



An
Bord
Pleanála

Inspector's Report

ABP-312789-22

Development

Permission for development:
Alterations to existing detached house
and the construction of 3 new
detached houses and ancillary and
associated works.

Location

Lagduff, Church Road, Killiney, Co.
Dublin

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D21A/1013

Applicant(s)

Cecil Hayes

Type of Application

Permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Cecil Hayes.

Observer(s)

Laragh OMC.

Date of Site Inspection

08th of March 2023.

Inspector

Karen Hamilton

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1.0 Site Location and Description

- 1.1. The subject site contains a large, detached dwelling located within the suburban area of Killiney, Co. Dublin. The site is accessed from a narrow private laneway, accessed directly from the main Church Road. There are similar sites in the vicinity accessed from private entrances along Church Road.
- 1.2. The site is surrounded by mature trees and hedging. There are large, detached dwellings, located on substantial plots, to the south, east and west. There is a small housing estate to the north of the site, Laragh, which comprises of semi-detached dormer dwellings. Those houses in Laragh are elevated in comparison to the rear garden of the subject site.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
 - Alterations to an existing detached dwelling and demolition of a side conservatory,
 - Construction of three new detached dwellings, one at either side of the dwelling and one within the front garden.
 - Alterations and modifications to the existing vehicular entrance and alterations to the main vehicular driveway.
 - All other associated works.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse for one reason as detailed below:

1. Having regard to the traffic conditions on Church Road, Killiney, and the inadequate sightlines provided to serve the proposed development, the proposed development would endanger public safety by reason of traffic hazard and would, therefore be contrary to the proper planning and sustainable development in the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and refers to the following:

- The principle of development for an infill proposal is acceptable.
- There are no concerns in relation to the demolition of a single storey conservatory.
- The proposed dwellings comply with the required standards in the national guidance.
- The quantum of private open space is acceptable as is the separation distance.
- The location of the existing dwellings in the vicinity of the site are noted and there are concerns in relation to the large window on the first floor of House B and the glazing on the southeast elevation of House C and the potential for overlooking.
- There may be some concerns regarding overshadowing from House B and C. In the event the PA was to grant permission, an overshadowing assessment should be undertaken.
- It is not considered there would be a negative visual impact.
- The proposed boundary treatments are generally acceptable.
- The landscaping plan is limited and a tree survey and tree impact assessment should be submitted in the event of a grant of permission.
- Planning permission on a directly adjacent site includes 2 reasons for refusal including traffic safety concerns.

3.2.2. Other Technical Reports

Environmental Health Service (EHO): Further information in relation to a demolition management plan and a Construction environmental management Plan (CEMP) is requested.

Drainage Planning: No objection to the proposal

Transport Planning: Recommendation for refusal based on the restricted visibility.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

Two third party submissions were received, one from the observer to the appeal. The issues raised in both submissions are similar and have been summarised below in Section 6.4.

4.0 **Planning History**

4.1.1. Subject site

Reg Ref D95A/0681

Permission granted for alterations to the existing dwelling and double garage to existing house.

4.1.2. Adjoining Site

Reg Ref A07A/0281

Permission refused for the construction of a new detached split-level house and new access and driveway having regard to the impact of the removal of the trees and character of the area and the inadequate sightlines proposed.

ABP 305485-19 (Reg Ref D19A/0475)

Permission refused by ABP having regard to the density and mix of houses proposed, which it considered did not comply with the national residential guidelines.

5.0 **Policy Context**

5.1. **National Policy**

- Design Manual for Urban Streets (DMURS) (2019)

5.2. **Dún Laoghaire- Rathdown County Development Plan 2022-2028**

The Dún Laoghaire- Rathdown County Development Plan 2016-2022 was the development plan at the time of the planning decision.

This plan has since been replaced by the County Plan 2022-2028 which came into effect on the 21st of April 2022. I have had regard to the policies and objectives of the current development plan.

Zoning

The site is zoned for residential use where it is an objective “*To provide residential development and improve residential amenity while protecting the existing amenities*”

Development Management Standards.

Section 12.3.3.2: Density: The national standards for sustainable development and apartments apply.

Section 12.3.4.1: Road and Footpath requirements. DUMRS standards will generally apply. A deviation of these standards may apply, and the primary concerns of pedestrians and cyclists shall apply.

Section 12.3.7.7: Infill will be encouraged where they respect the height and massing of the existing residential units. Objective PHP: 19

5.3. **Natural Heritage Designations**

There are no European sites within the vicinity of the site.

5.4. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by an agent on behalf of the applicant. The issues raised relate to the refusal by the PA. The submission is accompanied by a Transport Planning Report undertaken by engineers. Each submission is summarised below.

6.1.1. Planning Submission

Impact on Residential Amenity

- The proposal will not cause any undue impacts on the residential amenity by way of overlooking or overshadowing.
- A shadow analysis has been submitted with the appeal submission (Appendix C). This indicates the proposal will not overshadow the adjoining properties.
- The site is well screened by mature trees and the proposal will not have any impact on the visual amenity.

Traffic and Transport

- A survey was submitted as part of the original application.
- Revisions have been made to the entrance including the repositioning of pillars, service pole and installation of CCTV cameras.
- The proposal is accompanied by a transport report (detailed below).
- Updated sightlines allow for a safe right turn from the subject site.
- A set back of 2.5m and a visibility splay of 49m to the right allows the driver to move forward and then get visibility to the left.

Dun Laoghaire- Rathdown Development Plan 2016-2022

- Zoning: The residential zoning permits extensions in line with residential amenity.

- Protected Structure: The proposed development will have no adverse impact on the protected structure located to the west of the site (Vevay House RPS No. 1711) due to the mature line along the Church Road.
- Core Strategy: The core strategy in the development plan supports the consolidation of housing within the built-up area.
- Residential Density: Policy RES3 & RES4 promote higher residential densities of between 15-30 uph. The proposed development will lead to c. 15.39uph. The density is appropriate for the site.
- Back land development: The proposal can comply with Section 8.2.3.4 of the development plan regarding the appropriate guidance for back land residential development.
- Infill Development: The proposal complies with the guidance in Section 8.2.3.4 of the development plan.
- Parking Standards: The proposal can comply with the parking standards in the development plan.
- Urban Design: The proposed development complies with the national Urban Design Manual for best practice design.
- Private Open Space: The proposed development exceeds the private open space requirements in Section 8.2. 8.4 of the development plans.
- Public Open Space: The site is located within the vicinity of the high quality public open space.
- Standard of residential accommodation: The proposal represents a high standard of accommodation.
- The proposal complies with the national Sustainable Residential Developments in Urban Areas (2009). These guidelines encourage infill.

Precedents.

- There are a number of precedents for similar types of developments
- ABP 310631-21: Permission refused by Fingal County Council due to inadequate sightlines. The ABP Inspector noted the existing vehicular

entrance which they considered was acceptable having regard to it being established.

- ABP 307889-20: Permission refused by Fingal County Council for no pedestrian access. The Inspectors report accepted the inclusion of signal controls to provide good forward visibility.
- ABP 305694-19: Permission refused by Dun Laoghaire-Rathdown County Council for inadequate sightlines. The Board overturned the Inspectors recommendation for refusal due to the use of aids to mitigate against inadequate sightlines.
- ABP 306964-20: Permission refused by South Dublin County Council and permitted by the Board. The Board noted the existing use of the site by 16 mini-vans and the use of an existing access lane for a lower intensity development (single dwelling) was acceptable.
- PL06F.246194: Permission refused by Fingal County Council for a new entrance and the Inspector noted the conditions of the surrounding area and did not consider the proposed entrance associated with a replacement dwelling and the works required would have a negative impact on the area.

6.1.2. Engineers Submission

- The proposal can meet the required sightlines to the right (north).
- Mitigation measures are proposed to alleviate any concerns for the reduced sightlines to the left (south) and include CCTV cameras and convex mirrors.

6.1.3. Proposed Lighting Schemes

6.1.4. Shadow Analysis

6.1.5. Additional drawings illustrating changes to the gable elevations of House A, B & C.

6.2. **Applicant Response**

The applicant is the appellant.

6.3. **Planning Authority Response**

No response received.

6.4. **Observations**

One observation was received from a representative of the residents of “Laragh” Killiney Avenue as summarised below:

- The proposal is not in harmony with the surrounding area.
- The site is higher than the surrounding area.
- The proposal will lead to overlooking on the existing residential properties.
- House B does not comply with the residential standards.
- A construction management plan should be included to address any changes to the overhead electricity poles.
- The site includes a significant number of mature trees. There are no proposals to deal with the tree removal.
- The access is not suitable for the proposed development and additional houses.

7.0 **Assessment**

The main issues are summarised as follows:

- Visibility Splays
- Impact on Residential Amenity
- Appropriate Assessment

7.1. **Visibility Splays**

- 7.1.1. The proposal includes alterations to an existing dwelling to enable the construction of three dwellings within the grounds of an existing dwelling. The existing access into the site is directly from Church Road and along a narrow private laneway. The

proposal includes alterations to the existing entrance to accommodate the additional movement of an additional 6 cars.

- 7.1.2. The design speed of Church Road is 50km/h and operates as a bus route. Church Road is a busy road which links Killiney to the wider South Dublin area. Upon site inspection, when both entering and exiting from the site, I found the access extremely constrained. In the first instance the electric pole restricted the access into the site, whereas I was required to cross the road for a safe left turn (when travelling from the north). On exit I had no visibility to any users of the pedestrian footpath along the Church Road either left (south) or right (north).
- 7.1.3. The applicant submitted sightlines of 45m (right turning) and 35m (left turning) and proposed to install CCTV to aid the deficiencies in visibility. The report of the roads department did not consider the proposal was satisfactory and represented an undesirable precedent and recommended refusal. The reason for refusal relates to the traffic conditions on Church Road and the inadequate sightlines.
- 7.1.4. The applicant has appealed this refusal and has submitted a revised vehicular entrance which includes the repositioning of the pillars, service pole and the installation of CCTV cameras. I note those drawings submitted with the application (Drwg. No XT-D-529-002) and those plans submitted with the appeal (Drwg. No XT-D-529-009 and Fig 14 and Fig 15) and I do not consider there is any significant alteration to the proposed entrance into the site.
- 7.1.5. I note the County Development Plan 2022-2028 supports the use of the national DMURS standards for road standards. Section 4.4.5 of those guidelines in relation to the delivery of visibility splays and Table 4.2 includes reduced Stopping Sight Distances (SSD) for standards and cities and towns. Church Road is a bus route, therefore the SSD for a 50km/h is 49m (y distance) and a 2.4m set back (x distance).
- 7.1.6. An engineer's report which accompanied the grounds of appeal which refers to Drwg 22010-TNT-XX-XX-DR-C-00001 and considers that updated sightlines looking north can achieve the 49m and 2.5m set back. This will allow a safe left turn exit manoeuvres. Mitigation measures proposed in the form of CCTV cameras and convex mirror can aid the visibility to the south as it is not possible to meet the requirements of Table 4.2 of DMURS.

- 7.1.7. I note the applicant can generally comply with the standards in Table 4.2 of DMURS for the visibility splay to the right of the site where standards of 45m are provided whilst 49m is required. The main concern is that visibility splay to the left (south) where only 35m can be achieved. I note the location of a footpath along the front of the site, directly south of the existing exit and the location of the boundary wall to the left which restricts visibility, and I have concerns that in the absence of the minimum visibility standards. I have serious concerns that this visibility is nearly completely constrained by the location of the existing boundary wall and those vehicles exiting the site could endanger any pedestrians travelling along this site of Church Road.
- 7.1.8. The applicant proposes mitigation measures in the form of CCTV and mirrors to overcome the shortfall in visibility standards to the left. I note those standards in Table 4.2 already integrate a reduced standard for visibility splays in urban areas and I still have concerns in relation to inadequate visibility. Having regard to the location of the footpath, existing boundary wall and existing reduction in standards, I do not consider those mitigation measures proposed sufficient to ensure the safety of pedestrians, cyclists, and vehicles along Church Road.
- 7.1.9. The grounds of appeal include examples of similar types of developments which have been determined by the Board. I have summarised these in Section 6.1 and listed below:
- ABP310631-21
 - ABP307889-20
 - ABP305694-19
 - ABP306964-20
 - PL06F.246194
- 7.1.10. Whilst I note there are similarities between some of these previous decisions (i.e., inadequate sightlines) and the proposed development, I consider the characteristics of each of the applications differ significantly. In addition, I consider the terms of each application should be assessed on its individual merits.
- 7.1.11. The Board will note the current development plan (2022-2028) and that plan which was considered by the PA (2016-2022) and the absence of any significant differences in relation to the required vicinity splays. I have had regard to the

DMURS standards in keeping with the Roads Department and the applicant's engineers.

7.1.12. Therefore, having regard to the intensification of the site (potential for an additional c. 6 cars on site) and the design of the entrance onto the Church Road, it is my opinion that the proposed includes inadequate sightlines to the left (south) of the site and to permit the development would have a serious negative impact on the movement of pedestrians and cyclists along the Church Road and endanger public safety by reason of traffic hazard. In this regard, I recommend the proposal is refused.

7.2. Impact on Residential Amenity

7.2.1. The impact of the proposal on the surrounding area is raised as a concern by an observer who represents those residents in the vicinity. Issues raised include the potential for overlooking, changes to the character of the area and the impact of trees removal.

7.2.2. The report of the planning officer noted no concerns about the principle of development although had concerns in relation to the potential for overlooking from House B & C and considered a tree survey and landscaping design would be required in the event of any grant of permission. No significant issues were raised on the quantitative standards for the accommodation or open space provision.

7.2.3. The grounds of appeal included additional supporting information to address concerns raised in the planning officers report, in the event the Board considered the access appropriate. The applicant's response is accompanied by a shadow projection study, alterations to the gable elevation of Block A, B & C and a lighting design for the entrance and shared spaces. The grounds of appeal also refer to policies and objectives of the development plan which support infill developments and the design of the residential accommodation.

7.2.4. Having regard to the third-party submission and planning officers report, I consider the main cause of concern, aside for the access, relates to the impact on the residential amenity. The observer has raised the height of the site relative to the surrounding area although from site inspection I noted the topography and the location of the existing dwellings to the east elevation above the subject site.

- 7.2.5. The shadow projection drawings indicate no significant overshadowing from the proposed dwellings on the adjoining sites. I note the height of the dwellings (c. 10m), the distance from the adjoining dwellings and orientation of the proposal in respect to the adjoining properties and I do not consider there would be any significant overshadowing on the adjoining properties.
- 7.2.6. In relation to the overlooking, I note the applicant has redesigned those first-floor windows to include obscure windows and timber louvres along the gable ends. I consider this amended design will remove any potential for overlooking from the first floor on the adjoining properties.
- 7.2.7. Therefore, having regard to the location and orientation of the three proposed dwellings and the design and layout, I do not consider there would be any significant negative impact of the new dwellings on the residential amenity of the adjoining dwellings. In the event the Board consider the access is appropriate, it is recommended that a tree survey, tree replacement proposal and landscaping design is conditioned on any grant of permission.

7.3. Appropriate Assessment

Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be REFUSED for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The proposed development includes the intensification of an existing access onto Church Road. Chapter 5 of the Dún Laoghaire- Rathdown County Development Plan 2022-2028 sets out the county transport policy and requires all new residential development to be designed in line with the national guidance for urban streets and roads, Design Manual for Urban Roads, and Streets (DMURS). Table 4.2 of DMURS requires a visibility of 45m along a road with a design speed of 50km/h. The submitted documentation illustrates sightlines of 35m for left turning (southern visibility splays) of which these are restricted by the front boundary wall of the neighbouring property to the south. It is considered the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in a southerly direction.

Karen Hamilton
Senior Planning Inspector

09th of March 2023