



An
Bord
Pleanála

Inspector's Report ABP-308374-20.

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| Development | Construction of dwelling and demolition of existing dwelling. |
| Location | Twin Trees, Nerano Road, Dalkey, Co. Dublin. |
| Planning Authority | Dun Laoghaire/Rathdown County Council. |
| Planning Authority Reg. Ref. | D19A/0984. |
| Applicants | James and Mary Foley |
| Type of Application | Permission. |
| Planning Authority Decision | Permission granted. |
| Type of Appeal | Third Party |
| Appellants | Eric Connor David & Berna Williams & Others. |
| Observers | None. |
| Date of Site Inspection | 12 th June 2021. |
| Inspector | Philip Davis. |

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1.0 Introduction

This appeal is against the decision of the planning authority to demolish an existing dwelling dating from the 1950's on Nerano Road in Dalkey and replace it with a new dwelling of contemporary design. Two appellants have appealed arguing that the design of the new dwelling is inappropriate and out of scale for the area.

2.0 Site Location and Description

2.1. Nerano Road, Dalkey

The appeal site is located on Nerano Road, which runs on higher ground inland from Coliemore Road in Dalkey about 250 metres. The road follows what was a steep scarp slope down to Coliemore Harbour in Dalkey, between Sorrento Road and Coliemore Road, with a spur connecting to Sorrento Road. It provides access to around a dozen dwellings, mostly low level and partially cut into the scarp slope, providing fine views east over towards Dalkey Island. The road appears to have been constructed some time after the expansion of Killiney/Dalkey following the construction of the railway line along the coast in the mid 19th Century. Most houses on the road date from around the late 19th Century to more recent periods.

2.2. Appeal site

The appeal site is a house site on the steep slope running east from Nerano Road and has a site area given on the application documentation as 0.052 hectares. It is occupied by a substantial empty relatively modern house with a floorspace given as 206 m². The house appears to have been empty for many years and the site is heavily overgrown. The site is bounded to the road by a high leylandii hedge and includes substantial stone retaining structures on either side. It is adjoined by substantial dwellings on either side on Nerano Road, and overlooks a dwelling to the east on Coliemore Road.

3.0 Proposed Development

The proposed development consists of the demolition of the existing dwelling and the construction of a new dwelling with a floorspace given as 289 m² with a widened vehicular entrance and 2 no. off street parking spaces to the front of the site.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 14 standard conditions. None of the conditions substantially altered the design of the proposed dwelling.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes the submitted reports outlining the structural state of the existing house and the proposed replacement dwelling in addition to a shadowcast assessment.
- A number of detailed issues in the design are noted and clarifications requested in a further information report.
- It is noted that the proposed building has a larger scale, mass and bulk than the house to be demolished.
- It is considered that the overall mass and bulk is acceptable as it will appear single storey from most perspectives and that it will integrate into the subject site.
- It is noted that the proposed width of the access is in excess of that set out in the guidelines in the development plan.
- AA and EIAR screening carried out.
- Four items of additional information requested.
- Following the submission of further information, a second report addressed these issues. It was considered that the proposed maintenance access was acceptable as this would not be regularly used.
- The alterations to the elevations, in particular the location and design of windows is noted, and it is considered that these address any issues of possibly overlooking of neighbouring properties.

- The revised parking and access layout is noted and considered acceptable.
- The submitted landscaping is considered acceptable.
- In other respects, it was considered that the proposed development would not impact upon local amenities and all other planning issues were addressed.
- Permission recommended.

4.2.2. **Other Technical Reports**

Drainage Planning section: No objections subject to conditions.

4.3. **Prescribed Bodies**

None

4.4. **Third Party Observations**

Three observations submitted, all outlining concerns and objections, mostly on design and amenity grounds. These were repeated following the submission of further information.

5.0 **Planning History**

No planning history for the site. The planning report notes two permissions for adjacent properties, **D04B/0679** (2 storey extension) and **D05A/0514** (new dwelling).

6.0 **Policy Context**

6.1. **Development Plan**

Zoning Objective A '*to protect and/or improve residential amenity*'. There is an objective in the vicinity to preserve views from the road. Guidelines for such developments are set out in Chapter 8 of the 2016-2022 development Plan.

6.2. Natural Heritage Designations

The appeal site overlooks Dalkey Island and the sea, which is designated SAC – Rockabill to Dalkey Island SAC site code 003000 and SPA – Dalkey Islands SPA site code 004172.

6.3. EIAR

Having regard to the nature of the proposed development and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

Eric Connor of 'Nirvana', Coliemore Road.

- Argues that the existing dwelling should not be demolished as it is structurally sound and could be capable of being upgraded.
- It is argued that it is out of character with other dwellings in the area.
- It is argued that the proposals for access and parking will result in an unacceptable amount of earthworks with potential geological issues.
- It is argued that the proposed development would result in an unacceptable level of construction work which would have impacts on dwellings on Coliemore Road and this is unnecessary as the dwelling could be refurbished.
- It is submitted that it takes up too much of the site.
- It is questioned as to whether the plans are accurate with respect to proximity to his property (the dwelling immediately below the site to the east).
- It is argued that the flat roof could be used for access which would have privacy implications.

- Queries whether asbestos would be in the existing building.
- The accuracy of the shadow cast assessment is questioned with regard to his property.

David & Berna Williams & others of Nerano Road and Coliemore Road

- The poor design of the existing house is acknowledged.
- Notes that the adjoining Clifton House is one of the original dwellings of the area and dates to 1860.
- It is argued that the drawings do not adequately address the relationship of the proposed dwelling and Clifton House.
- It is argued that the submission documents, and the planning authority assessment, did not address adequately the reduced separation distance between the proposed dwelling and Clifton House, and its potential impact on the gardens and privacy of this house. It is also argued that it would reduce sunlight to the gardens. Photos are attached in support of this argument.
- It is argued that the proposal unacceptably reduces the separation distance between the site and Clifton House.
- It is argued that the proposed design does adequately address the nature of the site and represents a domineering form with respect of views from Coliemore Road and Clifton House.
- A number of visualisations are included in support of an argument that it would significantly interfere in views out over Dalkey Island.
- It is argued in summary that the design would block views and would unacceptably impact on the relationship of the site with Clifton House and would be too bulky in appearance for the area.
- It is argued that it would have a serious negative impact on the value of Clifton House and local amenities.

7.2. Applicant Response

With respect to the appeal of Mr. Connor:

- It is argued that the scale of the proposed dwelling is consistent with the scale of other houses within the area and is of a similar proportion to others including 'Alivina', Carrigmore and Clifton House.
- The Board is referred to the shadow analysis submitted - it is argued that there would be no unacceptable loss of light to any properties.
- It is argued that the overall site coverage is not significantly greater than that existing so there is no basis for an argument that there would be an unacceptable impact on drainage or other such issues. It is noted that SuDs measures will be applied.

With respect to the appeal by Mrs Fogerty and David & Berna Williams:

- Photos are attached indicating that the existing dwelling has significant overlooking of Clifton House. Although it is acknowledged that the northern gable elevation of the proposed new house is closer to Carrigmore and Clifton House the layout and design reduces the opportunity for overlooking as window openings to this elevation are predominantly to non-habitable rooms and is almost entirely opaque.
- The shadow analysis is again referred to in respect of arguing that there would be no significant impact on the amenities of Clifton House by way of loss of light or overlooking.
- Photomontages are submitted in response to the appellants claims that there would be a loss of views.

7.3. Planning Authority Response

The planning authority refers the Board to the planning report.

7.4. Observations

None.

8.0 Assessment

Having inspected the site and reviewed the file documents I consider that the appeal can be addressed under the following general headings:

- Principle of development
- Development context
- Amenity
- Views and visual amenity
- Drainage/structural issues
- Other planning issues
- Appropriate Assessment

8.1. Principle of development

The appeal site is in an area zoned Objective A '*to protect and/or improve residential amenity*'. The existing dwelling on the site appears to date from the 1950's and there are no records of permissions or appeals for the site. There are no specific designations applying to the site or the adjoining sites, although the planning authority notes that there are some vistas from public areas close by identified for protection. Chapter 8 of the 2016-2022 Development Plan sets out general guidelines for residential developments in such areas.

In such areas the replacement of an existing dwelling would not be contrary to the zoning designation, subject to the stated guidelines for development and general principles for good design and minimising the impact on residential amenities. The proposed development should therefore be considered on its own merits having regard to development plan guidelines.

The appellants have questioned whether it represents an appropriate and sustainable approach to demolish and replace what appears to be a structurally sound building, and I would concur with this as a principle. However, there is no clear policy guidance in this matter and I am satisfied that the building on the site was quite poorly constructed and its re-use could be problematic for structural and design reasons.

8.2. Development context

The site is in an unusual and striking location in an area that developed incrementally over many years as part of the suburban expansion of Dalkey. The very difficult topography that also provides the fine views over Dalkey Bay has ensured that there is no clear building line or pattern of development, save that the area is characterised by mid sized detached dwellings oriented towards the east, and generally cut into the scarp slope in the most architecturally/structurally appropriate manner. The older dwellings tend to be typical of the villa style favoured in the late 19th Century while more recent dwellings are often strikingly contemporary in design. Most dwellings along the east side of the road are set down the slope giving even the large dwellings the profiles of single storey houses as viewed from the road, and the general topography ensures they are not clearly visible from Coliemore Road. The topography has led to a variety of approaches to vehicular access, in some cases steep driveways and in others parking bays at the level of the road. Most houses use the local stone for boundary walls and external cladding, and there are many fine gardens giving the area a visually coherent appearance.

The appeal site is largely hidden behind a very high, and arguably discordant leylandii hedge, although the upper floor is quite high relative to surrounding buildings. If the surrounding hedges were to be removed, it would be a more visible feature as viewed from Nerano Road. It is only intermittently visible from Coliemore Road – it can also be seen from some perspectives around Coliemore Harbour.

In overall design terms, I consider that the approach by the applicant is acceptable. The proposed replacement building is significantly larger than the existing dwelling, but is still within a scale which is appropriate for the site, and generally follows the pattern of development in the area. The finish and proposed landscaping appear to be of high quality which would allow such a new building to age well within its context.

8.3. Amenity

The site adjoins a number of dwellings, including the dwellings on each side on Nerano Road, Clifton House to the north-east, the dwelling on Coliemore Road immediately to the east, and another dwelling on Coliemore Road to the south-east. The very steep drop in levels ensures a difficult relationship between all these

buildings, not least due to the obvious overlooking of those dwellings on lower ground from those above.

In assessing this, I have had particular regard to the existing dwelling, which at upper floor level has very clear views over and down onto the properties on Coliemore Road. The design extends the footprint significantly to the north and closer to the dwellings on this side, resulting in a slightly more overbearing aspect, especially when viewed from the perspective of Clifton House. The overall orientation ensures a larger loss of sunlight, particularly to the north and east of the dwelling. The applicant submitted a sunlight study which I have examined and I consider to be generally an accurate assessment of impacts, although altering the hedge and vegetation around the building will have at least as much of an impact so there is some scope for different interpretations. But there would be an increase in some overshadowing and general overbearing of properties particularly to the north and north-east, I would consider this to be within the bounds of acceptability considering the nature of the topography and the area.

The extensive area of glazing on the dwelling does create overlooking, but I am satisfied from the applicant's response that the level will be the same as, or less than, that from the existing dwelling. While a number of windows on the northern side would be closer to properties on these side, these are to be opaque or are not living areas.

The appellants also raised concerns about access to the maintenance area and the roof, but I am satisfied from the design that any works to make these generally accessible for every day use would require a separate planning permission and this can be confirmed by condition.

While I consider the concerns of the immediate neighbours to be reasonable and understandable, having specific regard to the size and design of the existing dwelling and the limits set by the topography I consider that the proposed design keeps any amenity impacts on adjoining neighbours to a minimum and so is compatible with the zoning designation and associated guidelines.

8.4. Views and visual amenity

There are many very fine views out over Dalkey bay from a variety of public areas, although these tend to be intermittent from Nerano Road. The clearest views of the area belong to the grazing residents of Dalkey Island. The hedgerow around the house now restricts views from Nerano Road. The existing dwelling was quite poorly designed and is now decaying and does not fit into the generally very high quality of development in the area.

While the increase in overall bulk of the proposed dwelling would significantly reduce some views over the bay in reality this is minor comparing it to the existing situation. The altered profile of the building would not result in major losses of viewpoints except for some very specific points from adjoining properties. While this represents a small loss of amenity, I do not consider that this would be outside the bounds of unacceptability.

As so often in this area, the visual impacts are less the result of the bulk of the building, but its relationship to the topography, the quality of finish, and equally importantly the landscaping. I am satisfied that the overall design is of a high quality and over time will not represent a negative impact on the local townscape/landscape or on specific views.

8.5. Drainage/structural issues

The appellant to the east raised strong concerns about the impact on drainage from structural works to the site. The land is generally on very thin soil over hard volcanic rocks. Older OS plans do not indicate any wells or watercourses in the area. There are no indications that past works in the area have resulted in specific structural or drainage issues and there is no evidence of a high water table.

The applicant states that run-off will be reduced by the application of SuDs principles – this can be confirmed through condition. I am satisfied that with appropriate design and the application of these principles existing run-off from the site can be reduced from the existing situation. A condition on demolition and construction works would also be appropriate as the difficulty of the site could create possible impacts on neighbours.

The issues raised of addressing subsurface structural works, the disposal of any hazardous items within the existing structure and other such issues can be confirmed though a condition for the approval of a comprehensive demolition and construction plan although many of the specific issues raised in the appeal are generally outside the scope of a planning application, and as such the provisions of Section 34(13) of the Act applies.

8.6. Other planning issues

Access/transport

In the revised submission, a number of alterations were made to the parking and access arrangements. Due to the nature of the site, car access is difficult, but the proposed revisions were acceptable to the planning authority in safety and visual terms.

Nerano Road is only very lightly trafficked so I do not consider that there is an issue with congestion or safety. The increase in scale of the building is not such that it is likely to generate additional traffic movements, apart from during construction. In all other respects, I consider the access arrangements to be acceptable.

Conservation issues

There are no indications from available sources that there are any protected structures or recorded ancient monuments on or close to the site. Although the site is close to the medieval settlements around Dalkey and Coliemore Harbour, there is no indication that an archaeological survey is required.

Services

Although Irish Water did not respond to the original application, the site is fully serviced with water and wastewater treatment and other required services.

Development contributions

The proposed development would be subject to a standard S.48 Development Contribution.

8.7. **Appropriate Assessment**

The appeal site is around 350 metres from Dalkey Island and the sea, which is designated SAC – **Rockabill to Dalkey Island SAC site code 003000** and SPA – **Dalkey Islands SPA site code 004172**. The works are minor in scale and on an already developed site and there are no pathways for pollution or any indication that habitats or species associated with either designated site would be affected by the proposed works, directly or indirectly.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004172 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 **Recommendation**

I recommend that the Board uphold the decision of the planning authority to grant permission for the proposed development for the following reasons and considerations subject to the conditions set out in Section 11 below.

10.0 **Reasons and Considerations**

Having regard to planning and development history of the site and the policy and objective provisions in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development, and 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.

11.0 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 20th day of August 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.

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 interest of residential amenity.

3. Details of the materials, colours and textures of all the external finishes and boundary treatments to the proposed dwelling 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. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

Reason: In order to safeguard the residential amenities of 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 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.

Philip Davis

Planning Inspector

14th June 2021