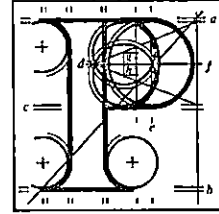


**Our Case Number:** ABP-315181-22

**Planning Authority Reference Number:** SD22B/0391



**An  
Bord  
Pleanála**

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24

**Land Use Planning & Transportation**

**30 NOV 2022**

**South Dublin County Council**

**Date:** 29 November 2022

**Re:** Retention of attic conversion, separate utility room and gymnasium in rear garden and garage at side of house and all associated works.  
51, Foxdene Avenue, Lucan, 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,

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

Tel (01) 858 8100  
Glaó Áitiúil LoCall 1890 275 175  
Facs (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

- (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**

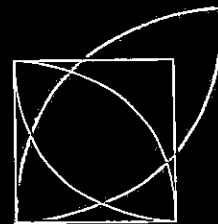
5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. 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

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44 South Richmond St  
Dublin, D02 T284  
Tel: +353 1 475 4960  
mail@dlarch.ie

deatonlysaght.ie



Deaton Lysaght  
Architects

Time: \_\_\_\_\_ By: josl

An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1

15<sup>th</sup> November 2022

RE DECISION BY SOUTH DUBLIN COUNTY COUNCIL  
TO GRANT RETENTION AND REFUSE PERMISSION  
FOR THE CONSTRUCTION OF ATTIC CONVERSION, SEPARATE UTILITY ROOM  
AND GYMNASIUM IN REAR GARDEN AND GARAGE AT SIDE OF EXISTING HOUSE  
AND ALL ASSOCIATED WORKS AT 51 FOXDENE AVENUE, LUCAN, CO. DUBLIN  
FOR MS. AMANDA BELL

REG. REF NO. SD22B / 0391

YOUR CASE NUMBER (ABP-315124-22) (315181-22)

1. 1234!

Dear Sirs,

We have been instructed by our client, Ms. Amanda Bell of 51 Foxdene Avenue, Lucan, Co. Dublin, to appeal against the Decision issued by South Dublin County Council in the above planning application, Reg. Ref. SD22B / 0391, copy enclosed. We enclose a cheque in payment of the appeal fee in the amount of €660, and will require your receipt for same.

As described in the letter to SDCC accompanying the planning application, our client Ms. Bell grew up in the subject house, and the extensions and alterations were carried out by her parents, now deceased. As Executrix, she has been making preparations for the sale of the property, and wishes to have all matters in relation to planning permission authorised in full. To this end, the application for the retention of all developments at the house was submitted to SDCC.



The Decision of South Dublin County Council to Refuse Permission for the retention of the rear dormer window is therefore preventing the sale of the property and has also placed unnecessary Conditions for the retention of the works, particularly the gym building.

We would request that an Bord Pleanála would therefore consider the application afresh.

It is notable that the developments have been in place for approx. 15 years, and that there have been no third-party objections or observations to the application. Ms. Bell informs us that her family were at all times on good relations with their neighbours, and that her parents were not at any time interrupted in the construction of the subject works.

We therefore request an Bord Pleanála to grant a full retention permission in this case, and to make amendments to the conditions of the Decision issued by the Planning Authority.

In particular, we would request an Bord Pleanála to re-consider Condition 4 ; ***No permission is hereby granted for the retention of the rear dormer window.***

The Reason put forward for this condition is;

***1. The rear dormer extension for retention, by reason of its design, would protrude past the existing dwellings ridge line and would be visually obtrusive and out of character for this established residential area, and would be contrary to the guidance in the South Dublin County Council House Extension Design Guide (2010). Thus, the proposed retention would seriously injure the amenity of property in the vicinity and be contrary to the "RES" zoning objective for the area which seeks "to protect and / or improve residential amenity" and is contrary to the South Dublin County Council Development Plan 2022-2028.***

***Furthermore, the dormer as constructed sets an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential and visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.***

Our client points out that the design of many of the houses in the Balgaddy estate feature sharp monopitched roofs which make a strong design statement, and which however could be considered to be equally visually obtrusive. Thus the established residential area is already characterised by a range of roofscapes which in other estates could be considered to be visually inappropriate. The interruption of the ridgeline of the subject house is minor and does not interfere with the visual coherence of the adjoining properties, which are all set back and do not have the same ridge-line. The house is clearly visible from the main road, and there have been no complaints or observations from any of the neighbours (or indeed from the Planning Authority) in the 15 years since this dormer roof was constructed. The SDCC House Extension Design Guide is dated 2010, and was therefore published after the construction of the dormer roof. It is therefore an unfair imposition by the Planning Authority of the recommendations of a Design Guide for work which had already been carried out.



*THE DORMER STRUCTURE BREAKS THE RIDGE LINE BY A SMALL MARGIN, SEEN FROM THE FRONT.*

On this point, we maintain that the retention of the dormer roof could be permitted by the Planning Authority without setting an undesirable precedent, on the basis that any subsequent dormer roofs could be subject to the provisions of the SDCC House Extension Design Guide, applicable for any developments carried out after the date of publication of the Guide. We would ask an Bord Pleanala, given the circumstances of our client and the cost and disruption which would be incurred, and on the basis that this would not set an undesirable precedent, to grant permission for the retention of the dormer roof, which is inconspicuous from the front of the house.

Our client is also concerned with the provisions of Condition 2(a), requiring revised plans showing the bathroom omitted from the gym. In past years, the gym was in regular use by members of the family, and the provision of bathroom facilities was a great benefit, enabling the person to wash and change within the gym without disruption to the house.

If the intention of the SDCC requirement to delete the bathroom is to prevent the gym building being used as a separate dwelling, this is covered in the provisions of Condition 3(b);

***(b) Restrictions on Use. The house and the proposed extension shall be jointly used as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial purposes, and the extension shall not be sold, let (including short-term letting), leased or otherwise transferred or conveyed, by way of sale, letting or otherwise save as part of the single dwelling unit.***

We wish to clarify that the drawings and details submitted with the planning application are based on our survey of the premises as it exists. Thus the reference by the Planning Authority to "the house and the proposed extension" is not accurate. The gym and bathroom are fully constructed, and exceed the maximum area permitted for garden buildings. However, they are in existence for many years, and have not been used for any purpose other than as a resource for the family residing in 51 Foxdene Avenue.

We propose to an Bord Pleanala that the requirement to "omit" the bathroom is a needless condition, and that the provisions of Condition 3 (b) above are fully acceptable to our client, who

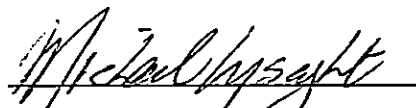
wishes to retain the benefit and amenity of the existing bathroom in the gym area for the eventual purchasers of the property, to be used as part of their normal residential use of the house.

We trust that the above document is a clear and concise statement indicating that the applicant's application for permission to retain the developments at the house can be permitted, as they do not interfere with the residential amenity of any third-parties, and will not create an undesirable precedent for the proper planning and development of the area.

We therefore request that an Bord Pleanála, in its consideration of the application, should have full regard to the case we have made for retention on behalf of our client, and that you will grant permission for the retention of the entire development with suitable conditions restricting the use of the house and extension to a single family residential unit.

We therefore await your decision and remain,

Yours faithfully,



MICHAEL LYSAGHT B. Arch FRIAI

FOR DEATON LYSAGHT ARCHITECTS

Telephone: 01 4149000 Fax: 01 4149104 Email:  
[planningdept@sdblincoco.ie](mailto:planningdept@sdblincoco.ie)

Deaton Lysaght Architects  
44, South Richmond Street  
Dublin 2

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

<b>Decision Order No:</b> 1349	<b>Date of Decision:</b> 28-Oct-2022
<b>Register Reference:</b> SD22B/0391	<b>Date:</b>

**Applicant:** Amanda Bell  
**Development:** Retention of: Construction of attic conversion, separate utility room and gymnasium in rear garden and garage at side of existing house and all associated works.  
**Location:** 51, Foxdene Avenue, Lucan, Co. Dublin  
**Time extension(s) up to and including:**

In pursuance of its functions under the above mentioned Acts, the South Dublin County Council, being the Planning Authority for the County of South Dublin, did by Order dated as above make a **DECISION TO GRANT RETENTION & REFUSE PERMISSION** in respect of the above proposal, as detailed on the following pages.

A decision pursuant to Section 34(1) of the Planning and Development Act 2000 (as amended) to that permission be granted for Retention of the separate utility room and gymnasium in rear garden and garage at side of existing house subject to the Conditions/Reasons set out in the **First Schedule** hereto and that Permission be refused for the rear dormer roof extension for the Reason(s) set out in the **Second Schedule** hereto is hereby made.

A decision pursuant to Section 34(1) of the Planning and Development Act 2000 (as amended) to **Grant Retention** of the separate utility room and gymnasium in rear garden and garage at side of existing house subject to the Conditions and Reasons specified in Schedule 1.

## SCHEDULE 1

### Conditions and Reasons:

1. Development to be in accordance with submitted plans and details.  
The utility room, gymnasium and garage shall be retained and completed fully in accordance with plans, particulars and specifications lodged with the application, within 6 months of the grant of permission, save as may be required by other conditions attached hereto.  
REASON: To ensure that the development is in accordance with the permission and that effective control is maintained.
2. Amendments.  
within 3 months of the grant of permission the applicant, owner or developer shall submit the following for the written agreement of the Planning Authority:  
Revised plans that incorporate all of the following amendments-
  - (a) The bathroom shall be omitted from the gym.  
The proposed amendments shall be completed fully in accordance with plans within 6 months of agreement of these details.  
REASON: To protect the amenities of the area and in the interests of the proper planning and sustainable development of the area.
3.
  - (a) External Finishes.  
All external finishes shall harmonise in colour or texture that is complementary to the house or its context.  
REASON: In the interest of visual amenity.
  - (b) Restriction on Use.  
The house and the proposed extension shall be jointly used as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial purposes, and the extension shall not be sold, let (including short-term letting), leased or otherwise transferred or conveyed, by way of sale, letting or otherwise save as part of the single dwelling unit.  
REASON: To prevent unauthorised development.
  - (c) Drainage - Irish Water.
    - (i) The water supply and drainage infrastructure, shall comply with the requirements of Irish Water.
    - (ii) There shall be complete separation of the foul and surface water drainage systems, both in respect of installation and use. All new precast surface water manholes shall have a minimum thickness surround of 150mm Concrete Class B.
    - (iii) All drainage works for this development shall comply fully with the Greater Dublin Regional Code of Practice for Drainage Works.  
REASON: In the interests of public health, the proper planning and sustainable development of the area and in order to ensure adequate water supply and drainage provision.
  - (d) Minimise Air Blown Dust.  
During the construction and or demolition phase of the development, Best Practicable Means shall be employed to minimise air blown dust being emitted from the site. This



shall include covering skips and slack-heaps, netting of scaffolding, daily washing down of pavements or other public areas, and any other precautions necessary to prevent dust nuisances. The applicant/developer shall comply with British Standard B.S. 5228 Noise Control on Construction and Open sites and British Standard B.S. 6187 Code of Practice for demolition.

REASON: In the interest of public health and to uphold the Council's policies set out in the South Dublin County Council Development Plan.

(e) Construction Noise and Hours.

To control, limit and prevent the generation of unacceptable levels of Environmental Noise Pollution from occurring during construction activity, Equipment or Machinery (to include pneumatic drills, on-site construction vehicles, generators, etc.) that could give rise to unacceptable levels of noise pollution as set out generally for evening and night-time in S.I. No. 140/2006 - Environmental Noise Regulations 2006 shall only be operated on the site between 7.00 hours and 19.00 hours weekdays and between 9.00 hours and 13.00 hours on Saturdays. No works shall take place at any time on Sundays, Bank Holidays or Public Holidays.

Any construction work outside these hours that could give rise to unacceptable levels of noise pollution shall only be permitted following a written request to the Planning Authority and the subsequent receipt of the written consent of the Planning Authority, having regard to the reasonable justification and circumstances and a commitment to minimise as far as practicable any unacceptable noise outside the hours stated above. In this respect, the applicant or developer shall also comply with BS 5228:2009 Noise and Vibration Control on Construction and Open Sites, and have regard to the World Health Organisation (WHO) – Guidelines for Community Noise (1999).

The applicant or developer shall also endeavour to engage in local consultation in respect of any noise sensitive location within 30 metres of the development as approved prior to construction activity commencing on site. Such noise sensitive locations should be provided with the following:

- Schedule of works to include approximate timeframes
- Name and contact details of contractor responsible for managing noise complaints
- Hours of operation- including any scheduled times for the use of equipment likely to be the source of significant noise.

REASON: In the interest of public health by the prevention of unacceptable levels of noise pollution which could interfere with normal sleep and rest patterns and/or when people could reasonably expect a level of quietness, the proper planning and sustainable development of the area and to uphold the Council's amenity policies set out in the South Dublin County Council Development Plan.

4. No permission is hereby granted for the retention of the rear dormer window

REASON: To clarify the scope of the consented development

1. NOTE: The applicant is advised that under the provisions of Section 34 (13) of the Planning and Development Act 2000 (as amended) a person shall not be entitled solely by reason of a permission to carry out any development.

NOTE: The applicant or developer should ensure that all necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works and to ensure that any such instances arising are remedied immediately.

NOTE: Adequate provision should be made to facilitate access to and the use of the development, buildings, facilities and services by disabled persons, including sanitary conveniences. The minimum requirements should be as per Part M of the Building Regulations.

NOTE: The applicant/developer of these lands is advised that in the event of encroachment or oversailing of adjoining property, the consent of the adjoining property owner is required.

NOTE: Notwithstanding any grant of planning permission; if an applicant requires permission to access local authority land (e.g. public footpaths, public open space or roadways) in order to access utilities, or for any other reason; the applicant should apply via <https://maproadroadworkslicensing.ie/MRL/> for a licence from the Local Authority to carry out those works.

NOTE: The applicant is advised that, in order to use the attic conversion as a habitable room, it must comply with the Building Regulations.

A decision to **Refuse Permission** for the rear dormer roof extension for the Reason(s) specified in Schedule 2.

## SCHEDULE 2

### Reasons

1. The rear dormer extension for retention, by reason of its design, would protrude past the existing dwellings ridge line and would be visually obtrusive and out of character for this established residential area, and would be contrary to the guidance in the South Dublin County Council House Extension Design Guide (2010). Thus, the proposed retention would seriously injure the amenity of property in the vicinity and be contrary to the 'RES' zoning objective for the area which seeks 'to protect/and or improve residential amenity', and is contrary to the South Dublin County Council Development Plan 2022 - 2028.


Furthermore, the dormer as constructed sets an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the residential and visual amenities of the area and would be contrary to the proper planning and sustainable development of the area. and 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 to 2006.

Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001-2006, have been considered in the determination of this application.

Signed on behalf of the South Dublin County Council

**Register Reference: SD22B/0391**

  
\_\_\_\_\_ 28-Oct-2022  
*for Senior Planner*