



An
Bord
Pleanála

Inspector's Report ABP-306919-20

Development	Construction of new dwelling.
Location	'Clanaber', Torca Road, Dalkey, Co. Dublin. A96 XV77
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0749
Applicant(s)	Barry & Louise Bowden
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Observers	David & Kate Woolfson – submitted by Hughes Planning & Development Consultants Mr & Mrs Sibley Andrew & Erica Algeo – submitted by Armstrong Planning

Date of Site Inspection

29th July 2020

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. 'Clanaber' comprises of a detached single-storey house located on the northern side of a short cul-de-sac off Torca Road, Dalkey, Co. Dublin. The house, with a stated area of 83 sq m, is relatively small in comparison to other houses in the immediate area, whereas the site area is large at 0.1332 hectares. Due to the sloping nature of the site (sloping upwards on a south east to north west axis) the house is built into the slope such that the front/ south east elevation is elevated such that it gives the impression of a two-storey house on this side. The additional space under the house provides for a basement storage area, which is not habitable. Access to the house is by way of steps on the south western side. Extensive mature hedgerows screen much of the house from public view.
- 1.2. The site is in an area that is characterised by a mix of housing types, though predominantly in the form of detached units on generous sites. Due to redevelopment of sites over the years, the mix of units consists of contemporary and more traditional housing designs. The section of road on which the house is located is described as a private road in the public notices.
- 1.3. The site is circa 780 m to the south of Dalkey Village and is a similar distance to Dalkey DART station.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - The demolition of the existing house with a stated floor area of 83 sq m and an outhouse with a stated floor area of 9.5 sq m. The house includes a non-habitable basement storage area of 50 sq m.
 - The construction of a new two storey above ground floor detached house. The floor area is stated at 572 sq m.
 - The repositioning and widening of a vehicular entrance.
 - The construction of new boundary walls including along the public road side.
 - Site landscaping, drainage works and all associated works.

- 2.2. The proposed house to be of a contemporary architectural style with flat roofing rather than pitched roofing. External finishes to consist of natural stone cladding and extensive amounts of glazing in the elevations.
- 2.3. Further information received by the Planning Authority on the 28th of January 2020, did not result in any revisions to the elevations or floor plans.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for a single reason as follows:

‘The proposed development, by virtue its scale, siting and fenestration arrangement, would adversely impacts on the amenities of existing adjacent properties by reason of overlooking and overbearing appearance. The projected development would not accord with the provisions of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022, including Section 8.2.3.4(vii) regarding infill development, and would be contrary to the Objective ‘A’ zoning of the site which seeks to protect and/or improve residential amenity. The proposed development would seriously injure the residential amenity of the area and would, therefore, be contrary to the proper planning and sustainable development of the area’.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report reflects the decision to refuse permission for the proposed development. The Planning Authority Case Officer noted the planning history on this site and the applicant was requested to address issues of concern by way of a further information request in relation to the bulk of the proposed development and potential negative impact on adjoining properties. A site-specific Construction and Environmental Management Plan (CEMP) was also sought in the further information request. The submitted response in relation to bulk and impact on adjoining properties was not sufficient to address the issues of concern and a refusal of permission was recommended.

3.2.2. Other Technical Reports

Waste Section: No written report on file, reference is made to a verbal report made following the receipt of the further information response.

Drainage Planning – Municipal Services Department: No objection subject to recommended conditions.

Transportation Planning: No objection subject to recommended conditions.

3.2.3. Prescribed Bodies

None

3.2.4. Objections

A total of five, third party, submissions were received objecting to this development. Issues of planning concern included:

- The proposed development does not address the reasons for refusal issued for the previous applications on this site. The development is virtually the same as that refused.
- The proposed development will be overbearing on adjoining residential units.
- The proposed development will exceed the height and massing of existing houses in the area.
- Existing houses are designed to follow the slope of the hill thereby maximising views of Dublin Bay whilst ensuring that the impact on the natural landscape is reduced.
- The proposed house will be out of character with the existing design of houses in the area.
- The height of the proposed house is out of character with the existing form of houses in the area and may give rise to overlooking leading to a loss of privacy and overshadowing leading to a loss of daylight.
- Loss of views of the sea.
- Impact on traffic in the area – potential for traffic congestion.
- There is a need for a Construction Management Plan (CMP) – particular reference is made to the removal of rock especially granite.

- The proposed house will impact on the solar gain currently achieved by existing houses in the immediate area.
- Contrary to the residential zoning that applies to this area.
- The removal of the existing hedgerow and replacement with a wall would be out of character with the existing form of boundary treatment in the area.
- Concern about impact on existing drainage in the area which the applicant may not have consent to interfere with.
- The proposed development would result in overlooking of a public footpath; this does not occur elsewhere on Killiney Hill.
- Other redeveloped sites/ houses have had full regard to the character of the area and ensure that views of the sea are maintained.
- Potential for impacts to Natura 2000 sites – refers to the removal of rock in particular as a matter of concern.

4.0 Planning History

Subject site:

P.A. Ref. D18A/1220 refers to a February 2019 decision to refuse permission for the demolition of the existing house (Clanaber) and construction of a new detached, two/ part three storey house, new boundary and landscaping and revised entrance. Two reasons for refusal were issued and in summary were:

1. The proposed house due to its size, scale, height and bulk, in addition to proximity to the boundaries, would be out of character with the area and would result in overdevelopment of a sensitive, elevated site.
2. The proposed house due to its design, height and proximity to boundaries would give rise to overlooking of adjoining properties and would be overbearing.

Adjacent/ Relevant Sites:

West of the site – ‘Déja Vu’

P.A. Ref. D18A/0662 refers to a September 2018 decision to grant permission for revisions to the development approved under D18A/0071, to include the glazing (from opaque to clear) in the east elevation, first floor bedroom 2 and to retain two windows in the eastern elevation, first floor rather than replace with one new window and to enlarge an existing first floor window in the south-west/ front elevation. Also to carry out works to the front boundary including a stone wall and a timber gate with stone piers.

P.A. Ref. D18A/0071 refers to an April 2018 decision to grant permission for a 78.5 sq m extension to the existing two-storey house and to replace part of the roof with a new roof profile and alterations to the existing elevation.

East of the site – Torca Garth

P.A. Ref. D13A/0555 refers to a December 2013 decision to grant permission for the renovation of the existing two-storey house. This includes a 41.4 sq m extension to the kitchen/ family room, a 10.1 sq m extension to the ground floor master bedroom, an 8.8 sq m extension to the first floor to provide for a shower room and stairs and the replacement/ remodelling of the walls, roofs, windows, chimney and roof lights. Remodelling of the driveway, new glasshouse and revisions to the landscaping etc.

The Planning Authority Case Office has referred to alterations to 'IO' located to the west of the subject site and 'Lohengrin' to the east; these units were also extensively extended. They do not adjoin the subject site but are noted as examples of similar development in the area.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A 'To protect and/or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.

- 5.1.2. A 'Public Right of Way' is indicated to the south of the roadway serving this site. The road serving this house is described as a private road and the right of way allows for a connection between Torca Road to Dalkey Hill.
- 5.1.3. There are objectives to protect view from Torca Road southwest towards the sea. I note that the site is located adjacent to/ outside the 'Vico Road Architectural Conservation Area'.
- 5.1.4. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development' and the following are relevant to the subject development:
- 8.2 'Development Management' – with particular reference to section 8.2.3 'Residential Development' and 8.2.3.4 'Additional Accommodation in Existing Built up Areas'.

5.2. Natural Heritage Designations

- 5.2.1. Dalkey Coastal Zone and Killiney Hill proposed Natural Heritage Area (pNHA) is located to the south of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The applicant has engaged the services of Future Analytics, to appeal the decision of the Planning Authority to refuse permission for this development.

Issues raised in the appeal include:

- The proposed development is appropriate in this location in terms of scale, expanded footprint and ensures consistency with the existing front and south-east building lines of the existing house on site.
- Overlooking and overbearing of existing adjacent houses will not arise.
- The proposed development is in accordance with the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 in terms of compliance with the 'A'

residential zoning of the site and compliance with relevant objectives contained within the plan.

- The proposed house is consistent with existing houses in the immediate area. The design is of a suitable contemporary form.
- Suggests that the Board may consider protecting the boundary with 'Torca Garth' to ensure the protection of their amenity.
- The Board may consider a reduced footprint of the ground floor and details have been provided.
- The scale of development has been significantly reduced from the previous application on site.

6.2. Observations

- 6.2.1. Observations have been received from Hughes Planning & Development Consultants on behalf of David & Kate Woolfson of 'IO House', Armstrong Planning on behalf of Andrew & Erica Algeo of 'Torca Garth' and Mr & Mrs Sibley of 'Déjà Vu', both of Torca Road.

The following issues, in summary, were raised:

- Do not consider that the proposed alterations/ use of conditions will address the concerns previously expressed and request that the development be refused permission.
- The revisions to the development from that refused under P.A. Ref. D18A/1220 are not significant and do not address the issues of concern.
- The proposed house is much larger and higher than the existing units in the immediate area.
- The development would have a negative impact on the visual amenity of the area, the massing is excessive and would have a negative impact on residential amenity through overlooking and overbearing.
- Concern about the impact on drainage and potential for subsidence due to the method of construction.

- The development does not contribute positively to the character of the area and would impact negatively on views and residential amenity. Reference is made to protected views in the area.
- The layout would impact negatively on building lines in the area.
- Potential for traffic congestion during the construction phase of development.
- Potential loss of daylight to existing houses on adjacent sites.
- Reference is made to non-compliance with a number of Ministerial Guidelines.

6.3. **Planning Authority Response**

6.3.1. None.

7.0 **Assessment**

7.1. The main issues that arise for assessment in relation to the appeal can be addressed under the following headings:

- Principle of Development
- Design/ Impact on the Character of the Area
- Residential Amenity
- Other Issues
- Appropriate Assessment Screening

7.2. **Principle of Development**

7.2.1. The site is zoned 'A' and the development of a house is therefore acceptable in terms of the zoning objective that applies. There is an existing house on site that is proposed for demolition and therefore the subject development will see the like for like replacement.

7.2.2. The existing house on site 'Clanaber', is not listed on the Record of Protected Structures and I note that the Planning Authority Case Officer had no objection to the demolition of this house and its replacement. Supporting documentation from 'ONCE Civil & Structural Limited' indicate that the house is in poor structural

condition and damp was entering the structure. From the site visit, it was apparent that the house is heavily screened by vegetation from view and does not have a significant visual presence. Therefore, I have no objection to the demolition of this house.

7.3. Design, Impact on the Character of the Area

- 7.3.1. I note the reason for refusal as issued by the Planning Authority and primarily this refers to the impact on the existing residential amenity of the area. The issue of visual impact has been raised in the observations as has the massing/ height and scale of the proposed house.
- 7.3.2. The existing house at 83 sqm is a relatively small unit on a site of 0.133 hectares. Separation distances between the house and its boundaries are therefore generous and similarly private amenity space is generously provided for. I note that the Cassini 6 inch maps indicate that there was a structure that matches the general outline of this house when the map was drafted (circa 1940s). It is therefore likely that this house predates the adjoining units. The houses to the east/ west and north are contemporary units/ significantly rebuilt relatively modern houses.
- 7.3.3. The proposed house at 572 sq m is a very large unit, seven times larger than the existing house. The existing house provides for two double sized bedrooms, the subject unit proposes four bedrooms which are significantly larger than the minimum required floor area for a double bedroom. The Master Bedroom with its associated walk-in wardrobe and en-suite has a total floor area of 72.5 sq m. As can be expected in relation to the proposed floor area, there are a significant number of rooms, in addition to the bedrooms, throughout the unit and which are of a generous size.
- 7.3.4. The proposed house is of a contemporary design and I consider that it is of an appropriate design and which has regard to the sloping nature of the site. The proposed elevational treatment consisting of natural stone cladding and extensive glazed areas is acceptable in this location. In the event that permission were to be granted, a condition could be attached that the details of the material finishes be agreed with the Planning Authority.
- 7.3.5. I note the issues raised in the observations in relation to visual impact, impact on protected views etc. From the site visit, it was apparent that the existing house on

site is small in comparison to adjoining houses and the site area is relatively large also in comparison to adjoining site. I do not foresee that the proposed house, though large, will impact on any protected views which are towards the sea. The proposed house when viewed from Torca Road will not be distinctive as the stepped nature of the design and the slope of the hill will mask much of its visual impact. I do not accept that the redevelopment of this site will impact negatively on the visual amenity of those using the right of way to the south. The existing house does not appear to have been extended over time and as such it is unusual in that it is a modest house on a large site. Any redevelopment is likely to provide for a significant increase in floor area and bulk. I consider that the subject site can take a new house even of the size proposed.

- 7.3.6. I note the concerns regarding the loss of hedgerow and reference to objectives in the development plan. These points are noted but the hedgerow like any boundary in this area is not protected. However, I do consider it worthwhile to retain the hedgerow along the roadside edge as it will ensure the protection of the character of the area. The vehicle entrance and pillars are acceptable, and it should be possible to integrate these with the hedgerow.

7.4. Residential Amenity

- 7.4.1. The proposed house will clearly provide for a high standard of residential amenity for those occupying the unit. Room sizes exceed minimum standards and extensive areas of private amenity space are available. Off-street car parking is provided for and includes a garage.
- 7.4.2. I note the comments raised in the observations and the report of the Planning Authority in relation to impact on residential amenity. Much comment is made in relation to issues of overshadowing leading to a loss of light, overlooking leading to a loss of privacy and overbearing. Other than the size of the house, the primary difficulty is the slope of the site as the proposed house will ensure that more than adequate separation distances to boundaries are provided. The separation on the south east side is a minimum of 3 m between the structure and the boundary and is 1.7 m at the nearest point to the northern boundary.
- 7.4.3. The proposal is not for an infill development but for the demolition of an existing house and the construction of a new house, all within the existing boundaries of this

site. It is important to stress this as the 'Proposed Site Layout Plan' (Drawing no. PL-01) clearly demonstrates the separation distances to the adjoining boundaries but also indicates that the adjacent houses are not provided with a similar level of separation. Torca Garth, the unit to the east abuts the boundary and Déjà Vu to the north west is less than 2 m from the boundary in some locations. I am satisfied that the separation distances are acceptable.

- 7.4.4. Regarding loss of daylight, I am satisfied that the proposed house will not have a significant impact. The photographs submitted with the application, indicate that 'Torca Garth' is lower than the existing boundary hedge and I note from aerial images that the private amenity space of this house is to the south eastern corner of their site, any loss of sunlight is likely to be minimal as the house itself would cast the primary shadow on this garden space. I do not foresee any significant loss of daylight/ sunlight to Déjà Vu or IO House to the west.
- 7.4.5. Overlooking leading to a loss of privacy was included in the reason for refusal. I consider this to be overstated for similar reasons that I have outlined in relation to loss of daylight. I do not foresee that the private amenity area of Torca Garth will be adversely impacted upon as although the proposed house will be higher than Torca Garth, the separation distances, boundary treatment and positioning of the car parking area and Torca Garth itself, will prevent overlooking. The proposed first floor – Master bedroom level, will be set back circa 11m from the boundary and the nearest point between the outdoor terrace and boundary will be circa 9.5 m. I do not foresee a significantly increased amount of overlooking from the proposed house than is the case at present. The photographs submitted in support of the further information request demonstrate this. I suggest that if permission is to be granted that the terrace serving the master bedroom be at least 10 m from the boundary it faces and that a suitable screen be provided on the north eastern side rather than glass. A louvred screen/ brise soleil or similar would suffice. This would not reduce light into the house.
- 7.4.6. I also consider the potential for loss of privacy for the houses to the west and north west to be overstated. The north west elevations are designed to reduce the potential for overlooking and I am satisfied that this can be achieved. The positioning of the walk-in wardrobe and en-suite on north west and north east side will help achieve this protection of privacy.

7.4.7. Overbearing is not foreseen as a significant issue. As I have already outlined, the position of 'Torca Garth' with respect to its north western boundary results in the boundary having a greater impact than any house on this site. The positioning of 'Torca Garth' and 'Déjà Vu' limits how far back into the site that can be developed. Setting the house back would impact far more than is the case with the subject proposal.

7.4.8. The issue of breaking of an existing building line was raised. I do not consider the existing building line to be strong and therefore the positioning of the house on this site is acceptable. The front of the house is set back by 6.5 m from the roadside edge which is also acceptable.

7.5. **Other Issues**

7.5.1. The 'Drainage Planning – Municipal Services Department' have reported no objection to the proposed drainage system subject to condition. Similarly, the Transportation Planning Section have reported no objection to the proposed development. Concerns were raised about traffic congestion during the construction phase, a suitable Construction Traffic Plan would address such matters.

7.5.2. As already outlined I consider it appropriate to retain the hedgerow along the front boundary and along the south eastern boundary between the subject site and 'Torca Garth'.

7.6. **Appropriate Assessment Screening**

7.6.1. I note reference in the letters of objection/ observations to impact on Natura 2000 sites. The principal of a house has been established on this site and the site is suitably zoned.

7.6.2. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, it is considered that the development would not give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016 - 2022 and the zoning for residential purposes, to the location of the site in an established residential area and to the nature, form, scale and design of the proposed development, 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 8th of October 2019 and Further Information lodged on the 28th of January 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) No part of the first-floor terrace shall be within 10 m of the boundary it faces to the south west.</p> <p>(b) The protective guarding to the terrace on the south eastern side shall consist of a solid or louvred screen similar to brise soleil. The remaining</p>

	<p>terrace may be fitted with glass as proposed or be revised to match the south eastern side.</p> <p>(c) A hedgerow shall be retained and augmented where necessary on the front/ south western side boundary and the south eastern side boundary. The vehicle entrance consisting of a timber gate and stone clad pillars to be provided in accordance with Drawing No. PL-06.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of residential amenity.</p>
3.	<p>The flat roof elements of the development other than those areas specifically indicated as a terrace, shall not be used as a terrace, balcony or for any similar amenity purpose.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the existing or permitted house.</p> <p>Reason: In the interest of the amenities of the area.</p>
5.	<p>The house shall be used as a single dwelling unit.</p> <p>Reason: In the interest of clarity.</p>
6.	<p>The bathroom windows including en-suites and the walk-in wardrobe serving the master bedroom shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.</p> <p>Reason: In the interests of residential amenity.</p>

7.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
9.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
10.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, incorporating the 'Construction and Environmental Plan (CEMP) dated 20th January 2020 and also including noise management measures and off-site disposal of construction/ demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

12.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
13.	<p>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.</p> <p>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.</p>

Paul O'Brien
 Planning Inspector

12th August 2020