Authority has taken the view that this house extension represents suburban like ad hoc development and we have shown that this is definitely not the case.

In addition we have shown that the proposed development and development to be retained will not be visually obtrusive, will not adversely affect significant views, will not affect adversely affect the character and amenity of the landscape and will not detract from the rural character and scenic amenities of the area and lower slopes of the Dublin Mountains. The proposed development and development to be retained by reason of its low scale being 1.5 storey bungalow extension nestled within a well landscaped site with no major site works and no disruption to mature trees and planting will not injure the amenities of property in the vicinity, does not contravene the zoning objective of the area and is not contrary to the proper planning and sustainable development of the area.

For these reasons we submit that the Decision by South Dublin County Council to refuse development and refuse retention of development should be overturned and that permission and retention permission should be granted for the proposed development.

Signed

JOHN M. TAYLOR B Arch FRIAI

AN BORD PLEANÁLA

16 NOV 2022

LTR DATED _____ FROM _____

LDG- _____

ABP- _____