



An
Bord
Pleanála

Inspector's Report ABP 312164-21.

Development

End of terrace two storey detached house with attic space rooflights PV panels new pedestrian and vehicular entrances and boundary alterations and site works.

Location

Grange House, Killiney Rd. Co Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council

P. A. Reg. Ref.

D21A 0860.

Applicant

Diarmuid and Mary O'Colmain

Type of Application

Permission

Decision

Grant Permission

Type of Appeal

Third Party

Appellant

Rev. Cannon Gary Hastings,
Glenageary/Killiney National School.

Date of Inspection

25th February, 2022

Inspector

Jane Dennehy.

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1.0 Site Location and Description

The application site is formed from the side garden of a detached two storey house at the corner former of Killiney Road and the entrance road to the Wyvern residential estate. Vehicular access to off street parking in the front curtilage of the existing dwelling is off the Killiney Road frontage. There is also a gated entrance to the side garden off the boundary onto the Wyvern Road estate, close to the junction.

To the rear on the south side of application site and four adjoining detached houses facing onto Killiney Road is Killiney National school (Appellant party) the frontage of which faces towards and is accessed from Wyvern. There is a pedestrian gate at the northern end of the side west facing frontage close to the southern boundary of the application site and that of the existing dwelling. There are pedestrian footpaths on both sides of Wyvern Road. A pedestrian crossing is also on Wyvern Road close to the pedestrian entrance at the rear of the school premises

2.0 Proposed Development

The application lodged with the planning authority indicates proposals for construction of a two-storey detached house with attic space with rooflights, PV panels and new pedestrian and vehicular entrances on the side boundary onto Wyvern.

The position for a vehicular and pedestrian entrance is adjacent the southern end of the frontage on the Wyvern Estate Road and at the northern end of this frontage to the front of the proposed dwelling at the location of the existing entrance to on the side boundary.

The report of the Transportation Department indicated a recommendation for the entrance towards the northern end of the frontage onto Wyvern to be altered and reduced in width to 1.2 metres and restricted to use as a pedestrian access only due to concerns as to safety at the junction with Killiney Road. It indicates a recommendation that one vehicular space, (one car only) be served by the proposed vehicular entrance at the southern end of

the frontage onto Wyvern Road. With all works being carried out at the applicant's expense. It is also recommended that all measure be taken during the construction period to avoid conflict with pedestrian and vehicular circulation on the local road network.

3.0 Planning Authority Decision

By order dated, 19th November, 2021 the planning authority decided to grant permission subject to conditions which include in addition to those of a standard nature:

Condition 2 contains a requirement for replacement of the entrance shown at the northern end of frontage onto Wyvern Road with a pedestrian entrance with a maximum width of 1.2 metres and, restriction of use of the curtilage at the rear of the dwelling accessed by the entrance proposed at the southern of the frontage onto Wyvern Road to one space.

Condition No 3 excludes the entitlement to exempt development as provided for in the Planning and Development Regulations, 2001 as amended.

4.0 Planning History

There is no record of planning history for the application site.

5.0 Policy Context

The operative development plan is the Dun Laoghaire Rathdown County Development Plan, 2016-2022 according to which the stie location comes within an area subject to the zoning objective A; *to protect and/or improve residential amenity*.

Policies, objectives and standards for Vehicular Entrances and Harding standing along with general specifications are set out in section 8.2.4.9 and subsection (i)

6.0 The Appeal

An appeal was lodged on behalf of the Board of Management of Glenageary Killiney National School on 6th December, 2021 and it includes some photographs. The objection is to the proposed vehicular entrance at the southern end of the site frontage on grounds of public safety concerns and it is requested that this entrance be omitted from the permitted development. There is no objection to the proposal for a dwelling on the site.

According to the appeal the school has a large catchment with many pupils walking to the school from Killiney Road and from within the Wyvern estate with circa half of them (during the Covid restrictions) using the side gate adjacent to the application site for access.

It is submitted that:

- A vehicular entrance should not be located so close to the access used by children to access the school especially that a substantial number of children use the entrance at circa 8.30 am and circa 14.30 pm on school days. The planning authority created the zebra crossing to address traffic and safety concerns in 2019. Furthermore, children exiting the school by the pedestrian gate would have poor visibility of vehicles entering/exiting the adjoining vehicular entrance because the school has a high boundary wall. In addition, the necessity for vehicles to be reversed out of or into the parking space, as there is no space for turning within the site is an additional concern in this regard.
- An entrance should have been provided at the front of the dwelling with a low 1.2 metres high all as this would not cause conflict with traffic movements and good visibility. There is no reason why such a low intensity use could not be located close to the junction at the front of the site. Reference is made to prioritisation for pedestrians as provided for in *Design Manual for Urban Roads and Streets* (DMURS) in its hierarchy and to the exclusion of other than local access for roads such as Wyvern and Killiney Road and it is submitted that these considerations and the vulnerability of small children as road users were not considered in the planning authority's assessment. Reference is also made to, *Board of*

Management of St Audeon's National School v An Bord Pleanala and Others [2021] (IEHC 453) 15 July 2021 in the Judgement on which the importance of local schools is addressed.

7.0 Response to the appeal by the Applicant.

A submission was received from the applicant's agent on 17th January, 2022 according to which the concerns of the appellant party is noted. It is stated that the applicant is willing to replace the proposed vehicular entrance at the rear on the Wyvern estate road with a 1.2 metres wide pedestrian entrance instead of the new entrance at the front on the Wyvern estate road. This centre point of this entrance would be 12.5 metres from the edge of the junction with Killiney Road and a similar distance from a vehicular entrance to an adjacent road junction at Mayfield, Killiney Road/Wansford Close junction and at 13 Killiney Road, Killiney Road/Springhill Park junction.

The applicant is also willing to ensure the existing level of the front boundary wall is maintained at the existing height which changes from 650 mm to 800 mm to ensure good visibility.

8.0 Response to the appeal by the Planning Authority.

The Planning Authority in a letter dated, 7th January, 2022 indicates confirmation, further to review of the appeal, of the assessment and its decision on the application.

9.0 Assessment

The objection of the appellant is solely against the proposal for a vehicular entrance at the southern end of the site frontage having regard to the proximity to a pedestrian entrance to the school which is used by a substantial number of pupils on school days circa 8.30 am and 14.30 pm.

Further to review of the application *de novo*, in all other respects it is considered that the proposed development is acceptable and the planning

authority decision, including the inclusion of condition No 3 excluding exempt development entitlements, is supported.

With regard to the appeal, it is not agreed that the site frontage onto Killiney Road or at the northern end of Wyvern would be acceptable for the location of a vehicular entrance for the proposed dwelling due to the proximity to the junction and associated risk to vehicular and pedestrian safety, especially in reversal onto the road would be required in that that both access and egress in forward gear is not possible due to insufficient turning space within the site curtilage.

The risk to public safety attributable to a vehicular entrance so close to the junction would be of concern as to obstruction of vehicles, cyclists and pedestrians approaching or leaving the junction with Killiney Road and in this regard would be a particular concern at school opening and closing times when young children, vulnerable road users are arriving at and leaving school. To this end, the recommendations in the report of the transportation department the existing entrance at this location be confined to a reduced width, pedestrian access only is fully supported.

It is not indicated in the appeal as to whether a “lollipop” service is provided for the school at opening closing times. The zebra crossing located close to the pedestrian entrance adjacent to the proposed vehicular entrance is not electronically controlled and it is considered likely that it is managed by a ‘lollipop’ service at school opening and closing times. It is also not clear as to whether such a service is provided at the Killiney Road junction or elsewhere in the vicinity of the school premises. (The inspection did not take place at school opening or closing times.)

Notwithstanding the height of the school’s boundary wall referred to in the appeal, and necessity for screening at the rear boundary of the application site property which is reasonable it is considered that the proposed vehicular entrance can be provided and operated at the proposed location at the southern end of the site frontage without undue risk to public safety, including that of small children who are vulnerable road users. This entrance is solely confined to serve one vehicle/car space for a two-bedroom house involving

limited turning movements on and off Wyvern, notwithstanding the necessity for either egress or access to be in reverse gear.

With regard to the Judgement¹ referred to in the appeal, it is considered that for the purposes of taking precedent it is first essential for it to be established that the specific circumstances and considerations are comparable.

With regard to the references to DMURS in the appeal, which are not disputed, it is considered that bearing in mind that the proposed entrance is solely for one parking space for a two-bed dwelling and as such, flexibility in interpretation of the application of the standards and recommendations is warranted. Furthermore, with regard to the reference in the appeal to hierarchy provided for in DMURS, prioritising pedestrian circulation in a local urban road network, it is not accepted that occasional use of the proposed vehicular entrance would have any material impact or conflict in this regard.

Environmental Impact Assessment Screening

Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Appropriate Assessment Screening.

Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

¹ *Board of Management of St Audeon's National School v An Bord Pleanala and Others* [2021] (IEHC 453] 15 July 2021

10.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld based on the reasons and considerations and subject to the conditions which follow.

11.0 Reasons and Considerations

Having regard to the Dun Laoghaire Rathdown County Development Plan, 2016-2022 according to which the site location comes within an area subject to the zoning objective A; *to protect and/or improve residential amenity*”, to the site layout and size, design and form of the proposed dwelling and to the location of the proposed new vehicular entrance providing for onsite carparking at the southern end of the frontage onto Wyvern it is considered, notwithstanding the proximity to a pedestrian entrance to an adjoining school premises, that subject to compliance with the conditions below, the proposed development would not endanger public safety, by reason of traffic hazard and would be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 following requirements shall be provided for and adhered to in the development:

- One on site car parking space only shall be served by the proposed vehicular entrance at the southern end of the site frontage onto Wyvern. Gate(s) if any shall be inward opening of sliding only.
- The existing entrance at the northern end of the site frontage onto Wyvern shall be altered so that is reduced in width to a maximum of 1.2 metres and is used as solely as a pedestrian access

Full details shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity, public safety of the local road network for all road users.

3. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

4. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

5. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

Reason: In the interest of residential amenity, having regard to the restricted configuration and size of the site.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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.

Jane Dennehy

Senior Planning Inspector
26th February, 2022.