



An
Bord
Pleanála

Inspector's Report ABP-301815-18

Development	Construction of new three storey detached dwelling.
Location	Site accessed off Ulverton Road between Ashling, Ulverton Road, Dalkey, Co. Dublin and Verona (68) Ulverton Road, Dalkey, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/0237
Applicant(s)	Brinnin Holdings Ltd
Type of Application	Permission
Planning Authority Decision	Grant subject to Conditions
Type of Appeal	Third Party
Appellant(s)	Patrick & Niamh Devaney & Others
Observer(s)	n/a
Date of Site Inspection	30 th July 2018
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.0258ha site is located on Ulverton Road, Dalkey, Co. Dublin. The site is a vacant infill site that slopes steeply to the east with a difference of approximately 9 metres between Ulverton Road and the existing property adjoining the site to the rear / east of the site. According to the Case Planners Report the site is part of the overall landholding of a cottage, St Brendans, which is accessed off Harbour Road to the rear of the site. The site is bounded to the west by Ulverton Road and by dwelling houses on all other sides. A set of photographs of the site and its environs taken during the course of the site inspection is attached.

2.0 Proposed Development

2.1. Permission is sought for the construction of a three storey flat roof (two-storey over lower ground floor) detached three bed dwelling (211 sqm) with roof terrace and new vehicular entrance off Ulverton Road together with new boundaries, landscaping, drainage, ancillary works and associated works. The application was accompanied by a cover letter and a Traffic Survey (Dec 2017).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dun Laoghaire Rathdown County Council issued a notification of decision to grant permission subject to 11 generally standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The **Case Planner** in their report of 11th May 2018 considers the development acceptable in principle and notes the established precedent for this type of infill development in the immediate vicinity such as at No 66 Ulverton Road. The Case

Planner also refers to the previous planning application on the site (D17A/0889) that was refused permission for reason of unacceptable parking and layout to the front portion of the site. The Case Planner notes that under the current proposal the application has altered the proposed ground floor layout to provide a stepped front building line to provide for a larger front garden area with two car parking spaces proposed in the southern portion of the front garden. The Case Planner recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by DLRCC reflects this recommendation.

3.2.3. Other Technical Reports

3.2.4. **Transportation Planning** (18th April 2018) – No objection subject to conditions relating to dishing of the footpath at the new entrance, SuDS and repair of any damage to the public road.

3.2.5. **Drainage Planning** (25th April 2018) – No objection subject to conditions relating to surface water and permeable hardstanding.

3.3. Prescribed Bodies

3.3.1. **Irish Water** (25th April 2018) – No objection.

3.4. Third Party Observations

3.4.1. There are several observations recorded on the appeal file from (1) Peter Kane, (2) Michael & Gemma Craig, (3) Dominic Galvin & Lisa McEvoy, (4) Anne Johnston and (5) Patrick & Niamh Devaney. The issues raised relate to traffic safety, car parking, impact to residential amenities, scale, height, design, surface water and construction impact.

4.0 Planning History

4.1. **Reg Ref D17A/0899** – DLRCC refused permission in January 2018 for the construction of one new three-storey flat roof (two-storey over lower ground floor) detached dwelling with roof terrace, new vehicular entrance off Ulverton Road, new boundaries, landscaping, drainage, ancillary works and associated works on this appeal site for the following reason:

It is considered that the proposed development, in particular the proposed car parking arrangement, would; (a) Endanger public safety due to the unacceptable proposed off-street parking arrangement and would endanger public safety by reason of traffic hazard or obstruction of road users of otherwise, and (b) Create an undesirable precedent for inappropriate off-street car parking arrangements and may lead to other similar developments on adjoining sites, which would adversely affect the use of the existing road by traffic. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative Development Plan is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**. The site is zoned **Objective A** where the objective is *to protect and/or improve residential amenity*.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The third party appeal has been prepared and submitted by Patrick & Niamh Devaney (owner of adjoining property to the south east at No 67 Ulverton Road) & Others. The issues raised may be summarised as follows:
- The plans and sections do not reflect the existing site and boundary condition and consequently the impact on the appellant's property and the environs cannot be properly assessed.
 - The proposed parking area is constrained and will be 20cm from the top of the existing boundary wall thereby negatively impacting on the enjoyment of the appellants front garden.

- There is both substantial excavation and infill proposed in this development which will potentially have a significant impact on the structural integrity of the dividing boundary and gable wall of No 67.
- The proposed dwelling extends beyond the established rear building line creating a negative impact to the back gardens of No 67 and 68.
- The proposal would set an unwelcome precedent for future development in the area.
- The roof terrace adds an additional accessible level that would have a negative impact upon the enjoyment and privacy of adjoining properties.
- Traffic calming measures are required to improve the safety of road users, pedestrian and vehicular access to and from residences. The submitted traffic report does not give accurate report of speeds reached on this road.
- The dwelling is unsuitable at this location by reason of visual impact, proximity to No 68 (Verona), a protected structure and height.
- It is a steep site and with the removal of the ground that currently provides soakage for rain water there is potential for flooding of St Brendan's, the property to the rear of the site.

6.2. Applicants Response

6.3. The first party response to the appeal has been prepared and submitted by Kieran O'Malley & Co Ltd on behalf of the applicant and may be summarised as follows:

- The proposal in terms of design is compatible with the overall character of No 68 and the very minor additional height, which would be set back from the front elevation and not be prominent on the streetscape and would not impinge on the visual amenity of No 68.
- Drainage for the site has been designed in accordance with SuDS recommendation in compliance with BRE Digest 365. Neither Irish Water nor the Councils drainage department have raised any objection subject to the planning conditions.
- Accessing the property was the single reason for refusal on a previous application at this site. This has been fully addressed in this application

including auto track diagrams that demonstrate access and egress at the site in forward gear, so no reversing out of the proposed entrance would arise. The issue of vehicular access and associated dangers would not arise. Condition No 7 addresses construction traffic and pedestrians.

- The plans lodged with the planning application were prepared following a topographical survey of the site and obtaining elevation details of the adjoining properties including No 67 Ulverton Road. The proposed development is shown within its immediate context and has been properly assessed by the planning authority.
- The front garden at No 67 is currently used for parking cars and it has no other apparent amenity use to the occupier.
- The applicant will engage a certified structural engineer post planning and they will provide a suitable structural design solution in agreement with the neighbour to retain the boundary wall during and post construction.

6.4. Planning Authority Response

- 6.4.1. DLRCC refers to the previous planners report and state that the grounds of appeal do not raise any new matter which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

6.5. Observations

- 6.5.1. There are no observations recorded on the appeal file.

6.6. Further Responses

- 6.6.1. There are no further responses recorded on the appeal file.

7.0 Assessment

- 7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Traffic Safety
- Residential Amenity
- Construction Impact / Structural Integrity
- Other Issues

8.0 Principle

- 8.1. The operative plan for the area is the Dun Laoghaire Rathdown County Council 2016 – 2022. Under the provision of this Development Plan the site is zoned Objective A which seeks *to protect and / or improve residential amenity* and where residential development is permitted in principle subject to compliance, with the relevant policies, standards and requirements set out in plan.
- 8.2. I am satisfied that the contemporary design responds to the topography of the site while preserving the building lines on the site at first and second floor level. I agree with the applicant that the ground floor layout takes advantage of the site topography which enables the provision of a slightly longer floor at ground floor level without impacting on the amenity of adjoining property.
- 8.3. It is noted that the adjoining property to the north: Verona at No 68 Ulverton Road, Dalkey is listed on the DLRCC Record of Protected Structures (RPS No 1399 refers). Having regard to the architectural design of the proposed dwelling I am satisfied that the proposed dwelling will not detract from the special interest of this protected structure and that's its status is duly recognised without significant compromise.

9.0 Traffic Safety

- 9.1. DLRCC in a previous decision refused permission for a dwelling house on this site as it was considered that it would endanger public safety due to the unacceptable proposed off-street parking arrangement and creation of an undesirable precedent for inappropriate off-street car parking arrangements which would adversely affect the use of the existing road by traffic. The applicant states in this new application that they have removed a portion of and redesigned the front of the property to allow

for the car parking arrangement and traffic movements as requested. It is noted that having considered the current scheme DLRCC Transportation Planning have no stated objection to the proposal subject to conditions relating to dishing of the footpath at the new entrance, SuDS and repair of any damage to the public road.

9.2. As pointed out by the appellant the site is located on a bend of a busy road on a slight hill that restricts visibility in both directions. The scheme provides a new entrance on the northern section of the site and off street car parking for 2 no cars. While this is a restricted site I am satisfied given the location of the appeal site together with the layout of the proposed scheme that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area subject to conditions as recommended by DLRCC Transportation Section. Overall I consider the proposal to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard.

10.0 Residential Amenity

10.1. I note the concerns raised by the appellant with regard to the proximity of proposed car parking to their property to the south and the potential negative impact on the amenity of their front garden. Overall I agree with the applicant that the proposed dwelling has been designed to ensure that there will be no reduction in the residential amenity of adjacent dwellings, in terms of outlook, privacy or access to daylight and sunlight. Further the parking of cars in front of dwellings is consistent with the pattern and layout of adjoining residential properties. I therefore consider the provision of car parking to the front of this dwelling to be acceptable and that same will not detract from the residential amenity of the adjoining property to such an extent that would warrant a refusal of permission.

11.0 Construction Impact / Structural Integrity

11.1. There will inevitably be disruption during the course of construction, however such can be minimised to acceptable levels with appropriate standard working / construction procedures such as controlling construction hours, dust minimisation. I

am satisfied that this matter can be dealt with by way of a suitably worded condition requiring the submission of a construction management plan for agreement. With the attachment of such a condition I do not consider that the construction phase of the development would give rise to an unreasonable impact on neighbouring properties in this instance.

- 11.2. I also note the concerns raised with regard to the substantial excavation and infill works required to accommodate this dwelling house and the potential impact on the structural integrity of adjoining properties. Such concerns are an engineering issue and not a planning issue, whereby it falls to the developer to ensure that no damage or deterioration occurs to adjoining properties.

12.0 Other Issues

- 12.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development, within an established urban area, and its distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 12.2. **EIA Screening** – Having regard to the nature and scale of the proposed development comprising the construction of a three storey detached dwelling in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 12.3. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

12.4. **Submitted Plans & Details** – I note the concerns raised that the plans and sections submitted do reflect existing site considerations. Together with my site visit I am satisfied that there is adequate information available on the appeal file to consider the issues raised in the appeal and to determine this application.

12.5. **Surface Water** - I am satisfied that this matter can be dealt with by way of suitably worded condition whereby water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

13.0 **Recommendation**

13.1. It is recommended that permission be **granted** subject to conditions for the reasons and considerations set out below.

14.0 **Reasons and Considerations**

14.1. Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and its zoning for residential purposes, to the location of the site in an established residential area and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 **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. a) The Applicants shall ensure that the footpath in front of the proposed new vehicular entrance shall be dished and strengthened at the Developers own expense including any moving / adjustment of any water cocks /chamber covers and all to the satisfaction of the appropriate utility company and Planning Authority.
- b) All necessary measures shall be taken by the Developer and Contractor to avoid conflict between construction activities and vehicular/pedestrian movements on the adjoining road during construction works.

Reason: In the interest of public safety.

3. The external finishes of the proposed extension, including roof tiles/slates, shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity

4. Water supply and drainage arrangements, including the attenuation and 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.

5. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will 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 adjoining property in the vicinity.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

8. 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, as amended. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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

Mary Crowley

Senior Planning Inspector

12th September 2018