



An
Bord
Pleanála

Inspector's Report

ABP-303944-19

Development	Demolition of the existing single storey dwelling and replacement with 4 no. new two storey three bedroom dwellings.
Location	Killea, Barnhill Road, Dalkey, Co Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/1207
Applicant(s)	Ciaran Brady
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Joe O' Shea
Observer(s)	Jennifer Derham and others

Date of Site Inspection

20th June 2019

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site has an area of 0.11 ha and is located on the northern side of Barnhill Road, Dalkey, Co. Dublin. The site currently accommodates a detached bungalow of 83m². The rear garden is c.60m in length and backs onto the DART railway line.
- 1.2. Adjoining the site to the west is 'Roslyn' a single story detached dwelling and Nos. 30-33 Wolverton Glen. Adjoining the garden to the east is the 'Eamon Walsh Garage', a part single storey part two storey building which previously was in use as a commercial garage but is currently vacant.
- 1.3. Development in the vicinity is primarily residential in character. Low density single storey bungalows is the predominant type of development in the immediate vicinity of the site.

2.0 Proposed Development

The proposed development comprises:

- Demolition of existing single storey cottage.
- Construction of 4 No. residential units comprising of 4 No. semi-detached 3 bedroom dwellings with various sizes ranging from 130 square metres to 144 square metres.
- Shared car parking for 8 No. cars is proposed in the centre of the site.

3.0 Planning Authority Decision

- Permission granted subject to 23 No. conditions.
- Condition No. 7 required that the glazing on all first floor level windows to the elevations of all houses shall be manufactured opaque or frosted glass.
- Condition No. 12 required the applicant to submit a letter of consent from the utility company relocating the telegraph pole in order to accommodate the quired sightlines.

- Condition No. 18 required the applicant to comply with noise mitigation measures set out in Section 6 of the 'Railway Noise Assessment' and to comply with the arrangements set out in Appendix (i) of the Construction Management Plan.

3.1. **Planning Authority Reports**

3.1.1. Planning Reports

- The planner's report considered that the reasons for refusal under PA Ref. 18A/0404 had been overcome and that an increased density was appropriate for the site. It was considered that the proposed development would not unduly impact on the amenities of the area by reasons of overlooking, overshadowing or overbearing and would adhere to the provisions of the Development Plan.

3.1.2. Other Technical Reports

Transportation Planning: The report set out two options for either Further Information or Conditions if permission was contemplated. The issues raised related to relocation of a telegraph pole and the design of the proposed low level wall to the east of the vehicular access.

Drainage Planning: No objection.

3.2. **Prescribed Bodies**

Irish Water: No objection subject to conditions.

Iarnród Éireann: No objection subject to conditions.

3.3. **Third Party Observations**

Three No. observations were submitted to the Planning Authority. Issues raised are similar to those in the observation submitted to the appeal.

4.0 Planning History

On site

V/071/18

Certificate of Exemption (Part V) granted.

PA Ref. D16A/0020/ ABP PL06D.246684

Permission granted in May 2016 for a replacement dormer style dwelling to the front of the site and a 2 storey dwelling to the rear.

Appeal to ABP withdrawn.

PA Ref. D18A/0404

Permission refused by Planning Authority for the demolition of the existing single storey dwelling and replacement with 4 No. new dwellings.

On adjacent site to east- Eamon Walsh garage

PA D18A/0438/ ABP- 302196-18

Permission refused by Planning Authority and by the Board on appeal for demolition of existing commercial unit and construction of 7 No. dwellings and refurbishment and conversion of existing former forge building to provide 2 No. townhouses.

Reasons for refusal related to inadequate design response to sensitive infill site, impacts on residential amenity, and poor quality of public and private open space.

PA D17A/0751

- 4.1 Permission refused by Planning Authority for the demolition of an existing motor service/sales garage and the provision of an infill residential development comprising of the refurbishment of an existing terrace of 2 townhouses (including the retention of the old stone arch of a pre-existing forge) and the construction of a 1 bedroom apartment and terrace of 10 duplex residential units. The reasons for refusal related to the scale, height and layout of the development, that it would be overbearing and would impact negatively on the amenities of adjoining residential properties due to overlooking and overshadowing and that the provision of open space within the

proposed development is substandard in terms of the quantum and layout proposed and would fail to provide an adequate level of amenity value for future residents of the development.

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 subject site is zoned A: *“To protect and/or improve residential amenity.”*

Relevant policies and objectives include:

Section 8.2.3.4 (vii) Infill: *“New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”*

Section 2.1.3.4 Existing Housing Stock Densification: *“Encourage densification of the existing suburbs in order to help retain population levels - by ‘infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc. In older residential suburbs, infill will be encouraged while still protecting the character of these areas.”*

Policy RES 3: *It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development.*

Where a site is located within 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities of 50 units per hectare will be encouraged.

As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning objectives ‘GB’, ‘G’ and ‘B’) shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to greenfield sites of larger ‘A’ zoned areas.

Section 8.2.3.2 of the Plan set out quantitative standards for residential development.

Section 8.2.8.4 sets out standards for private open space.

5.2 Other Policy

Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)

5.2.1 The guidelines note the following key points regarding infill development:

“It is important to recognise the existing character, street patterns, streetscape and building lines of an area, particularly in the case of infill sites or where new dwellings will adjoin existing buildings.

In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.....The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities.”

5.2. Natural Heritage Designations

5.3.1 The nearest Natura 2000 site is the Dalkey Islands SPA located c. 1.2 km to the east.

5.4 EIA Screening

5.4.1 Having regard to nature of the development comprising a small infill residential scheme and the urban location of the site 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 grounds of appeal can be summarised as follows:

- The permission granted under PA Ref. 16A/0020 for two houses on the site is more suitable for the site.
- Excessive height, bulk, and scale of proposed development would result in overbearing impact on adjacent house.
- Proposed development would dominate views from rear rooms of adjoining property and result in significant diminution of residential amenity.
- Concerns in relation to parking area, traffic safety, loss of privacy, overlooking, deficient private open space and overshadowing.
- The proposed development does not comply with Section 8.2.3.4 (vi) in relation to standards for backland development.
- The design is out of character with existing development in the area.
- The proposed development constitutes overdevelopment of a constricted site.

6.2. Applicant Response

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

- The houses and in particular A1 and A2 have been carefully designed to reduce the impact on the appellant's dwelling.
- There is no overlooking as the design of the elevation facing the appellant's boundary has either windows that are set above eye level or, if lower, have obscure glass.
- The site is not a backland site and as such the policy for backland development is not applicable.
- It is considered that the gravel surface for car parking is appropriate.

- The shadow drawings submitted with the application demonstrate that the impact of overshadowing is minimal.
- The requirements of the Transport Section of the Council were agreed prior to the application being lodged.
- Each house complies with the Development Plan requirements for private open space.
- The site tests confirm that the site is highly porous and as such is suitable for soakways to deal with run off surface water.
- A timber fence 2.1m high with screen planting with multi stem Amelanchier or similar trees is proposed on the boundary between the site and the appellant's dwelling.
- It is considered that the design is appropriate for the location.

6.3. Planning Authority Response

- 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.

6.4. Observations

The observation submitted to the appeal can be summarised as follows:

- Concerns in relation to traffic safety.
- The 8 No. car parking spaces proposed are insufficient and could cause further congestion in the vicinity.
- Design is out of character with the area.
- Refurbishment of the existing house would be more appropriate and cause less impacts.

7.0 Assessment

7.1. The main issues are those raised in the appeal and observation and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Impact on Residential Amenity
- Private Open Space
- Access, Parking and Traffic
- Design and Visual Impact
- Other Matters
- Appropriate Assessment

7.2. Impact on Residential Amenity

7.2.1. The main concerns raised regarding impact on residential amenity relate to overlooking, overshadowing and overbearing impacts on the adjacent dwelling to the west of the site.

7.2.2. In relation to overlooking, I note that the two houses of most concern are A1 and A2 having regard to their proximity to the appellant's dwelling 'Roslyn'. The design of the first floor western elevation provides for 4 No. windows which overlook the site to the west. These windows serve bathrooms and landings. High level windows are proposed for the bathrooms c. 1.75m above eye level and obscure glazing is proposed in the landing windows. I note that Condition 7 of the Planning Authority requires obscure glazing for all first floor windows to the west for all houses. I am satisfied that the windows proposed at this location serve non-habitable rooms/ areas and concur with the planning authority that obscure glazing should be used at this location in the interests of residential amenity for Houses A1 and A2.

7.2.3. I note that Houses B1 and B2 have been carefully designed and having regard to the distance from adjoining houses, the lower finished floor level of this part of the site and the existing heavy planting in this area, I do not consider that overlooking would have a significant overlooking impact and obscure glazing is not necessary for the western windows of these two dwellings in my view..

- 7.2.4. In sum, subject to the inclusion of a condition in relation to obscure glazing for the non-habitable rooms in the western elevation of houses A1 and A2, I do not consider that the proposal would have an unduly significant overlooking impact.
- 7.2.5. In relation to overshadowing, I note that shadow plan drawings were submitted with the application. These drawings demonstrate that there is some minor overshadowing of 'Rosyln' and the adjoining properties at 9am in the morning but by 11am any overshadowing has dissipated as the sun direction swings to the south. I consider that whilst there is some impact, it is in early morning only. As such, I do not consider that the proposal would result in an excessive increase in overshadowing of adjoining properties from that currently experienced.
- 7.2.6. In relation to the concerns raised regarding overbearing impact, I consider that the design of Houses A1 and A2 have taken the context of the site into account and the first floor elevation provides for a greater separation distance than the ground floor. I also note that the A2 house drops down in level by 800mm to further reduce the impact on the rear garden of 'Rosyln'.
- 7.2.7. On balance, I consider that having regard to the setbacks from the boundaries, the ground levels, existing planting and the relationship of the proposed development with the existing built environment, the proposed development would not unduly impact on the residential amenities of adjacent properties.

7.3. Private Open space

- 7.3.1. Concerns are raised in the appeal having regard to the quality and quantum of private open space.
- 7.3.2. Section 8.2.8.4 of the Development Plan sets out a minimum requirement of 60m² for three bedroom dwellings.
- 7.3.3. The sizes of the private open spaces vary from 60m² to 96m² within the proposed development, thus all meeting the Development Plan requirement. The spaces are custom designed in line with the somewhat untypical layout and I am satisfied that the intended occupants of each dwelling will enjoy private open space of a high quality.
- 7.3.4. I concur with the planning report which considers that the private open space is acceptable and complies with the requirements of the County Development Plan.

7.4. Access, Parking and Traffic

- 7.4.1. Concerns are raised in both the observation and appeal in relation to traffic safety at this location. Barnhill Road is a busy road and there are a number of permitted and proposed developments in close proximity to the site.
- 7.4.2. The Planning Application includes a Traffic Safety Assessment which concludes that the traffic generated by the proposed 4 houses is likely to be very low in volume and will likely pass unnoticed locally. There is a current permission for a replacement dormer and an additional house on this site and the increase for two additional houses is likely to be negligible.
- 7.4.3. The applicant has demonstrated that adequate sightlines are available at the proposed access. The Traffic Department have no objection to the proposal subject to the inclusion of conditions regarding the design and height of the front boundary wall and the relocation of a telegraph pole at this location.
- 7.4.4. I note that the appellant raises concerns that 8 No. car parking spaces is insufficient for this development. The site is located within 1km of Dalkey Dart station and I am satisfied that the car parking provision is sufficient and complies with Section 8.2.3 of the County Development Plan.
- 7.4.5. I note that the appellant has raised concerns in relation to the location and gravel finish of the shared car parking area. Having regard to the scale of the development for a small residential scheme of 4 No. houses, I am satisfied that the area will be lightly used and I do not consider that there will be noise pollution or other negative impacts on adjoining properties.

7.5. Design and Visual Impact

- 7.5.1. Concerns are raised in the appeal and observation regarding the impact on the character of the area.
- 7.5.2. The proposed development provides for a modern, contemporary design at this location. The area is zoned as residential and there is a wide variety of designs on Barnhill Road. For the most part adjacent development comprises of low density suburban houses. The adjacent site to the east currently comprises of a disused garage but this site may be redeveloped in the future subject to planning permission.
- 7.5.3. I am of the view that the height, scale and design of the proposed development is of a high quality, is appropriate for the site and has had regard to adjacent properties in

the vicinity. I consider that the proposal would integrate well into the existing streetscape at this location.

7.6. Other Matters

Drainage

- 7.6.1. The appellant raises concerns in relation to the soakway design details and the site tests carried out in December 2015.
- 7.6.2. The site tests carried out in December 2015 indicated that the site is highly porous and as such is suitable for soakways. There is no information to indicate any change in site conditions in the interim. I note that the application was referred to the Drainage Department of the Council and no concerns have been raised. As such, I consider that the attachment of a condition requiring the details of drainage arrangements to comply with the requirements of the planning authority would be appropriate.

Backland development

- 7.6.3. The applicant considers that the development does not comply with the requirements for backland development specifically in relation to the height of single storey to avoid overlooking and a vehicular access of 3.7m.
- 7.6.4. In my view, the proposed development is not backland development but is rather a small infill development as it is proposed to demolish the existing dwelling at this location. In any case, I have already considered that the proposed design will not unduly negatively impact residential amenities by reason of overlooking. I note that the 3.5m access complies with Part B of the Building Regulations with regard to Fire Brigade Access and as such is acceptable.

Demolition of existing house

- 7.6.5. The observation submitted points out that many people in the area live in similar 1930's houses and considers that they are more than adequate for modern living with appropriate updating.
- 7.6.6. I agree with this and note that many of the existing houses in the area have been extended and updated and are very attractive. However, in this case, the developer

made the case in a previous application that the existing dwelling was poorly constructed and the layout restricted the development of the site. The development was considered to be an appropriate opportunity to increase the site density with 4 new low energy homes close to the town centre and within 1km of the Dart station in Dalkey.

- 7.6.7. As there is a current permission for the replacement of the existing house and one additional house, I consider that the principle of demolishing the existing house has been accepted on the site.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development, an infill site in a serviced 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.

8.0 Recommendation

- 8.1. I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In light of this and the assessment above, I recommend that permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity 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.

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. Details including samples of the materials, colours and textures of all the external finishes to the proposed units 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. The glazing on the first floor windows of the western elevation of houses A1 and A2 shall be of obscure glazing.

Reason: In the interest of residential 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. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the

provision of broadband infrastructure within the proposed development. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

6. Public lighting shall comply with the detailed standards of the planning authority, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

7. (a) Access arrangements shall comply with the detailed standards of the planning authority for such works.

(b) Prior to commencement of development, the applicant shall submit a letter of consent from the relevant utility company indicating that the required relocation of the telegraph pole is deemed acceptable in order to accommodate the required sightlines.

(c) Prior to commencement of development, the applicant shall consult with and ascertain the requirements of, and strictly adhere to the requirements of Iarnród Éireann.

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

8. (a) The construction of the development shall be managed in accordance with the Construction Management Plan submitted with the application.
- (b) Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0800 and 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.

- (c) All necessary measures shall be taken by the contactor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

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

- 9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

- 10. 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

23rd day of July 2019