



An
Bord
Pleanála

Inspector's Report

ABP-304195-19

Development	Retention of sub-division of house into two residential units
Location	House #2 in the residential development known as Eagle House, Killiney Village, Killiney Hill Road, Killiney, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0039
Applicant(s)	Tony McDonnell
Type of Application	Permission for retention
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Tony McDonnell
Observer(s)	Phyl Stafford

Date of Site Inspection

20th June 2019

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. House No. 2, Eagle House is located in the centre of Killiney village off Killiney Hill in south County Dublin. The property is located on three floors together with a roof garden. Eagle House fronts onto the end of a lane which is accessed off Talbot Road and connects with a car parking area to the side of Druid's Chair, a public house on Killiney Hill Road.
- 1.2. Talbot Road is a narrow residential road lined with cottages with on street parking. There are two large detached houses at the end of the road in addition to a vehicular entrance to the rear of the Killiney Hill Plaza apartment development. The site is located within the Killiney Architectural Conservation Area.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of the sub division of House No. 2 Eagle House into 2 No. residential units.
 - The plans submitted for the ground floor apartment indicate a one bed studio apartment of 46m².
 - The plans for the upper floor and first floor indicate a two bedroom apartment with a total floor area of 109.25m².

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission refused for two reasons relating to substandard layout, inadequate levels of natural light, deficient open space, and non-provision of car parking space.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planning officer notes that a site inspection was carried out on the 4th day of March 2019 but it was only possible to gain access to the interior of the two bedroom apartment on the upper floors of the building. The layout of the aforementioned was largely as per the planning application drawings submitted save for the area beneath the stairs on the first floor which has been partitioned off and is in use as a bedroom with no window. It was

considered that it could be conditioned as a two bedroom apartment. The ground floor apartment was deficient in terms of the narrow L shaped configuration of the living room and the level of natural light that would be provided to the kitchen and the partitioned off bedroom. Furthermore, the quality of the private open space that has been provided for the ground floor units which is in effect a recessed entrance porch adjoining a public lane and having a depth no greater than 0.8 metres and an area of less than 4 square metres is considered to be seriously deficient in terms of the quality of the amenity provided.

- It was considered that the ground floor apartment to be retained would be by reason of its poor layout, inadequate levels of natural light and deficient quality and quantity of private open space, provide for an unacceptable standard of residential amenity for the occupants of the dwelling.

3.2.2. Other Technical Reports

Transportation Department: Recommends refusal due to the non-provision of off-street car parking provision.

Conservation Section: No objection.

Drainage Department: No objection.

3.3. Prescribed Bodies

3.3.1. No reports

3.4. Third Party Observations

- 3.4.1. One third party submission was submitted which is largely similar to the third party observation submitted to the appeal. An advertisement from daft is attached for the ground floor apartment advertised as a 2 bedroomed apartment for €1500 per month - date entered 20/11/18.

4.0 Planning History

- 5.0 A detailed planning history is set out in the planner's report. The most relevant history is as follows:

PA Ref. 5617/ ABP Ref. 06D.RL.3605

Planning Authority issued a declaration that the conversion of the garage to the side of the house for use as part of the house at House 2, Eagle House, Killiney was development and not exempted development. ABP issued a declaration that that the development was exempted development.

D16A/0746/ ABP Ref. PL06D.247831

Permission refused by both the Board and the Planning Authority for a studio apartment for a family member on the ground floor with subsequent alterations to the front and side elevations of House No. 2.

D14A/0256

Permission granted for the internal widening of a ground floor garage enclosure with subsequent alterations to the rear elevation and provision of a rear balcony to the residential development.

D13A/0504

Permission granted for the retention of a one bedroom apartment to be used as a family member flat on the ground floor of House No. 1.

ENF 32418

Enforcement file opened 15/11/18 with respect to subdivision of the premises thereby creating a separate apartment unit without the benefit of planning permission.

6.0 Policy Context

6.1. Development Plan

Dun Laoghaire Rathdown County Development Plan 2016-2022

- The site is zoned as Objective A- to protect and/or improve residential amenity.
- The site is within the boundary of the Killiney Architectural Conservation Area.

- Table 8.2.3 Residential Land Use Car Parking standards.
- Section 8.2.8.4 Private Open Space- Quality
- Section 8.2.3.5 Residential Development – General Requirements
- Policy RES3 relates to densification of existing housing stock.

6.2. Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities 2015

- These guidelines focus on the standards required for new apartment development.

6.3. Natural Heritage Designations

6.3.1. None relevant.

6.4. EIA Screening

6.4.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of the first party appeal can be summarised as follows:

- The subdivision of the apartment is in accordance with policy and contributes to maintaining a viable community in the area.
- The extant subdivision provides for a ground floor one bedroom apartment with a floor area of 46m².
- It is not beyond the bounds of possibility to reconfigure (by condition) the extant one bedroom apartment so that it is sufficient in terms of its

configuration. Indeed this may be achieved by reconfiguring (again by condition) the extant one bedroom apartment so that it becomes a studio apartment (by removing partitions and providing an open plan for the habitable accommodation).

- If the area of this studio apartment was to be reduced by 1m² (again by condition) it would still be compatible with the Development Plan standards in terms of floor area, but the private open space could be increased by 1m² making it compatible with the Development Plan standards.
- No external alteration has occurred to facilitate the sub-division.
- The extant subdivision has no impact on parking. The removal of the one off street parking space previously serving the subject property was found to be exempted in 06D.RL3605.
- In July 2018 the applicant sub-divided the original townhouse to provide a lower ground level studio apartment with its own independent access for his personal use when he intermittently visits Dublin on business and private matters. The two bedroom apartment is currently let.

7.2. Planning Authority Response

- The Board is referred to the planner's report. 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.

7.3. Observations

The observation submitted can be summarised as follows:

- The decision of the Planning Authority is welcomed.
- The application and appeal are misleading, inaccurate and contrary to the need for planning applications to be transparent and clear and therefore contrary to proper justice.

- The upper floors are divided into a three bedroom unit and the ground floor has two bedrooms.
- Both units are currently being sub-let.
- Whilst the referral under Bord Order PL3605 allowed for the garage to be incorporated into the townhouse, the declaration does not conclude anything in relation to the creation of a new door along this elevation.
- Vehicular access to the remaining one car parking space is via Talbot Road- there is no remaining car parking spaces to serve either of the proposed sub-divided units.
- The applicant stated that the gross floor area of the townhouse under the 2016 application was 149.5m². The applicant now claims the gross floor area of both units is 155.25m². This reflects the unauthorised front extension shown in the 2 photographs attached to the observation.
- The layout was inspected on behalf of the observer in later 2018 and is as per the drawing attached to the observation and as per an advertisement on the daft website.
- It is now subdivided into two bedrooms and a kitchen. Neither of the bedrooms have natural light and the kitchen is not in the location shown in the layout.
- The quality of the indicated 'terrace' has been reduced as a result of the unauthorised front extension of the unit and the removal of the railings so that the terrace is formed by a narrow 0.8m wide area that is immediately adjoining the public laneway and is less than 4m² in area.
- No car parking for ground floor apartment.
- No natural light or adequate amenity for proposed future occupiers.

8.0 Assessment

8.1. Having regard to the above and having inspected the site and reviewed all documents on file, the following is my assessment of the case. The main issues are as follows:

- Design and Impact on Residential Amenity

- Appropriate Assessment

8.2. Design and Impact on Residential Amenity

- 8.3. The main issue in this case relates to the design and quality of the development. The plans submitted provide for a one bedroom apartment and a two bedroom apartment. I noted on the site inspection that the apartments currently are two bedroom on the ground floor and three bedroom on the upper floors. There is an a third bedroom without any window under the stairs to the roof garden. This has been partitioned off from the stairs with its own door. I would have concerns regarding the loss of storage space in the apartment due to the bedroom in this location, together with concerns regarding the absence of any natural light or ventilation in a habitable room and the size of the room.
- 8.4. The ground floor apartment is also not designed in accordance with the drawings submitted. The observation submitted to the Planning Authority attaches a layout from the daft website which best matches the current layout. According to the advertisement, the ground floor apartment was available for renting as a two bedroom apartment for €1500 per month in November 2018.
- 8.5. On the site inspection carried out in June 2019, it was noted that there are two bedrooms with a bathroom between the two bedrooms in the ground floor apartment. The bathroom can be accessed from both sides and both bedrooms. Neither of the bedrooms have windows and one presently has bunk beds, whilst the other has a double bed. There are no storage facilities in the apartment and the washing machine is in the bathroom. The kitchen is located in the area indicated as a bedroom on the ground floor plan. There is a full length window at this location but it is blocked off with a sliding door and as such, when the sliding door is open, the kitchen does not get any natural light. The living area is not as indicated on the plans, rather it is a very small area directly inside the front door. A large part of the area indicated on the plans as living/ sitting room is now used as a bedroom with bunk beds and a small wardrobe. The sitting room is the only part of the apartment which benefits from adequate natural light, however, I would consider it to be poor quality space due to its limited size, just inside the main door which is accessed from a public lane and necessitates full length blinds for privacy, and the fact that two bedrooms and a living room are located directly off this space.
- 8.6. The planning officer in their assessment noted that it was not possible to gain access to the ground floor apartment. It was concluded that 'the ground floor apartment to

be retained would, by reason of its poor layout, inadequate levels of natural light and deficient quantity and quality of private open space, provide an unacceptable standard of residential amenity for the occupants of the dwelling and would, in itself and by the precedent it would set for other similar development, be contrary to the proper planning and sustainable development of the area.'

8.7. The 'Sustainable Urban Housing: Design Standards for New Apartments' – Guidelines for Planning Authorities set out guidelines for Apartment Design Standards. I note that the appeal sets out the following:

- 8.7.1. 'It is not beyond the bounds of possibility to reconfigure (by condition) the extant one bedroom apartment so that it is sufficient in terms of its configuration. Indeed this may be achieved by reconfiguring (again by condition) the extant one bedroom apartment so that it becomes a studio apartment (by removing partitions and providing an open plan for the habitable accommodation). If the area of this studio apartment was to be reduced by 1m² (again by condition) it would still be compatible with the Development Plan standards in terms of floor area, but the private open space could be increased by 1m² making is compatible with the Development Plan standards.'
- 8.7.2. I note that the guidelines advise planning authorities to facilitate the provision of studio apartments in certain specific developments, such as part of new 'build-to-let' managed accommodation above a certain scale threshold, i.e. 50 units or more and as such the standards set out for studio apartments are not relevant to this subdivision.
- 8.7.3. I note that when the apartment was originally granted, a garage provided one parking space. This garage has now been removed and incorporated into the house. Under 06D. RL.3605, the Board issued a declaration that the conversion of the garage to the side of the house for use as part of the house is development and is exempted development.
- 8.7.4. Talbot Road is a narrow street with very limited car parking. I concur with both the Planning Authority and the Transportation report that the non-provision of parking for the proposed subdivision would create the potential for illegal/ inappropriate car parking on roads in the area thereby affecting local amenity and endangering public safety by reason of traffic hazard or obstruction of road users and would set an undesirable precedent for similar development in the area.
- 8.7.5. In terms of private open space, I note that the only open space the ground floor apartment has is just outside the front door with no boundary wall between the public

lane at this location. It has an irregular shape and has a depth of no greater than 0.8 metres and an area less than 4m². I refer the Board to photograph No. 2. The Sustainable Urban Housing Guidelines require that where open space is provided at ground level, it should incorporate boundary treatment appropriate to ensure privacy and security. As such, I am not satisfied that the proposed open space is acceptable in terms of the residential amenity of either existing or future occupiers.

- 8.7.6. Having regard to the above, I consider that the subdivision of the apartment into two apartments at this location would result in overdevelopment of the site, would offer a substandard level of residential amenity for the intended occupants, would not comply with Policy RES 3 of the Dun Loaghaire Rathdown County Development Plan which requires that any new units are designed to the highest standards, or with the guidance set out in the Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities. Furthermore, the subdivision of an apartment would require an additional parking space and as such the development would not be compliant with the standards set out in Table 8.2.3 of the Development Plan.

8.8. Appropriate Assessment

- 8.8.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

9.0 Recommendation

- 9.1. I recommend that permission is refused as follows:

10.0 Reasons and Considerations

1. Having regard to the design and layout of the development proposed to be retained, it is considered that by reason of the poor layout, inadequate room sizes, inadequate levels of natural light, deficient quantity and quality of private open space would constitute a substandard form of development, would seriously injure the residential amenities of the area, would represent overdevelopment of the site, and would be contrary to the 'Sustainable Urban Housing: Design Standards for New

Apartment Guidelines for Planning Authorities, 2015 and Policy RES4 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The development proposed to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the subdivision of the apartment into two apartments would require an additional parking space in accordance with the standards set out in Table 8.2.3 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 which is not provided for. The development proposed to be retained would, therefore, by itself and by the precedent which a grant of permission would set for other similar development in the area, have an adverse impact on the residential amenity of adjoining properties and would endanger public safety by reason of traffic hazard or obstruction of road users. The development to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector
25th day of June 2019