



An
Bord
Pleanála

Inspector's Report ABP 302983 -18

Development

Variations to previous planning permission (D18B/0065) including removal of conservatory, enlargement of balcony and new terrace area, an open shelter in the garden and enlargement of front patio area.

Location

Killiney Hill House, Killiney Hill Road, Killiney, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D18A/0817.

Applicants

David Hawarth & Eileen Massey.

Type of Application

Permission.

Planning Authority Decision

Split Decision.

Type of Appeal

First Party.

Appellants

David Hawarth & Eileen Massey.

Observer

Richard Cahill.

Date of Site Inspection

16th January 2019.

Inspector

Dáire McDevitt.

1.0 Site Location and Description

- 1.1 Killiney Hill House is located on the eastern side of Killiney Hill Road, south of Killiney village. It is a large detached two storey over basement house, located to the east of and within what appears to have been the original curtilage of Hamp House, a Protected Structure (RPS No. 1766), also known as Kennamore House. The grounds of Hamp House were subdivided in the late 1990s when Killiney Hill House was constructed
- 1.2 The site is enclosed by mature boundaries, bounded to the south by the Deansgrange stream, to the west by Hamp House, Seafield Court bounds the site to the northeast, in particular No. 36 Seafield Court.

2.0 Proposed Development

- 2.1. The proposal comprises modifications to a previously permitted development granted permission under Planning Authority Reference No. D18B/0065 consisting of:
- Removal of the existing conservatory structure at ground floor level and the construction of a new single storey flat roofed extension (with roof terrace) over the existing conservatory plinth.
 - An open shelter/canopy in the east portion of the garden.
 - Alterations to existing external side stairs.
 - Alterations to the existing windows and door openings on the ground and first floor of all facades.
 - Enlargement of the existing balcony area to the front entrance at first floor level.
 - New roof lights to the side and front elevations.
 - Alterations to the roof to the side and over the bay window to the front with the addition of a Juliet balcony to the front façade at first floor level.
 - Enlargement of the front patio.

3.0 Planning Authority Decision

3.1. Decision

Split Decision:

Grant permission for the alterations to the existing window and door openings the ground floor and first floor facades, enlargement of the existing balcony area to the front entrance at first floor level, new roof light to the side and front elevations, alterations to the roof over the bay window to the front with the addition of a Juliet balcony to the front façade at first floor level, provision of an open shelter/canopy to the east garden, enlargement of the front patio area and alterations to the existing external stair.

Subject to **4** standard conditions.

Refuse permission for the removal of the existing conservatory structure at ground floor level and the provision of an additional area of 11.9sq.m for the following reason:

It is considered that the proposed family room extension, which would be located in an areas subject to high risk of flooding, would be premature pending the completion of the necessary flood relief scheme. The proposed family room extension would, therefore, be contrary to policy CC15 of the Dun Laoghaire Rathdown County Development Plan, 2016-2022, with respect to flood risk management and would, therefore by itself or by the precedent which the grant of permission for it would set and for other similar development, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports (18th October 2018)

The principle of the proposed extension in terms of design and impact on the residential amenities of the existing house or adjoining properties was

considered acceptable. The proposal would not have a detrimental impact on the character and setting of Hamp House, a protected structure.

The main issue raised is reflected in the reason for refusal for the cantilever style extension which is on foot of the recommendation by the Drainage Planning Section relating to potential flooding.

3.2.2. Other Technical Reports

Transportation Planning Section (12th October 2018). No objection subject to conditions.

Drainage Planning Section (17th October 2018).

The proposed development is located in Flood Zone A. Predicated flood depths across the site for the 10% AEP event range from 0.5m to >2.0m while predicted flood depths for the 1.0% AEP event range from 1.0m to >2.0m. The site is therefore at a significant flood depths also predicted, even for the lesser 10% AEP event. The publication of the Flood Risk Management Plan in itself does not alter the Council's flood risk policy at this location. Development, or even limited development, on this site could only be considered upon completion of the flood relief scheme which will provide protection from flooding up to and including the 1.0% AEP event.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The Planning Authority received two submissions from the adjoining property owners/occupiers (No. 35 and No. 36 Seafield Court). Points of note included:

- Overlooking and loss of privacy as a result of the additional window on the southern elevation and the raised external stairs.
- Devaluation of No. 35 and 36 Seafield Court.
- The proposal would undermine previous planning enforcement action.

- The proposed increase in the footprint of the conservatory and the open shelter/canopy in the garden would increase the risk of flooding.
- The location and use of the open shelter/canopy would detract from the residential amenities of adjoining properties (privacy and noise).
- A balcony should not be permitted to the eastern elevation.
- If permission is granted, conditions should be attached regarding construction hours.

4.0 Planning History

There is extensive planning history associated with the application site.

The most relevant application is:

P.A Planning Ref. No. D 18B/0065, this refers to a 2018 split decision.

Permission was **granted** for the demolition of the existing ground floor conservatory and basement storage to the front of the house, removal of the chimney to the side of the house, alterations to the existing windows and door openings on the ground and first floor levels, new roof lights to the sides of the house, alterations to the roof to the side and over the bay window to the front of the house, addition of Juliet balconies to the front façade at first floor and enlargement of the front patio.

Permission was **refused** for a two storey extension to the side, accommodating on the ground floor a garage with storage space, on the front floor a bedroom and games room with Juliet balconies to the front and side at first floor level and for the removal and replacement of the external stairs to the side. Reason for refusal:

The subject site, which is located within the catchment of the Deansgrange Stream and within Flood Zone A as identified on Flood Map 10 of Appendix 13 (Strategic Flood Risk Assessment) of the Dun Laoghaire Rathdown County Development Plan 2016-2022, is at risk of flooding. Section 5.3.5 of Appendix 13 of the County Development Plan states, with respect to the Deansgrange Stream, that development in

Flood Zones A and B, whether infill or extensions that increase the footprint of a building, is considered premature pending the findings of the Eastern Catchment Flood Risk Assessment and Management (CFRAM) study and recommendations for flood management measures. The proposed two storey extension, which would result in a substantial increase in the footprint of the existing dwelling, and the associated removal and replacement of external stairs to the side of the existing house, would therefore be contrary to the policy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the proper planning and sustainable development of the area.

P.A Planning Ref. No. D97A/0609 refers to the original grant of permission for Killiney Hill House, adjoining Hamp House, a protected structure.

P.A Planning Ref. No. D00A/0759 refers to a 2000 grant of permission for a gate lodge. (This permission was not implemented).

P.A Planning Ref. No. D02A/0188 refers to a 2002 grant of permission to separate and define the site of the permitted gate lodge under D00A/0759.

5.0 Policy & Context

5.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is located on lands zoned under Land Use Objective **A** – to protect and/or improve residential amenity.

Located within **Flood Zone A**

Built Heritage

Section 8.2.11.2 (iii) refers to development management standards for development within proximity to a Protected Structure and the requirement to protect its setting and amenity.

General Development Management Standards:

Section 8.2.3.4 refers to additional accommodation in built-up areas.

Section 8.2.3.4 (i) refers to extensions to dwellings. Such proposals shall be considered in relation to a range of criteria including having regard to length, height, proximity to boundaries and quantum of usable rear private open space remaining. The design, dimensions and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations.

Section 8.2.8.4 (i) sets out the private open space requirements for private houses.

Section 8.2.10.4 refers to Flood Risk Managements.

Section 8.2.10.4 (i) refers to applications for minor development in areas at risk of flooding. This includes *small extensions to houses. The sequential approach and justification test will not apply in these instances. However, an assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities. The design of built elements in these applications should demonstrate principles of flood resilient design (Refer also to Section 4 - Designing for Residual Flood Risk of the Technical appendices to the DoECLG Flooding Guidelines).*

The Planning Authority's reason for refusal refers to policy CC15:

Policy CC15 *It is Council policy to support, in cooperation with the OPW, the implementation of the EU Flood Risk Directive (2007/60/EC) on the assessment and management of flood risks, the Flood Risk Regulations (SI No 122 of 2010) and the Department of the Environment, Heritage and Local Government and the Office of Public Works Guidelines on 'The Planning System and Flood Risk Management, (2009)' and relevant outputs of the Eastern District Catchment and Flood Risk Assessment and Management Study (ECFRAMS Study).*

5.2 Guidelines

5.2.1 Architectural Heritage Protection Guidelines 2011 (DAHG)

These provide guidance on architectural heritage protection.

5.2.2 The Planning System and Flood Risk Management. Guidelines for Planning Authorities 2009 (OPW).

The site is located on lands identified as **Flood Zone A**

Section 2.23 Flood Zones.

***Flood Zone A** – where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5 % or 1 in 200 for coastal flooding).*

Section 5.28 Assessment of minor proposals in areas of flood risk

Applications for minor developments, such as small extensions to houses, and most changes to the use of existing buildings and, or extensions and additions to existing commercial; and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into the flood risk areas or entail the storage of hazardous substances.

5.3 Natural Heritage Designations

None of relevance in the immediate vicinity.

The nearest European site is Rockabill to Dalkey SAC (site code 003000) c. 2km east of the site.

5.4 Environmental Impact Assessment Screening

5.4.1 Having regard to the nature and scale the development which consists of alterations and additions to a permitted development, including the provision of a detached canopy/shelter in a built up suburban location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal seeks to address the Planning Authority's decision to refuse permission for the removal of the existing conservatory structure at ground floor level and the provision of an additional area of 11.9sq.m and can be summarised as follows:

- The site is located in Flood Zone A, however domestic extensions are open for consideration.
- The floor of the cantilever type extension would be c.2m above the ground level. Beneath the existing conservatory are two store rooms. Access to these stores would be blocked up and the 'footprint' of these rooms would be used to support a family room above it. As this would be cantilevered above the adjoining ground level there would be no change in the footprint of the dwelling.
- The nature of the development does not require flood measures.
- The Council refused permission on the grounds that the proposal would be premature pending the findings of the Eastern Catchment Flood Risk Assessment and Management (CFRAM) study. The study and recommendations have since been published by the OPW.
- The proposal is not contrary to Policy CC15.

- Contrary to the Drainage Section report, the proposed development is not dependent on the proposed measures of the Flood Risk Management Plan for the Deansgrange stream being implemented.
- A Flood Risk Report was prepared on foot of the Council's refusal and is included with the appeal. Points of note include:
 - The predicted water level is 7.03 and 6.70 for the 0.1% AEP Flood Extent (1 in 1000 years).
 - The predicted water level is 6.89 and 6.57 for the 1% AEP Flood Extent (1 in 100 years).
 - The finished floor level of the existing conservatory and proposed extension is 7.83.
 - The level of the existing house is above the worst 0.1% flood event and the replacement of the conservatory at the same level is not at risk of flooding.
 - The level of the existing banks of the Deansgrange stream within the application site vary from 6.90 to 6.13.
 - The level of the driveway varies from 6.53 to 5.24.
 - As the property is at an elevated level, it will avoid flooding from the 1 in 100 year events and similarly allow for climate change using the 1 in 1000 year levels.
 - No flood measures are required for the extension.
 - Emergency access may be limited during the worst 1.0% flood event but alternative access through adjoining property is possible.

6.2. Planning Authority Response

The Board is referred to the previous Planner's report and Departmental reports and the report of the Drainage Planning Section in particular.

It is considered 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.

6.3. Observations

An observation was received from Dr. Richard Cahill, 35 Seafield Court, Killiney, Co. Dublin. This is summarised as follows:

Flooding:

- The increase of 11.9sq.m to the conservatory footprint and the open shelter/canopy to the east of the garden should be refused permission as they reduce the soakage area within the site and increase the risk of flooding.
- The risk of flooding of Seafield Court has not been fully considered by the applicants.
- Flooding was used as a reason for the partial refusal of development under D18B/0065.

Residential Amenity:

- The proposed development would encroach on the privacy of the residents of No. 35.
- The location of the canopy/open shelter within the garden would result in people clustering beside the shared boundary, this is unacceptable and would be to the detriment of the observer's enjoyment of his garden.
- When the east wall of the existing house is remodelled or reconstructed it should not involve any reduction in the enjoyment of the private space of the adjoining properties. Any new window, door or balcony arrangement should respect this. There should be no balcony to the east wall of Killiney Hill House.
- No consultation with the adjoining properties owners prior to lodging the planning application.
- Concerns that the proposal would result in a noise nuisance.

6.4. Prescribed Bodies.

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

7.0 Assessment

The appeal seeks to address the Planning Authority's reasons for refusal. The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be considered.

The issues can be dealt with under the following headings:

- Flooding
- Other
- Appropriate Assessment.

7.1. Flooding

7.1.1. The Planning Authority refused permission for the removal of the existing conservatory structure at ground floor level and the provision of an additional area of 11.9sq.m on the grounds that the proposed family room extension, which would be located in an area subject to high risk of flooding, would be premature pending the completion of the necessary flood relief scheme.

7.1.2 The site is located within Flood Zone A. Section 5.28 of the Flood Risk Assessment Guidelines notes that applications for minor developments, such as small extensions to houses, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into the flood risk areas or entail the storage of hazardous substances. In this instance the proposal consists of a modest extension that will use a portion of the existing footprint (plinth) of the conservatory, to be demolished, that has ground floor storage accommodation below. This results in the proposed extension cantilevering at a height of c.2m above the ground

level. The floor area at ground floor level will not increase from the current footprint.

7.1.3 I have examined the Flood Risk report submitted with the grounds of appeal and reviewed the available information. In my opinion given the nature of the proposed extension, a cantilever style extension projecting over the existing storage rooms at a height of c. 2m above the ground level, would not be at risk of flooding. The level of the existing house is above the worst 0.1% flood event and the replacement of the conservatory at the same level is not at risk of flooding.

7.1.4 I, therefore, consider, that the appeal should not be upheld in relation to this issue.

7.2 Other

- 7.2.1 The Planning Authority issued a split decision and granted permission for the alterations to the existing window and door openings the ground floor and first floor facades, enlargement of the existing balcony area to the front entrance at first floor level, new roof light to the side and front elevations, alterations to the roof over the bay window to the front with the addition of a Juliet balcony to the front façade at first floor level, provision of an open shelter/canopy to the east garden, enlargement of the front patio area and alterations to the existing external stair. The Board should note that this element of the development is not the subject of the first party appeal regarding the decision to refuse permission for the removal of the existing conservatory structure at ground floor level and the provision of an additional area of 11.9sq.m.
- 7.2.2 The observer has raised concerns that the alterations permitted to Killiney Hill House would result in loss of privacy and overlooking of his property and that the canopy/shelter proposed to the eastern portion of the garden would detract from his residential amenity due to noise arising from people congregating at this location.
- 7.2.3 I am satisfied that overlooking of No. 35 Seafield Court from Killiney Hill House would not be an issue due to the topography of the area, existing boundary treatment and the orientation and relationship of the two properties to each other. There would be no negative impacts on the residential amenities of No. 35, located at a higher level, arising from the revised window arrangements and external staircase to Killiney Hill House.
- 7.2.4 The observer also raised concerns that the location of the proposed open shelter/canopy would have a negative impact on their amenities due to its location along the site's boundary which could result in people congregating at this location giving rise to excessive noise levels. This area at present is part of the rear garden of Killiney Hill House. The use of this area would not significantly increase the potential impact from noise from its current configuration or use.

7.2.5 Having regard to the character and pattern of development in the area I consider that the development is acceptable in the context of the amenities of adjoining properties. The overall design, scale and height of the proposed extension, revised elevations, windows, doors, balcony and stairs configurations has adequate regard to the existing pattern of development in the area and the residential amenities of existing dwellings, and, as such, would not result in overlooking or an unacceptable loss of privacy. The proposed developed would not detract from the residential amenities of nearby properties nor set an undesirable precedent for development in the area.

7.2.6 Killiney Hill House is not visible form Killiney Hill Road, it is screened by mature gardens and boundaries. Nor is it visible from Hamp House to the west. In my view the proposed alterations to Killiney Hill House would it would not detract from the character and setting of Hamp House, a Protected Structure.

8.0 Recommendation

Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, the location of the site in an established residential area and its zoning for residential purposes and to the nature and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be at risk of flooding, would not seriously injure the residential or visual amenities of the area. The proposed development would be in accordance with the proper planning and sustainable development of the area

9.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by plans and particulars received by the Planning Authority on the 24th day of August, 2018 and An Bord Pleanala on the 21st day of November, 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 The applicant shall comply with all conditions of the previous permission granted under Reg. Ref. D18B/0065 unless required to do so otherwise by any condition attached to this permission.

Reason: In the interest of clarity.

- 3 Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details and samples of the external finishes of the proposed dormer.

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.

Dáire McDevitt
Planning Inspector

31st January 2019