



An
Bord
Pleanála

Inspector's Report ABP-304790-19

Development	Three-bedroom bungalow, new road entrance, proprietary wastewater treatment unit and all associated site works.
Location	Site to rear of 11 Rathmichael Road with access from Brides Glen Road, Shankill, Dublin 18.
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0243
Applicant(s)	Shay and Frances Kelly
Type of Application	Outline planning permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Shay and Frances Kelly
Observer(s)	None.
Date of Site Inspection	6 th September, 2019
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site occupies a position between Rathmichael Road (the R116 Regional Road) and Brides Glen Road, in a predominantly rural area of Shankill, Dublin 18, approximately 200m southwest of the M50 Motorway and 400m south of the Cherrywood Strategic Development Zone, with the Loughlinstown River located a short distance to the north on the opposite side of Brides Glen Road. The surrounding area is generally characterised by undulating rural countryside with intermittent instances of one-off housing and agricultural outbuildings, although there is a notable concentration of properties within the immediate site surrounds i.e. that area which comprises a triangular wedge of land extending eastwards from the junction of Brides Glen Road with Rathmichael Road c. 300m west of the site.
- 1.2. The site itself has a stated site area of 0.125 hectares, is generally rectangular in shape, and forms part of the rear garden area of No. 11 Rathmichael Road (a single-storey, semi-detached, cottage-style property accessed from Rathmichael Road). It presently comprises an expanse of lawn bounded by well-maintained hedging which falls gently in a northerly direction, although there is a significant drop in ground level between the site and the Brides Glen Road to the north with the result that the proposed dwelling house will occupy an elevated position relative to same. To the immediate west the adjacent lands are occupied by a single-storey bungalow accessed from Brides Glen Road whilst the plot of land to the east remains undeveloped.

2.0 Proposed Development

- 2.1. The proposed development consists of the subdivision of the property at No. 11 Rathmichael Road to accommodate the construction of a three-bedroom, dormer bungalow with a stated floor area of 186m², however, as the subject application is for outline permission only no detailed drawings of the proposed dwelling house have been provided.
- 2.2. Access to the site will be obtained via a new entrance arrangement onto Brides Glen Road to the immediate north. It is also proposed to install a proprietary wastewater treatment system which will discharge to a polishing filter whilst a water supply is available via connection to the public mains system.

2.3. On 20th March, 2019, the Planning Authority issued a Certificate of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development (Ref. No. V/035/18).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 4th June, 2019 the Planning Authority issued a notification of a decision to refuse outline planning permission for the proposed development for the following single reason:

- Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022, it is considered that the proposed vehicular entrance does not have adequate sightlines to allow safe entry and exit to and from the site, and therefore would endanger public and pedestrian safety by reason of being a traffic hazard and causing obstruction to other road users. Furthermore, allowing this permission would set an unwelcome precedent for similar schemes, contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Details the site context, planning history, and the applicable policy considerations before analysing the proposal and recommending that outline permission be refused for the reason stated.

3.2.2. *Other Technical Reports*

Municipal Services Dept. (Drainage Planning): No objection, subject to conditions.

Parks and Landscape Services: Recommends that a comprehensive 'Tree Report' (comprising a detailed Tree Survey and Arboricultural Impact Assessment, a Tree Constraints Plan, a Tree Protection Plan, and an Arboricultural Method Statement) be requested by way of further information. It also recommends the imposition of a series of conditions in the event of a grant of permission.

Transportation Planning: Recommends that the proposed development be refused permission for the following reasons:

- The endangerment of public safety due to the inadequate sightlines available.
- The precedent the proposal would set for further development that would adversely affect the use of Brides Glen Road by other road users.

3.3. Prescribed Bodies

3.3.1. *Irish Water:* No objection.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. On Site:

PA Ref. No. D06A/0099. Was refused on 23rd March, 2006 refusing Shay & Frances Kelly outline planning permission for a dwelling and proprietary treatment unit.

PA Ref. No. D06A/0870. Was refused on 16th August, 2006 refusing S. & F. Kelly outline planning permission for a dwelling and proprietary treatment unit.

PA Ref. No. D18A/0165. Was refused on 18th April, 2018 refusing Shay & Frances Kelly outline planning permission for a three-bedroom dormer bungalow, new road entrance, proprietary waste water treatment unit and all associated site works:

- Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that the proposed vehicular entrance does not have adequate sightlines to allow safe entry and exit to and from the site, and therefore would endanger public and pedestrian safety by reason of being a traffic hazard and causing obstruction to other road users. Furthermore, allowing this permission would set an unwelcome precedent for similar schemes, contrary to the proper planning and development of the area.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*’ note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. 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 the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

5.2. Development Plan

5.2.1. **Dún Laoghaire Rathdown County Development Plan, 2016-2022:**

Land Use Zoning:

The proposed development site is located in an area zoned as ‘A’ with the stated land use zoning objective ‘*To protect and / or improve residential amenity*’.

Other Relevant Sections / Policies:

Chapter 8: Principles of Development:

Section 8.2: Development Management:

Section 8.2.3: Residential Development:

Section 8.2.3.1: Quality Residential Design

Section 8.2.3.2: Quantitative Standards

Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas:

(vi) Backland Development

Backland residential development usually involves the establishment of a new single dwelling, and a building line to the rear of an existing line of houses. Residential development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such. Where the Planning Authority accepts the general principle of backland residential development to the rear of smaller, more confined sites within the existing built-up area, the following standards will apply:

- Generally be single storey in height to avoid overlooking.
- Adequate vehicular access of a lane width of 3.7m must be provided to the proposed dwelling (3.1m at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- A wider entrance may be required to a backland development to or from a narrow laneway.
- Existing dwelling and proposed dwellings shall have minimum individual private open spaces of 48 sq.m. each - exclusive of parking - for one/two bedroom units or 60 sq.m. plus for three/four or more bedroom units.
- Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- Proposed two storey backland dwellings shall be located not less than 22 metres from the rear façade of the existing dwelling where windows of habitable first floor rooms directly face each other. Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.

Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. Piecemeal backland development with multiple vehicular access points will not be encouraged.

(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.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

Section 8.2.3.5: *Residential Development – General Requirements*

Section 8.2.4.9: *Vehicular Entrances and Hardstanding Areas*

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 4.0km east-northeast of the site.
- The Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately 3.8km south of the site

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of some services, and the separation distance from the nearest sensitive 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 subdivision of the subject property will leave the existing dwelling house with a residual site area of 925m². The resulting amount of private open space will substantially exceed the minimum standards set out in the development plan and the residential density guidelines.
- The Board is requested to note that the subject application was lodged on the basis of feedback received during the course of pre-planning consultations with the Planning Authority.
- The applicants are amenable to complying with the requirements of the Environmental Health Officer and it is their intention to lodge a further planning application as regards the replacement of the septic tank system serving the existing dwelling house.
- Following the refusal of PA Ref. No. D18A/0165, the applicants commissioned a detailed survey of the relevant section of Brides Glen Road and re-designed the proposed entrance arrangements in order to address the concerns of the Planning Authority as regards the adequacy of the available sightlines. The new layout shown on Drg. No. 1733-OP-01 details a sight distance of 45m onto Brides Glen Road as measured from a point set back 2.4m from the near edge of the carriageway whilst the difference in level between the application site and the existing roadway is also clearly delineated on the submitted drawings.
- The works required to the applicants' embankment in order to achieve the necessary sightlines will also serve to improve the visibility from the adjoining entrance thereby providing for safer egress from same.
- Safe access to / from the application site is feasible and the detailed design of the site entrance will be subject to final approval as part of a future planning application.
- The submitted drawings clearly show that adequate sightlines from the proposed entrance are achievable. In this respect the Board is referred to the

accompanying report prepared by Waterman Moylan, Engineering Consultants, which details that it is possible to sight a marker pole from a position 45m to the east of proposed entrance.

- With regard to the suggestion that the proposed development would set an '*unwelcome precedent for similar schemes*', it is submitted that adequate sightlines are available and that there are already multiple examples of dwelling houses having been constructed along this section of road (i.e. PA Ref. Nos. D04A/0319, D04A/1196, D05A/1020, D05A/0178, D07A/1276 & D16A/0413). Moreover, even a cursory examination of the aforementioned planning files will reveal that they were not subjected to the same level of detail or scrutiny as the current application.
- The final level and siting of the proposed dwelling house will be subject to detailed design at the approval (permission consequent on a grant of outline permission) stage.
- The indicative site layout plan details that the site can accommodate parking for at least 2 No. cars.
- A water supply is available from the existing public watermain along Brides Glen Road.
- Whilst there is a hedge to the rear of the existing garden atop the steep bank, this is trimmed regularly and is devoid of native hedgerow planting such as briars or hawthorn. It is not a native hedgerow and is unlikely to be of significance as regards habitat / wildlife considerations. However, the applicants are amenable to providing an ecological survey, if so required, although it is suggested that this would be a matter best addressed at approval stage when any prevention / amelioration measures could be specified.

6.2. Planning Authority Response

- The Board is referred to the Planner's Report on file and it is further submitted 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**

None.

6.4. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Traffic implications
- Appropriate assessment

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

7.2.1. With regard to the overall principle of the proposed development, whilst the immediate site surrounds are somewhat peripheral / rural in character and the prevailing pattern of development is generally dominated by one-off dwelling houses, the subject site is located in an area zoned as 'A' in the Dún Laoghaire Rathdown County Development Plan, 2016-2022 with the stated land use zoning objective '*To protect and-or improve residential amenity*' where 'residential' development is 'permitted in principle' in accordance with Table 8.3.2 of that Plan. It is of further relevance to note that the subject site forms part of the rear garden area of an existing dwelling house and that the plot of the adjacent property at No. 12 Rathmichael Road to the immediate west would appear to have been subdivided on two different occasions to allow for the construction of 2 No. additional dwelling houses.

- 7.2.2. Accordingly, the proposed development site could perhaps be considered to comprise a potential backland / infill site situated within an established residential area where certain services are available (i.e. a public watermain) and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties.
- 7.2.3. Therefore, in light of the foregoing, including the land use zoning and the established use of the site for residential purposes, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

7.3. **Traffic Implications:**

- 7.3.1. The proposed development involves the opening of a new vehicular entrance onto a section of the Brides Glen Road to the immediate north of the application site which is characteristic of the site location within a somewhat rural area. The roadway itself is subject to a speed limit of 50kph and is defined by a continuous white centreline (thereby precluding overtaking) with an absence of any pedestrian footpaths or street lighting. Although the horizontal alignment of the public road is reasonable within the immediate vicinity of the proposed entrance, there is a notable fall in the carriageway on travelling eastwards past the site with a significant drop in ground level apparent between the site proper and the roadway.
- 7.3.2. The key issue in the assessment of the proposed access arrangements pertains to the availability of adequate sightlines from the new entrance onto the public road. In this regard, both the applicants and the Planning Authority are of the opinion that the proposed entrance will be sited along a section of 'urban road' (seemingly on the basis that the adjacent lands in the Rathmichael Road side are zoned for residential development) and thus it is appropriate to assess the proposal in accordance with the provisions of Section 4.4.5: '*Visibility Splays*' of the '*Design Manual for Urban Roads and Streets*'. More specifically, it has been asserted that sightlines of 45m (measured from a point set back 2.4m from the near edge of the carriageway) are required in both directions for vehicles exiting the new access onto a roadway with a

speed limit of 50kph pursuant to Table 4.2 of DMURS. However, there is a divergence in opinion as to whether it is actually possible to achieve the aforementioned sight distances.

- 7.3.3. There is an approximate change in level of 2.5m between the application site proper and the public road at the location of the proposed entrance and this difference becomes more pronounced on travelling eastwards past the site. This change in level is evidenced by the steep embankment present between the existing line of hedging to the rear of the site and the edge of the carriageway. Given the gradient of the embankment alongside the site frontage and that of the adjacent lands further east, in addition to vegetative growth within these areas, the Planning Authority (on the basis of a report prepared by the Transportation Planning Dept.) has determined that it is not possible to achieve the sight distances required by DMURS and thus the proposed development would endanger public safety by reason of traffic hazard and the obstruction of road users. It further held that the proposed access arrangements would set an undesirable precedent for further development which would adversely affect the use of Brides Glen Road by other road users.
- 7.3.4. Having reviewed the available information, and following a site inspection, at the outset I would suggest that the 45m sightlines referenced in DMURS should in this instance be considered a minimum requirement given the absence of any pedestrian footpaths and street lighting along this section of road in addition to the traffic speeds observed during my site visit. Moreover, it is clear from the submitted drawings that in order to achieve adequate sight distance for traffic exiting the proposed entrance onto the public road it will be necessary to ensure that the visibility splay remains free from any obstruction. In this regard, I would have concerns that given the absence of any notable verge alongside the carriageway, the applicants are effectively relying on that section of the roadside boundary / embankment sited beyond the confines of their property being maintained free from obstruction, with particular reference to that to the east of the site and the need for oncoming west-bound traffic to be clearly visible. No details have been submitted of any agreement or assurance from the neighbouring landowners (to both the east and west) that they are amenable to maintaining their roadside boundaries to such an extent as to ensure the availability of adequate sightlines from the proposed entrance.

7.3.5. Therefore, having regard to the level difference between the roadway and adjacent lands, the extent of the steep embankment alongside the public road, and the reliance on works on lands outside of the applicants control and for which no consent / agreement has been provided, I am not satisfied that it has been demonstrated that the applicants are in a position to achieve adequate sight distance from the proposed entrance. Accordingly, I would concur with the decision of the Planning Authority that the proposed development would serve to endanger public safety by reason of traffic hazard.

7.4. **Appropriate Assessment:**

7.4.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 **Recommendation**

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that outline permission be refused for the proposed development for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

1. The Board is not satisfied, on the basis of the documentation provided with the planning application and appeal, that the proposed development would not endanger public safety by reason of traffic hazard and the obstruction of road users because of the additional traffic turning movements the development would generate on a road at a point where sightlines are severely restricted. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

18th September, 2019

