



An  
Bord  
Pleanála

**Inspector's Report**  
**ABP 300374-17**

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|-------------------------------------|---|
| <b>Development</b>                  | The construction of a part two storey part three storey family flat over a detached garage. |
| <b>Location</b>                     | Court Na Farraga, Station Road, Killiney, Co. Dublin.                                       |
| <b>Planning Authority</b>           | Dun Laoghaire Rathdown County Council.  |
| <b>Planning Authority Reg. Ref.</b> | D17A/0824.  |
| <b>Applicant</b>                    | Pat Sheil.  |
| <b>Type of Application</b>          | Permission.   |
| <b>Planning Authority Decision</b>  | Refuse Permission.  |
| <b>Type of Appeal</b>               | First Party v. decision.  |
| <b>Appellants</b>                   | Pat Sheil.  |
| <b>Observers</b>                    | None.   |
| <b>Date of Site Inspection</b>      | 7 <sup>th</sup> March 2018.   |
| <b>Inspector</b>                    | Dáire McDevitt.   |

## **1.0 Site Location and Description**

- 1.1 The appeal site is located along the western side of Station Road in Killiney, Co. Dublin and contains Court Na Farraga, a contemporary style part three storey part two storey house. It is located within the Killiney Architectural Conservation Area.
- 1.2 The main body of the site is located at an elevated point above, and set back c. 100m from, Station Road. It is bounded by high walls with mature landscaping. The adjacent houses to the south, 'Pantiles' and 'Giverny', accessed off Marino Avenue East, have planning permission for a second house within their curtilages. To the north is The Killiney Court Hotel & Apartments. To the east of the site is a public car park, Station Road, train tracks and Killiney Bay. Killiney train station is located to the southeast of the site on the eastern side of Station Road.
- 1.3 The site has a stated area of c.0.2 hectares. Court Na Farraga has panoramic views over Killiney Bay due to its prominent position within the local landscape. The bulk of its gardens are located to the rear (west) of the house. The driveway slopes downwards from west to east towards Station Road.
- 1.3 Maps, photographs and aerial images included in the file pouch.

## **2.0 Proposed Development:**

Existing house: c. 601sq.m.

Site: c. 0.2 hectares.

The proposed development comprises the following:

- A c.168 sq.m two bedroomed family flat (part two storey part three storey) over a detached garage.

- The design, finishes and materials are consistent with those of the main house.

### **3.0 Planning Authority Decision**

#### **3.1 Decision**

Refuse Permission for the following reason:

*It is considered that the design and layout of the proposed development consisting of a 'family flat', that is detached from, and not interlinked with, the main dwelling fails to comply with the provisions of Section 8.2.3.4 (iii) 'Family Member/Granny Flat' extension of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development, in addition to a permitted 'family flat' would constitute over development of the site and would set an undesirable precedent for any future development, would seriously injure the amenities, or depreciate the value of property in the vicinity and is therefore considered to be contrary with the proper planning and sustainable development of the area.*

#### **3.2 Planning Authority Reports**

##### **3.2.1 Planning Report**

The Planner's Report forms the basis for the Planning Authority's decision.

The main issues are summarised as follows:

- Taking into account the existing house with a permitted family flat at basement level, an additional (or second) family flat at this location would constitute over development of the site.

- The proposal does not comply with Section 8.2.3.4 (iii) of the County Development Plan as the family flat, over a detached garage, is not interlinked with the main house and, therefore, could not be integrated back into the main house.
- The proposal would set an undesirable precedent.
- AA Screening Report determined that due to the location of the site, in close proximity to the coastline, further information would be required in order to assess the proposed development in combination with permitted projects, particularly with regard to potential for indirect run off during construction phase.

### **3.2.2 Other Technical Reports**

**Conservation Division.** No objection.

**Drainage Section.** No objection.

**Transportation Planning.** No objection.

### **3.3 Third Party Observations**

None.

## 4.0 Planning History

### Court Na Farraga:

**Planning Authority Reference No. D04A/0596** refers to a 2004 grant of permission for the demolition of an existing c. 401sq.m house and construction of a contemporary house (c. 601sq.m) with a granny flat at basement level and detached domestic garage.

This included condition No. 2 which set out restrictions on the occupancy of the family flat, the requirement to provide an internal link with the main house and its incorporation back into the main house when no longer required as a family flat. And condition No. 3 requiring that the house and family flat are used as one single dwelling.

**Planning Authority Reference No. D056A/0799** refers to a 2005 grant of permission for alterations to D04A/0596.

## 5.0 Policy Context

### 5.1 Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is located within an area zoned under Land Use Objective 'A' *To protect or improve residential amenity.*

**Objective 0/0** applies to the site, 'where no increase in the number of buildings permissible.

**Section 8.2.3.4(iii)** refers to 'family member/granny flat' extensions. These will generally be assessed against the criteria applied to 'normal' domestic

extensions (section 8.2.3.4 (i)). In addition proposals should be interlinked with the primary dwelling and capable of being subsumed back into same and there is a valid justification for the proposal in terms of use.

The site is located in **Killiney Architectural Conservation Area**.

### **Built Heritage**

**Section 6.1.3** refers to the county's architectural heritage.

**Policy AR12** refers to the criteria for appropriate development within the ACA, and that proposals shall be considered in relation to a range of criteria, including seeking a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.

## **5.3 Architectural Heritage Protection Guidelines 2011 (DAHG)**

These provide guidance on architectural heritage protection.

**Section 3.10** refers to guidance and general criteria for assessing proposals within Architectural Conservation Areas. This sets out that generally it is preferable to minimise the visual impact of the proposed structure on its setting. However, where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged.

**Section 6.8.1** refers to the requirement to assess how the cumulative effect of even minor additions can compromise the special interest of a protected structure and the character of an ACA.

### **5.3 Natural Heritage Designations**

None of relevance in the immediate vicinity of the site.

The closest European designated sites are:

- Rockabill to Dalkey Island SAC (site code 003000) is c. 2km east of the site.
- Dalkey Islands SPA (site code 004172) is c. 2.5km northeast of the site.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

The first party appeal seeks to address the reason for refusal of permission and can be summarised as follows:

- The original family flat at basement level is used by the applicant's children as part of the main house.
- The applicant has no objection to a condition being attached that officially states that the basement family flat should be integrated back into the main house, as is currently the situation.
- The proposed family flat is for the applicant's wife's parents and a live in nurse.
- The applicant has no objection to providing a link between the family flat and the main house and submit revised plans and particulars that reflect this.
- The Council's concerns that another family flat would result in the over development of the site does not hold up to scrutiny. There are a number of recent grants of planning permission for second houses

within the curtilage of houses in the immediate area. Of note is Planning Authority Reference No. D15A/0712 (Pantiles) and Planning Authority Reference No. D16A/0944 (Giverny) which adjoin Court Na Farraga to the south.

- The Conservation Officer has no objection to the proposal.

## **6.2 Planning Authority Response**

The Board is referred to the previous Planner's report as it is considered that the grounds of appeal do not raise any new matters which would justify a change of attitude towards the proposed development.

## **6.3 Observations**

None.

## **6.4 Prescribed Bodies**

The appeal was referred to the Department of Culture, Heritage and The Gaeltacht. No response received.

## **7.0 Assessment**

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development.
- Appropriate Assessment.

## **7.1 Principle of Development**

7.1.1 The Planning Authority refused permission on the premise that the proposed family flat was not interlinked with the main house and, therefore, failed to comply with the provisions of Section 8.2.3.4 (iii) of the County Development



Plan relating to family member/grant flat extensions. In addition the Planning Authority concluded that, given that the existing house has a family flat at basement level, an additional family flat at this location would constitute over development of the site.

- 7.1.2 The applicant has set out in the grounds of appeal that they have no objection to submitting revised plans and particulars providing an internal link between the proposed family flat and the main house. The applicant has also stated that the original basement level family flat is used as part of the main house. And has no objection to a condition formally requiring that the basement flat be incorporated back into the main house if the Board consider it necessary.
- 7.1.3 The scale and size (c.168sq.m) of the family flat is relative to the scale and size of the main house (c. 601sq.m). I consider that the design and scale of the proposal is acceptable given the context of the site. The provision of a link between the family flat and the main house would not require modifications that would significantly alter the overall design and scale of the proposal or detract from the residential amenities of the occupiers of the main house or those of the family flat. I consider that the requirement to provide a link between the family flat and the main house could be dealt with by condition if the Board is of a mind to grant permission.
- 7.1.4 The Area Planner noted in their report that the applicant had not justified the need for a family flat at this location as there was an existing family flat integrated with the main house. The applicant outlined in the grounds of appeal that the occupiers of the flat would be elderly relatives and a live in nurse and that the basement flat is used as part of the main house. I am satisfied that the applicant has demonstrated a valid justification for a two bedroom family flat which, once interlinked, could be subsumed back into the main house at a later date as required under Section 8.2.3.4 (iii) of the

County Development Plan. I am of the view that the proposed family flat can be accommodated on site and would not constitute over development of the site. Its use and occupation can be dealt with by condition if the Board is of a mind to grant permission.

7.1.5 Condition No. 2 of Planning Authority Reference No. D04A/0596 deals with the permitted basement family flat. I note that the applicant has stated that this area is used as part of the main house. Compliance with planning conditions is a matter for the Planning Authority to pursue.

7.1.6 I consider, subject to the modifications set out, that the proposed development complies with Section 8.2.3.4 (iii) and therefore the grounds of appeal should be upheld and permission granted.

## **7.2 Appropriate Assessment**

7.2.1 The nearest designated sites are Rockabill to Dalkey Islands SAC (site code 003000) located c. 2km east of the site and Dalkey Islands SPA (site code 004172) is located c. 2.5km to the northeast of the site.

7.2.2 The Planning Authority's AA Screening Report determined that due to the location of the site, in close proximity to the coastline, further information would be required in order to assess the proposed development in combination with permitted projects, particularly with regard to potential for indirect run off during construction phase.

7.2.3 The proposed development is a family flat over an existing garage to the side of an existing house. Located c.184m from Killiney Bay and separated from it, as one moves eastwards, by walls which bound the site, an amenity area

associated with the hotel/apartments, a public carpark, a public road and a beach. The site is located on serviced zoned lands and there are no direct or indirect links to the nearest designated site. The potential for indirect run off during construction phase to have an adverse impact on the designated site is not likely.

- 7.2.4 It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites Rockabill to Dalkey Islands SAC (site code 003000) and Dalkey Islands SPA (site code 004172) a stage 2 appropriate assessment (submission of an NIS) is not therefore required.

## **8.0 Recommendation**

I recommend that permission be granted for the proposed development for the reasons and considerations set out below:

## **9.0 Reasons and Considerations**

Having regard to existing and permitted development and to the contemporary design, scale and form of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed family flat would not constitute over development of the site, would integrate successfully with the existing house on the site, would not detract from the character of Killiney Architectural Conservation Area and would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to the commencement of development the developer shall submit for the written agreement of the Planning Authority amended plans and particulars which shows the following:
  - a) The family flat interlinked with the main house.

**Reason:** In the interest of clarity.

3. Samples of the proposed external finishes and materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. The dwelling and family flat shall be jointly occupied as a single residential unit and the family flat shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** To restrict the use of the development and in the interest of residential amenity

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. Site development and building works shall be carried out only between 0800 hours and 1900 hours from Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as

the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Dáire McDevitt  
Planning Inspector

22<sup>nd</sup> March 2018