



An  
Bord  
Pleanála

## Inspector's Report ABP-313823-22

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<b>Development</b>	Provision of a new family home on site in the existing rear garden. This application is to include the provision of a new vehicle access from Avondale Park.
<b>Location</b>	Rear garden Neifin, No. 11, Avondale Park, Killiney, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21A/0489
<b>Applicant(s)</b>	Caitriona Sheehan and Liam Doheny
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Genevieve and Edward Wyeth Anna O'Hare and Marcel Whelan
<b>Observer(s)</b>	None

**Date of Site Inspection**

25<sup>th</sup> November 2022

**Inspector**

Lorraine Dockery

## 1.0 **Site Location and Description**

1.1. The subject site, which has a stated area of 644 square metres, comprises the rear garden area of No. 11 Avondale Park, Killiney, Co. Dublin. The site currently contains a detached dwelling. This is an established residential area.

## 2.0 **Proposed Development**

2.1. Permission is sought for construction of a new family home on site in rear garden area of existing dwelling, with new vehicular access from Avondale Park.

2.2. The stated floor area of the proposed dwelling is 185 square metres.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

The planning authority GRANTED permission, subject to 13 standard conditions

Further Information was requested in relation to overlooking; site levels and finished floor levels; landscaping proposals; boundary treatment; private amenity space; site access/parking; surface water disposal and information regarding location of a sewer traversing the subject site

Clarification of Further Information was requested in relation to landscaping details; entrance and access details and car parking proposals.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

The main points of the planner's report include:

- Proposed development, subject to compliance with conditions, would be in accordance with the proper planning and sustainable development of the area
- Recommends grant of permission

#### 3.2.2. Other Technical Reports

Transportation Planning Division- no objections, subject to conditions

Drainage Division- no objections, subject to conditions

#### 4.0 **Prescribed Bodies**

None

#### 5.0 **Planning History**

V/042/21

Certificate of Exemption (Part V) GRANTED

#### 6.0 **Policy and Context**

##### 6.1. **Development Plan**

The Dun Laoghaire County Development Plan 2022-2028 is the operative County Development Plan.

Zoning: 'Objective A' which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities'.

##### 6.2. **Natural Heritage Designations**

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

##### 6.3. **EIA Screening**

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The

need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The main points of the appeal submissions may be summarised as follows:

- Policy: Non-compliance with requirements of operative CDP in relation to infill development; not consistent with zoning objective; contrary to proper planning and sustainable development of the area
- Visual Impacts: Not opposed to development on site but any development should be appropriate and sympathetic; height and scale of development; removal of mature hedging and impacts on environment; location of proposal along boundary; detract from amenities of the area
- Residential Impacts: depreciation of value; impacts on privacy; overlooking; security concerns; diminish existing peaceful environment; overdevelopment/densification of site
- Other Matters: boundary concerns and consent; drainage concerns; clarity/consistency of drawings

### 7.2. Planning Authority Response

Surface Water Drainage report in response to CoFI attached which states no objections, subject to conditions

### 7.3. Observations

None

### 7.4. Further Responses

A response was received from the first party which refutes all grounds of appeal. No new planning matters raised.

## 8.0 Assessment

- 8.1. I have read all the documentation attached to this file including inter alia, the appeal, the report of the Planning Authority and the first party response, in addition to having visited the site. The primary issues, as I consider them, are (i) policy context (ii) impact on visual and residential amenities of the area arising from the proposed development (ii) drainage matters and (iv) other matters.

### Policy Context

- 8.2. The subject site is zoned 'Objective A' which seeks to 'provide residential development and improve residential amenity while protecting the existing residential amenities'. I consider the proposed development to be in accordance with the zoning objective for the site.
- 8.3. Section 12.3.7.6 'Backland Development' and section 12.7.7.7 'Infill' of the operative County Development Plan sets a generally favourable policy towards development on such sites, subject to compliance with normal planning criteria. I consider the proposal to be substantially in compliance with this section of the operative County Development Plan.

### Visual Amenity

- 8.4. In terms of visual amenity, I am generally satisfied with the design approach put forward in this instance. I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without detriment to the amenities of the area. I do not consider the proposal to be out of character with existing development in the vicinity nor does it represent over-development of the site. I am satisfied that the proposed development is in accordance with the operative County Development Plan in this regard.
- 8.5. I note the concerns raised in the appeal submissions with regard the removal of hedging and planting from the site. I also note that the existing planting is consistent with that normally found in suburban domestic sites and is relatively semi-mature. The applicants state that the existing mature screening along the perimeter will be retained insofar as possible and additional planting is proposed. A Soft Landscape Plan and Tree/Vegetation Retention and Removal Plan have been submitted with

the application documentation. I am generally satisfied in this regard. Matters relating to boundary details and access gates can be adequately dealt with by means of condition.

#### Residential Amenity

- 8.6. In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. In my opinion, separation distances typical of what would normally be anticipated within such an established, urban area are proposed with existing properties. This will ensure that any impacts are in line with what might be expected in an area such as this. The height and scale of the proposed dwelling is considered acceptable and I consider that the proposal would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that impacts on privacy or security would not be so great as to warrant a refusal of permission. The obscuring of all windows at first floor level, as suggested in one of the appeal submissions is considered unnecessary. Concerns raised in relation to construction practices can be adequately dealt with by means of condition.
- 8.7. There is an acknowledged housing crisis and this is a serviceable site, in an established city area, where there are adequate public transport links, services, facilities and employment in close proximity. I have no information before me to believe that the proposed development, if permitted would lead to the depreciation of property values in the vicinity.
- 8.8. Adequate private open space is proposed for both the existing and proposed dwellings, to comply with Development Plan standards. I note that the proposed dwelling complies with the operative Development Plan in terms in internal standards.

#### Drainage Matters

- 8.9. I note the concerns raised in the appeal with regards to this matter. I am not unduly concerned in this regard. I note that the planning authority are generally satisfied in this regard, subject to condition. I have no information before to believe that the proposal would be prejudicial to public health. I am generally satisfied in this regard, subject to condition.

### Other Matters

- 8.10. Matters relating to boundaries and legal ownership are considered to be a legal matters outside the remit of this planning appeal. I can only undertake my assessment based on the information before me. I am satisfied, based on this information, that the applicant has demonstrated sufficient legal interest to make this application. As in all such cases, the caveat provided for in Section 34(13) of the Planning and Development Act 2000, as amended, applies which stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development. I also note the provisions of Section 5.13 of the Guidelines for Planning Authorities, Development Management, 2007 in this regard.
- 8.11. I am satisfied with the information contained with the application documentation and consider there to be adequate information on file, to allow me undertake a comprehensive assessment of the proposed development. I consider the information submitted to be substantially in compliance with the relevant legislation in this regard.

### Conclusion

- 8.12. Having regard to the limited extent, height and design solution put forward, I am satisfied that the proposed development is in accordance with the zoning objective of the County Development Plan, which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities', is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

## **9.0 Appropriate Assessment Screening**

- 8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 10.0 Recommendation

10.1. I recommend permission be GRANTED subject to conditions.

## 11.0 Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Dun Laoghaire Rathdown County Development Plan 2022-2028, and to the standards for the development for backland development set out in section 12.3.7.6 of that Plan, it is considered that, subject to compliance with conditions below, the proposed house would not seriously injure the character of the area or the amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 12.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by Further Information received by the planning authority on 02/02/2022 and Clarification of Further Information received by the planning authority on the 28/04/2022, 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><b>Reason:</b> In the interest of clarity</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>

3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
4.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
5.	<p>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.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
6.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p> <p><b>Reason:</b> In the interests of public health</p>
7.	<p>The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters</p> <p><b>Reason:</b> In the interests of public safety</p>
8.	<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, including hours of working, noise management measures including noise management measures and off-site disposal of construction/demolition waste.</p>

	<p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
9.	<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><b>Reason:</b> 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>

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Lorraine Dockery  
Senior Planning Inspector

29<sup>th</sup> November 2022