



An  
Bord  
Pleanála

## Inspector's Report

**ABP-304005-19**

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<b>Development</b>	Construction of House
<b>Location</b>	Site A, Easterly Site, Dalkey Sound, Green Road, Dalkey, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0648
<b>Applicant(s)</b>	Karl & Julia O'Connell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Tiggy Hudson
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> June 2019
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.082ha is located within the gated residential development known as Dalkey Sound, which is located on the west side of Green Road, Dalkey. Dalkey Sound was originally part of the walled garden associated with Victoria House, a period dwelling to the north of Dalkey Sound. Green Road is a narrow unmarked residential road that connects Nerano Road to Colimore Road. The houses along this road are characterised by large detached two storey dwellings set on large plots.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

- 2.1. Permission was sought from DL RCC on the 4<sup>th</sup> July 2018 for the construction of a new two-storey 5 bed single unit dwelling (322.07 sqm) with south-east facing first floor balcony, together with landscaping and ancillary site works. The site is to be accessed via the existing access controlled gate that currently serves two other dwellings at Dalkey Sound. The application was accompanied by a Part V exemption application.
- 2.2. In response to a request for further information dated 27<sup>th</sup> August 2018 the applicant submitted the following on the 8<sup>th</sup> February 2019 as summarised:
  - The overall width of the dwelling was reduced by 1 meter as requested. The overall height has also been reduced to same as granted previously under Reg Ref D01A/1201 (28m).
  - The first floor balconies areas have been removed
  - The proposed boundary wall between Eden Rock and the proposed site (Site A) is to be 2 meter high stone all to match existing, sloping down to 1m at the inner gate pillars
  - Contiguous drawings
  - Given the nature of the site and the assumption that the general ground around areas are rock it was deemed more appropriate to undertake an alternative SuDS approach with a proposed rainwater harvest system. Drawing refers.

- Drainage details and proposed areas of permeable paving
- Revised public notices stating that significant further information had been submitted to DLRCC

2.3. It is further noted that a request to extend the period for submission of further information to 8th June 2019 was granted by DLRCC.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. DLRCC issued a notification of decision to grant planning permission subject to 10 generally standard conditions. Condition no 3 is of note as follows:

The roof area of the dwelling shall not be used as a balcony, roof (terrace) garden or similar amenity area

**Reason:** In the interests of residential amenity.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- **Case Planner** – In their first report recommended that further information be sought in relation to (1) revised proposals reducing the width and height of the dwelling, omitting the first floor balconies, boundary treatment with Eden Rock, elevations and site sections showing full extent of the adjoining property at Tarva and (2) SuDS proposals and revised drawings showing all hardstanding areas.
- **Case Planner** – In their second report and having considered the further information submitted recommended that permission be granted subject to 10 no conditions. The notification of decision to grant permission issued by DLRCC reflects this recommendation.

#### 3.2.2. Other Technical Reports

- **Drainage Planning** – Further information sought in relation to SuDS and hardstanding areas. Having considered the further information submitted had

no stated objection subject to conditions in relation to rainwater harvesting and hardstanding areas.

- **Transportation** – No objection.
- **Parks & Landscape** – No objection subject to conditions relating to implementation, design and maintenance.

### 3.3. Prescribed Bodies

- **Irish Water** – No objection

### 3.4. Third Party Observations

- 3.4.1. There are two observations recorded on the planning file from Robert Fowler Associates, on behalf of the Tiggy Hudson, Green Road, Dalkey (owner of Tarva; property immediately adjoining the site). The issues raised relate to site levels, overshadowing, increased horizontal pressure on the granite boundary wall between both sites, this granite wall was not built as a retaining wall, any soakage on this site would run into the Tarva property and inadequate revised drawings.

## 4.0 Planning History

- 4.1.1. There was a previous planning appeal on this appeal site for a similar large house that may be summarised as follows:

**ABP PL06D.129979 (Reg Ref D01A/1201)** – DLRCC granted permission for a dwelling house subject to 13 conditions. The decision was appealed by a third party. The Board granted permission subject to 9 conditions in 2002.

- 4.1.2. There was a recent planning application on the undeveloped site to the south west of the appeal site and within the compound of Dalkey Sound that may be summarised as follows:

**Reg Ref D18A/0649** – On the 13<sup>th</sup> June 2019 DLRCC issued a notification of decision to grant permission for the construction of a two storey four bedroom dwelling with an east facing first floor balcony and off street car parking to the front of the Dalkey Sound site referred to as Site B and to the south west of the appeal site subject to 13 no conditions.

4.1.3. No other history has been made available with the appeal file. I refer to the DLRCC Case Planners report that set out the following site history for Dalkey Sound that may be summarised as follows:

- **Reg Ref D99A/0599** - Outline planning permission was granted for three houses and a new access road off Green Road within the said walled garden. It is stated that two detached two storey houses were subsequently constructed to the rear of the site with access off Green Road by way of a gated entrance and a shared drive. These houses are known as “West House” and “Eden Rock” and were permitted under planning applications **Reg Ref D01A/0856** and **D01A/1200** respectively. It is stated that the *aforementioned developments have resulted in two residential sites, now being referred to as “Site A” and “Site B” being formed on either side of the shared access road and to the front of the overall development known as Dalkey Sound.* “Site A” is the subject of this appeal.

## 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*. Relevant policies are as follows:

**Policy RES3: Residential Density** - *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. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:*

- *‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009).*
- *‘Urban Design Manual - A Best Practice Guide’ (DoEHLG 2009).*
- *‘Quality Housing for Sustainable Communities’ (DoEHLG 2007).*

- *'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013).*
- *'National Climate Change Adaptation Framework - Building Resilience to Climate Change' (DoECLG, 2013).*

**Policy RES4: Existing Housing Stock and Densification** - *It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.*

## 5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. The Dalkey Islands SPA is c0.18km from the appeal site and the Rockabill to Dalkey Island SAC is c0.29km from the appeal site.

## 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development comprising the construction of a new dwelling house 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The third party appeal has been prepared and submitted by Robert Fowler Architect and Design Consultants on behalf of Tiggy Hudson, Tarva, Green Road, Dalkey (owner of Tarva; adjoining residential property to the east) and may be summarised as follows:
- Not against the proposed development in principle and supports the conditions imposed by DLRCC particularly the removal of the balcony.



- Main concern is the difference in the relative ground levels between the two properties. Noted that the in observation to DLRCC clarity was sought on the proposed finished ground level of Site A. No information in this regard was provided.
- The proposed development is located over the foundation of a previous incomplete development. The existing ground level was built up by approximately 1m to cover up the foundation and debris from the previous structure. Requested that the ground level be reduced to the original ground level.
- The result of the built up ground level is that it has put increased horizontal pressure on the granite boundary between Site A (Dalkey Sound) and Tarva. This wall was not built as a retaining wall and is not adequate to resist any increased horizontal pressure. The raised ground level is also increasing damp on the Tarva side of the wall.
- The proposed section drawing no 17-232a-PD005 and 008 incorrectly shows the difference in the ground levels of the two properties. The difference in level between Site A and Tarva is approx. 1.7m and not 0.2m as indicated in drawings submitted. Clear dimensions are required.
- The revised drawings submitted by way of further information do not show the full extent of the adjoining property, Tarva, as requested by the Planning Authority.

## 6.2. Applicant Response

6.2.1. The first party response to the third party appeal, submitted on the 16<sup>th</sup> April 2019, has been prepared and submitted by the applicant architect Noonan Moran Architecture and may be summarised as follows:

- Planning permission was granted for a similar development on the site in 2002. The building works commenced on site. However due to the economic downturn work ceased on this development. Covered foundations for this site are still present on site.

- The existing ground level on site is at 20.51m. It is proposed to lower this ground level with the construction of the proposed development to a ground level of 19.6m.
- The proposal to lower the ground level will help to reduce dampness on the Tarva side of the boundary wall.
- Amended sections submitted in response to the request for additional information show the true site conditions and the proposed change in ground level.
- In relation to the building line, the house was moved on request from the planners in response to the additional information.
- The response was accompanied by revised drawings and a copy of the original survey of the site undertaken in 2017.

### 6.3. Planning Authority Response

- 6.3.1. DLRCC refers to the previous Planners Report and states 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

- 6.4.1. There are no observations 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
- Plans & Particulars
- Residential Amenity
- Boundary Wall
- 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. With regard to density I refer to Policy RES3 and Policy RES4 of the Development Plan which promote more compact, good quality, higher density forms of residential development, the densification of existing built up areas and where the general minimum default density for new residential developments in the County shall be 35 units per hectare. This proposed dwelling forms part of Dalkey Sound; a small gated residential enclave. Whilst the proposed development would equate to a density of 12 units per hectare which is substantially less than the minimum 35 units per hectare I agree with the Case Planner that the development has largely been predetermined by the planning history pertaining to the site and the two large dwellings constructed on the site together with the constraints of the site including size and configuration, limited site frontage, existing shared access and pattern of development in the immediate area. Accordingly I am satisfied that the density proposed is acceptable in this particular case.

## 9.0 Plans & Particulars

- 9.1. I note the concern raised in the appeal with regard to the adequacy of the information available with the application and in particular site levels. I am satisfied that taken together with my site inspection that there is adequate information available on the file to consider the issues raised in the appeal and to determine this application.

## 10.0 Residential Amenity

- 10.1. This is a compact serviced urban site located between “Eden Rock” to the east and an adjoining residential property’s to the northwest known as “Tarva” (appellants property). “Tarva” comprises a two storey dwelling set back from the road with off-street car parking to the front and a private amenity space to the rear.

10.2. The amended design response to the sites restrictions demonstrate a clear understanding of the sites context while also maximising accommodation and providing quality well considered private open space to serve the new dwelling without compromising the amenity value of either the proposed dwelling or adjoining properties. While the proposed dwelling would give rise to some additional overshadowing impacts on Tarva and Eden Rock overall I agree with the Case Planner that the extent of additional overshadowing that would arise would not seriously injure the residential amenity of these properties. The contemporary design approach as amended and layout is therefore supported.

## 11.0 **Boundary Wall**

11.1. I note the concerns raised with regard to the boundary wall between the appeal site and Tarva and that this wall was not built as a retaining wall and is not adequate to resist any increased horizontal pressure. While much of the concern raised is 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, 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.

## 12.0 **Other Issues**

12.1. **Trees & Woodlands** – Map 4 of the County Development Plan indicates that trees and woodlands in the general area of the site are to be protected. As observed on day of site inspection there are no mature trees or woodlands within the Dalkey Sound development. It is noted that there are no objections from DLRCC Parks & Landscape Services in this regard.

12.2. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising a new detached dwelling 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.

12.3. **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.

### 13.0 Recommendation

It is recommended that permission be **GRANTED** for the reasons and considerations set out below.

### 14.0 Reasons and Considerations

Having regard to the site's location on serviced urban lands and the policy and objective provisions in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, 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 or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. 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 as amended by the further plans and particulars submitted on the 8<sup>th</sup> February 2019, 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 roof area of the dwelling shall not be used as a balcony, roof (terrace) garden or similar amenity area

**Reason:** In the interests of residential amenity.

3. Details of the materials, colours and textures of all the external finishes and boundary treatments 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. 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

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**Mary Crowley**

**Senior Planning Inspector**

**16<sup>th</sup> July 2019**