



An
Bord
Pleanála

Inspector's Report ABP-302570-18

Development	Construction of a single storey dwelling house.
Location	Lands East of Glenmalure on Kilmore Avenue, Killiney, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/0354
Applicant(s)	Eugene McCormick
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	1. Caroline Murphy 2. Mervyn and Jean McKeown
Observer(s)	None
Date of Site Inspection	25 th January 2019
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site with a stated area of 0.1298 hectares is located off Kilmore Avenue, Killiney, Co. Dublin. It is accessed from a private laneway serving one other dwelling. The site is c. 400m from Killiney Dart Station.
- 1.2. The site is located to the east of a dwelling currently under construction and a dwelling known as 'Glenmalure'. Glenmalure is the applicant's family home and is located within the blue line boundary. This site is within the existing rear garden of Glenmalure. There are a lot of mature trees within the southern part of the site. The site is located within the Killiney Architectural Conservation Area.

2.0 Proposed Development

- 2.1. Permission is sought to construct a 184.6m² single storey dwelling with velux rooflights, associated landscaping, car parking, site works, boundary treatments, access road and new entrance.

3.0 Planning Authority Decision

3.1. Decision

Permission granted by the PA subject to 10. No. conditions. Of note are the following conditions:

- Condition No. 2: The house shall be used as a single dwelling unit and shall not be sub-divided in any manner or used as two or more separate habitable units.
- Condition No. 4: All necessary measures shall be taken by the applicants and contractor to avoid conflict between construction activities and pedestrian movements on the private driveway/ laneway to the front of the proposed development during construction works.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

3.2.2. The Planner's report considered that having regard to the existing site conditions and the location of the site within approximately 300m of the Killiney Dart Station, the site was capable of accommodating small infill development.

3.2.3. Other Technical Reports

Transportation Planning - No objection subject to conditions.

Drainage Planning – First report required further information. Second report recommended permission subject to conditions.

Conservation Officer – Considered that the scale and design of the dwelling was appropriate for the context and recommended permission subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. Irish Water- No objection subject to conditions.

3.4. **Third Party Observations**

3.4.1. A total of 6 No. submissions were made. The issues raised are similar to those in the third party appeals submitted to the Board.

4.0 **Planning History**

D09A/0719/ ABP PL06D.236221

Permission granted by PA and refused by the Board on appeal for construction of single storey house with sewerage treatment unit. There was one reason only for refusal relating to public health.

PA15A/0379/ ABP PL06D.245758

Permission granted by PA and by ABP on appeal on adjacent site to the west for demolition of house and construction of house and outbuildings together with solar

photovoltaic panel on semi-detached garage roof of existing 31m² outbuildings and all associated site works.

5.0 Policy Context

5.1. Development Plan

Dun Laoghaire Rathdown Development Plan 2016-2022

The site is zoned 'A', with a stated objective 'to protect and/or improve residential amenity'.

The site is located within the Killiney Architectural Conservation Area (ACA).

The site is subject to residential policy O/O, where no increase in numbers of buildings will normally be allowed, apart from 'sensitive infill'.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Concern regarding disruption during construction. Laneway unsuitable for heavy traffic involved in building a new house.
- Impact on residential amenity - overlooking due to differences in height.
- Loss on privacy by removal of trees along the boundary.
- Contrary to O/O zoning and detract from the character of the ACA.
- Impact on Drainage.
- Impact on Traffic Safety.
- Concerns regarding removal of trees and hedgerow and access arrangements.
- Concern regarding densification of ACA and precedent the proposed development would set for further new dwellings in the area.

6.2. Applicant Response

The response submitted on behalf of the applicant can be summarised as follows:

- The issues in the two third party appeals are dealt with by the applicant in two separate responses.
- Cross section in the response indicates that there would not be overlooking due to the distance between the properties and the height differences.
- Trees and hedgerow on the eastern boundary will be retained.
- The subject proposal is sensitive infill that will not detract from the O/O Zoning or the ACA.
- Revised drainage layout is attached to appeal.

6.3. Planning Authority Response

- An Bord Pleanála is referred to the previous planner's report.
- It is considered that drainage can be adequately dealt with on site.

6.4. Observations

- None

6.5. Further Responses

- A response submitted on behalf of Mervyn and Jean McKeown fully supports the appeal by Ms. Caroline Murphy.
- The response submitted on behalf of Mervyn and Jean McKeown concedes that there is a right of way on the private laneway, however considers that the use of the laneway for construction traffic would represent an intensification of use.
- A further response submitted by Ms. Caroline Murphy considers that the character the ACA it is intended to preserve will be completely lost.
- The planning authority refer the Board to the previous planner's report.

7.0 Assessment

7.1. The main issues in the appeal are those raised in the grounds of appeal. The issues raised can be dealt with under the following headings:

- Impact on Architectural Conservation Area
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment
- Environmental Impact Assessment

7.2. Impact on Architectural Conservation Area

- 7.2.1. The site is located within the designed Architectural Conservation Area – Killiney ACA. The site is subject to residential policy O/O, where no increase in numbers of buildings will normally be allowed. Section 8.2.3.4 (viii) of the Plan sets out the policy for the O/O zoning. Small scale sensitive infill may be considered in these areas on suitable sites. Section 8.2.11.3 sets out in policy in relation to (i) New Development in an ACA.
- 7.2.2. A report on file from the Conservation Division considered that the design and scale of the dwelling was appropriate for the site and would not result in any adverse impact on the architectural character and appearance of the ACA. The planner's report agreed with the recommendations of the Conservation Division. I also note that there was a history application on the site under PL 06D.236221 where the same zoning applied. Permission was refused by the Board for one reason only relating to public health.
- 7.2.3. The design proposed is modest in scale (184.6m²) and overall height (7.4m), and external finishes include natural stone cladding, slates and smooth white render. Having regard to the nature and extent of the proposed development and also having regard to the retention of some of the trees on site and the pattern of

development in the area, I am satisfied the character of the ACA will not be adversely impacted upon by the proposed development.

7.2.4. Furthermore, I have reviewed the contents of the 'Killiney – Architectural Conservation Area' report which describes the main characteristics of Kilmore area as 'like everywhere else in this area, being narrow and winding with an adjacent woodland canopy through which there are glimpses of dwellings standing in large landscapes gardens.' In my view the proposed development, of modest scale and sensitive design, set on a large site behind the main house – Glenmalure – will not detract from the area.

7.2.5. Having regard to the foregoing, I am satisfied that the proposed development will not be adversely impact on the character and setting of the ACA in which it is located.

7.3. Impact on Residential Amenity

7.3.1. The main issue raised in relation to impact on residential amenity refers to potential overlooking from the proposed development to 'Thorncroft' which is located on the other side of the road from the site. Figure 1 in the appeal from the owners of 'Thorncroft' is useful in illustrating the context of the site.

7.3.2. I refer the Board to Drawing No. PL1.00 'Proposed Site Layout Plan' received by the Planning Authority on the 20th day of April 2018. The finished floor level of the proposed dwelling is indicated as 33m and the ridge height is indicated as 39.12m. The finished floor level of Thorncroft is indicated as 27.95m and the ridge height is indicated as 33.49m. I note that it is proposed to retain the existing hedgerow to the front of the dwelling. I consider that the cross section attached to the appeal response is accurate and together with the proposed retention of the eastern boundary, save for the site access, and the distance between both properties, illustrates that the residential amenities of 'Thorncroft' will not be negatively impacted on to an undue degree.

7.3.3. Whilst there may be a perception of overlooking due to the differences between the finished floor levels and ridge heights of both properties, I am satisfied that the overall design and setting of the proposed house has had adequate regard to the residential amenities of 'Thorncroft'. As such, I consider that the proposed development is acceptable.

7.4. Other Issues

7.4.1. Drainage

A revised layout is attached to the appeal response which indicates a soakway 5m from the proposed house and an ACO drain at the bottom of the garden to collect drainage water from the driveway. This surface water will be pumped the short distance to the soakway from a sump/pump to its immediate south. The applicant is proposing to infiltrate all run-off from the site in a soakpit sized to accommodate the entire hard standing areas on the site. In addition, I note that the driveway will be gravelled. I am satisfied that drainage can be adequately dealt with without impacting on neighbouring properties.

7.4.2. Access During Construction

Access to the site is located on a private laneway which is shared with one other property. There were court proceedings in 2005 where the Court Order confirmed the existence and continuance of the right-of way. The appellants consider that the use of the driveway for construction traffic, including the transport of building material, equipment and machinery would represent an undue intensification of the use of the right of way. 'Also there is no entitlement whatsoever, expressed or implied for vehicles having business on or related to the subject site to park on the appellants' private driveway.'

7.4.1. Section 5.13 of the 'Development Management' Guidelines for Planning Authorities, DoEHLG 2007 sets out guidance in relation to this matter as follows:

'The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development.'

7.4.2. As such, the Board has no role in this matter.

7.5. Appropriate Assessment

Having regard to the location of the subject site within an established and built up area, together with the nature and scale of the proposed development, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

7.6. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

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

9.0 Reasons and Considerations

- 9.1 Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, the pattern of development in the 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 visual amenities of the Architectural Conservation Area, and would not seriously injure the amenities of properties in the area. The proposed development would 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, as amended by further plans and particulars submitted to the Planning Authority on the 1st day of August 2018 and to An Bord Pleanála on the 19th day of October

2018 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, protection of the existing trees in the grass verges during the construction phase, protection of the existing water mains, and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

5. 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 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.

Emer Doyle
Planning Inspector

6 February 2019