



An
Bord
Pleanála

Inspector's Report

ABP-314427-22

Development

Outline permission is sought for a development consisting of a new two storey house together with all associated site works. In addition, outline permission is sought for new vehicular entrance and car parking spaces to the side of existing dwelling on site together with all associated site works.

Location

'Hill House', Torca Road, Dalkey, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D22A/0391.

Applicant(s)

Michael Lennon.

Type of Application

Outline Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party.

Appellant(s)

Michael Lennon.

Observer(s)

1. Marc Caron & Aoibhinn Finlay.
2. Peter Cahill.
3. Katie Donovan.

Date of Site Inspection

18th day of November, 2022.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The 0.26ha irregular shaped appeal site, forms part of the curtilage of a detached 2-storey dwelling house known as 'Hill House' that occupies an elevated backland site to the south of the residential cul-de-sac Torca Road, in the city suburb of Dalkey, Co. Dublin.
- 1.2. Hill House and an adjoining two storey dwelling house known as 'Heather House' are accessed via a roughly surfaced in concrete steeply sloping laneway that opens onto Torca Road at lower ground levels and at a point where sightlines are restricted in both directions. For the most part its width is c2.5m with grass verges bound by mainly mature hedgerows on either side but also including the side elevation of No. 3 Torca Road. This side elevation contains clear glazed windows opening onto the private laneway. The main boundary treatment consists of mature hedgerows with the rear garden of circa 15 properties bounding the northern, eastern, southern, and western boundaries of the site.
- 1.3. The mature gardens are broken up with large areas of hardstand which include a driveway and large area to the front of the dwelling which appears to accommodate car parking for residents of the property. From the front of Hill House there are panoramic views available over Dublin Bay to the north. Within the curtilage of Hill House there are also a number of sheds and outbuildings.
- 1.4. Of note, to the east of the is the curtilage of 'An Tigh Thuas'. The curtilage of this 3-storey property includes a detached two-storey building located on the what appears to be the shared boundary with the appeal site. This structure contains two windows on its gable elevation facing into the site that are fitted with obscured glazing.
- 1.5. On the opposite side of the private lanes entrance onto Torca Road there is a public footpath and a convex mirror. The entrance of this private lane is situated c56m to the south east of Torca Road's junction with the heavily trafficked Ardbrough Road and Knock-Na-Cree Road.
- 1.6. The site is situated c500m to the south as the bird would fly from Dalkey Train Station. The surrounding area is predominantly residential in character consisting of mainly two storey properties on large garden plots.

2.0 Proposed Development

2.1. Outline permission is for:

- A two-storey house described as consisting of an entrance hall with 4-bedrooms and bathroom on ground floor level and at first floor level a guest bedroom dining and kitchen area with a flat roof over.
- New vehicular entrance and car parking spaces serving the proposed dwelling.
- All associated site works and services.

2.2. According to the planning application form the gross floor area of the proposed works would be 214m² and the site is served with an existing connection to public mains water and drainage.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 29th day of July, 2022, the Planning Authority **refused** Outline Planning Permission for the following single stated reason:

“Having regard to the location and layout of the site and the proposal, it is considered that the development would lead to endangerment of public safety due to the lack of sightlines at the access laneway. The proposed development would be serviced by an existing substandard entrance, which has inadequate sightlines for pedestrians and vehicles exiting onto Torca Road. The increase of vehicular and pedestrian traffic, by way of the proposed dwelling, would endanger public safety by reason of traffic hazard or obstruction of road users, or otherwise. The proposed development 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 Officer’s report is the basis of the Planning Authority’s decision and includes the following comments:

- General principle of development deemed to be acceptable.
- The proposed development should have regard to planning provisions relating to climate action.
- Proposal is similar to the development previously refused by the Board under ABP PL06D.236449.
- The proposed dwelling is considered to be relatively large but generally accords with relevant planning provisions.
- Private open space provision for existing and proposed dwelling is acceptable.
- Concerns that the design has the potential for undue overlooking of adjoining properties.
- The recommendations of the Transportation Planning division are concurred with.
- Inadequate drainage information provided.
- No AA or EIA issues arise.
- Concludes with a recommendation for refusal.

3.2.2. **Other Technical Reports**

Transportation Planning (12/07/2022): Concludes with a recommendation for **refusal** on the grounds that the proposed development would endanger public safety by reason of a traffic hazard or obstruction to road users.

Drainage (07/06/2022): This report includes the following comments:

- Inadequate surface water disposal details provided.
- Unclear whether the proposed hardstanding accord with Section 12.4.8.3 of the Development Plan.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. Third Party Observations

- 3.4.1. Two No. Third Party Observations were received by the Planning Authority during the course of its determination of this application. I have noted the comments contained therein and further note that copies of these observations are attached to the appeal file. I consider that the main issues correlate with those made by observers in this appeal case which I have summarised under Section 6.3 of this report below.

4.0 Planning History

4.1. Site

4.1.1. ABP Ref. PL06D.236449 (P.A. Ref. No. D10A/0014):

On appeal to the Board permission for a development comprising of the construction of new 3 bed, 2 storey with habitable attic space, detached dormer dwelling house, comprising: 2 no. bedrooms and family room at ground floor level, living, kitchen and dining area at first floor level, and master bedroom suite within habitable dormer attic space. A new detached two storey dormer annex building, containing garage, gym and games room, together with a new entrance gate and access road off the existing laneway, and all associated drainage and site development works was **refused** for the following stated reasons and considerations:

- “1. *Having regard to the constraints of the access road, which provides access to a number of existing dwellings, the Board is not satisfied that the additional turning movements generated by the proposed development would not endanger public safety by reason of traffic hazard and result in obstruction of road users.*
2. *It is considered that the scale, design and bulk of the proposed dwellinghouse and garage, located within the curtilage of an existing house, served by way of a narrow, substandard access and in close proximity to boundaries, would constitute overdevelopment of this site and would seriously injure the visual and residential amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
3. *The Board is not satisfied, given the level of detail submitted, that disposal of surface water to a soakway in the proposed development would not result in*

flooding of adjoining gardens and contamination of the 3" watermain which traverses the site. The proposed development would, therefore, be prejudicial to public health.

4. *Drawings submitted with the application are inconsistent in relation to stated heights of the proposed house and the adjoining 'An Tigh Thuas'. In the absence of clarity in relation to this matter, it is not possible to assess the impact of the proposed development on the adjoining 'An Tigh Thuas' and its curtilage. The proposed development would seriously injure the residential amenities of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area."*

Of note, the site area this appeal case related to was 0.2463 acres (997m²); the two-storey dwelling house had a given floor area of 243m² and the garage/annex building had a total given floor area of 109m².

Decision date: 19th day of November, 2010.

4.2. **Setting – Recent**

- 4.2.1. **'Clanaber', Torca Road, Dalkey, Co. Dublin – Site Adjoining the rear boundary of the appeal site.**

ABP-306919-20 (P.A. Ref. No. D19A/0749):

On appeal to the Board permission was **granted** subject to conditions for a development consisting of the construction of a new dwelling. The development will consist of: (a) Construction of a two storey above lower ground floor detached dwelling; (b) Repositioning and widening of an existing vehicular entrance to the southwest of the property onto the private road which adjoins Torca Road; (c) The construction of new boundary walls including a new wall along the road frontage; (d) The demolition of the existing detached house and associated outbuildings; (e) Associated drainage and landscaping works within the curtilage of the site.

4.3. **Setting – Other**

- 4.3.1. I have noted the Planning Authority's decisions in the setting of the appeal site with the planning history relating to the same fully detailed in the Planning Authority's Planning Officer's report which is attached to this appeal case file.

5.0 Policy & Context

5.1. National

- **Project Ireland 2040 - National Planning Framework (NPF).**

One of the national core principles to guide the delivery of future housing, at every level of governance, is to tailor the scale and nature of future housing provision to the size and type of settlement.

- **Housing for All - A New Housing Plan for Ireland, 2021:** This plan aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs (with Ireland needing an average of 33,000 No. homes to be constructed per annum until 2030 to meet the targets set out for additional households outlined in the NPF). The Plan itself is underpinned by four pathways:

1. Pathway to supporting homeownership and increasing affordability.
2. Pathway to eradicating homelessness, increasing social housing delivery, and supporting inclusion.
3. Pathway to increasing new housing supply.
4. Pathway to addressing vacancy and efficient use of existing stock.

- **Climate Action Plan, 2021.**
- **National Development Plan, 2021 to 2030.**

5.1.1. **Ministerial Guidance:** The following Section 28 Ministerial Guidelines and other national policy documents are relevant:

- Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007.
- Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009.
- Urban Design Manual: A Best Practice Guide, 2009.
- BRE Guide 'Site layout Planning for Sunlight and Daylight', 2011.
- Design Manual for Urban Roads and Streets, 2019 .

5.2. Regional

5.2.1. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES), 2019 to 2031.

This is a strategic plan which identifies regional assets, opportunities and pressures as well as sets out appropriate policy responses in the form of Regional Policy Objectives (RPO's). It provides a framework at a strategic level for investment to better manage spatial planning and economic development to sustainably grow the Region to 2031 and beyond.

5.3. Local

5.3.1. Since the Planning Authority issued its decision in respect of the subject proposed development, they have adopted a new development plan for their administrative area. The applicable plan for the determination of this application is therefore the Dun Laoghaire Rathdown County Development Plan, 2022-2028.

5.3.2. Under this plan the appeal site is located in an area zoned as 'A' with the stated land use zoning objective: *"to protect and/or improve residential amenity"*. The land use zoning 'A' objective applies to the adjoining and neighbouring properties to the north, north east and south west of the site.

5.3.3. Chapter 2 sets out the Development Plans Core Strategy.

5.3.4. Section 4.1 of the Development Plan sets out the five Strategic Outcomes that underpin the Development Plan as follows:

- Climate Resilience County.
- Compact and Connected County.
- Liveable County of Towns and Villages.
- Inclusive and Healthy County.
- Vibrant Economic County.

5.3.5. Chapter 12.3 of the Development Plan deals with the matter of Neighbourhood, People, Homes, and Place. It sets out: *"guidance on qualitative, quantitative, and development management criteria for sustainable neighbourhood infrastructure and*

residential developments"; and states that: "*these requirements will form the basis for evaluating planning applications for residential development and their respective supporting neighbourhood infrastructure with a view to improving the quality of life in Dún Laoghaire-Rathdown*".

- 5.3.6. Section 12.3.7.5 of the Development Plan deals with corner and side garden sites. It also sets out the parameters which they will be assessed against.
- 5.3.7. Section 12.3.7.7 of the Development Plan deals with the matter of Infill in accordance with Policy Objective PHP19. It sets out that: "*new infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings. This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from ACA status or similar*". It also sets out that reference be had to Section 12.3.7.5 corner/side garden sites for development parameters, Policy Objectives HER20 and HER21 in Chapter 11.
- 5.3.8. Section 12.4.8.3 of the Development Plan deals with the matter of Driveways and Hardstanding Areas.

5.4. Natural Heritage Designations

- 5.4.1. The following European Sites are located in close proximity to the site:
- Rockabill to Dalkey Island SAC (Site Code: 003000) is located c780m to the east.
 - Dalkey Island SPA (Site Code: 004172) is located c794m to the north east.
- 5.4.2. Of further note the site at its nearest point is situated 25m from proposed Natural Heritage Area: Dalkey Coastal Zone and Killiney Hill (Site Code: 001206). This pNHA is located to the west of the site.

5.5. EIA Screening

- 5.5.1. Having regard to the nature, scale and extent of the proposed development together with the nature of the receiving environment 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.

5.6. **Built Heritage**

5.6.1. Of note the appeal site is situated c180m to the north east of National Monument DU05052.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The First Party grounds of appeal can be summarised as follows:

- The appellant wishes to downsize from their existing property of Hill House to a smaller house on the site.
- This proposal would only result in an increase in two cars using the private laneway.
- The convex mirror on the opposite side of the road provides good sightlines.
- There have been no accidents on the private lane.
- This application seeks to overcome the refusal reasons for appeal case ABP Ref. PL06D.236449.
- This proposal gives rise to no overlooking.
- The site is served by foul drainage.
- The Board is sought to overturn the decision of the Planning Authority.

6.2. **Planning Authority Response**

6.2.1. No comments.

6.3. **Observations**

6.3.1. The Board received observations from 1) Marc Caron & Aoibhinn Finlay; 2) Peter Cahill; and 3) Katie Donovan. In order to avoid repetition I have summarised the main issues raised in these observations collectively as follows:

- Concern is raised in relation to the foul drainage and potential for sewage overload.
- Concerns raised that the proposed development would give rise to additional nuisances with adjoining property for which the foul drainage for Hill House passes through to reach the public sewer giving rise foul odours during summer months.
- The proposed dwelling would result in a significant impact on traffic volumes, noise and dust on Torca Road
- Torca Road is substandard.
- Access serving the site is substandard.
- Torca Road has pedestrian access to Killiney Hill.
- The steep access serving the site is a concern particularly during icy weather conditions.
- The drawings show a neighbouring structure as a shed when it is in fact part of their house and used as a studio.
- The construction works would give rise to significant nuisances.
- The adjoining Frascati House is a local attraction during Christmas.
- The capacity of Torca Road to cater for any additional traffic is questioned.
- The reasons given by the Planning Authority to refuse permission are supported.
- Previously the appellants were refused permission for a similar application on the site.
- The water supply is already stretched on Torca Road.
- The Board is sought to uphold the decision of the Planning Authority.

7.0 Assessment

7.1. Preliminary Comment

7.1.1. Having inspected the site, reviewed all documents on file, and had regard to all relevant planning provisions I consider that the following are the substantive planning issues for consideration in this appeal case are:

- Principle of the Proposed Development

- Access
- Amenity Impact
- Drainage
- Devaluation of Property

7.1.2. The matter of ‘*Appropriate Assessment*’ also requires examination. Having had regard to all relevant matters I am of the view that there are no other substantive planning issues arising in this appeal case that require detailed examination and that cannot be dealt with by way of standard conditions in order to ensure that the proposed development accorded with proper planning and sustainable development of the area as provided for under all relevant local, regional through to national planning provisions and guidance.

7.2. Principle of the Proposed Development

7.2.1. By way of this planning application outline permission is sought for the subdivision of the curtilage of a property referred to in the documentation as ‘Hill House’. The curtilage of Hill House is given as 0.76ha and it is proposed to subdivide an irregular L-shaped portion of its northern and eastern side to provide a separate residential site with a stated 0.26acres site area on which it is proposed to construct a two-storey 5-bedroom residential dwelling together with all associated works. Including the provision of a new driveway and vehicle access onto a private lane that currently provides access to ‘Hill House’ and the adjoining property of ‘Heather House’ to Torca Road to the north west via a private laneway.

7.2.2. In relation to whether or not the general principle of the proposed development is acceptable, it is of relevance to firstly note that the subject site is located in an area zoned ‘A’ in the Dun Laoghaire Rathdown County Development Plan, 2022-2028. The stated land use zoning objective is “*to protect and/or improve residential amenity*”. Residential type developments are deemed to be acceptable on ‘A’ zoned land subject to safeguards.

7.2.3. The pattern of development in the immediate suburban context of the site consists of serviced mature residential development with the majority of residential plots being generous garden type plots alongside the built forms being of varying architectural style, quality and dating to varying periods. Within this built up setting I observed

however that the architectural character is mainly comprised of vernacular and more period residential style and period structures set in mature landscaped plots. Notwithstanding, there are also examples of more recent contemporary infill-built insertions also present within this site's setting.

- 7.2.4. Given that this proposal seeks the subdivision of the curtilage of 'Hill House' I am of the view that it is reasonable to consider the proposed 0.26acre site as a potential infill site.
- 7.2.5. I also consider given the landlocked nature of the site due to its lack of any frontage onto public owned land, in particular not including a boundary adjoining a public road, with access dependent upon an existing private lane serving 'Hill House' and 'Heather House'. Alongside the site being bound on all sides by land that outside of 'Hill House' is in Third Party ownership. It is therefore reasonable in my view to also consider it a backland infill site in its suburban landscape context.
- 7.2.6. Of note Section 4.3.1.2, in tandem with Objective PHP19 of the Development Plan, seeks to densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.
- 7.2.7. In addition, Section 12.3.7.7 which also deals with the matter of 'Infill Development' and Section 12.3.7.5 of the Development Plan which deals with the matter of 'Corner/Side Garden' sites also generally supports this type of development subject to such developments being consistent with the parameters set out the plan as well as Policy Objectives HER20 and HER21.
- 7.2.8. In relation to backland development of note Section 12.3.7.6 of the Development Plan sets out that: "*residential development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such*". In this case the Planning Authority accepted the general principle of backland residential development at this location within what is an existing built-up area. Notwithstanding, such developments are subject to demonstrating compliance with a number of standards". I note that compliance with the relevant standards are discussed separately in my assessment below under the heading of 'Other Matters Arising'.
- 7.2.9. I am also cognisant that the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*', 2009, supports densification of established

serviced residential suburban areas like this. With available information showing in general no capacity issues in terms of water and foul drainage to absorb incremental small scale residential developments like that proposed under this application or otherwise. This is not to say however that the issues raised in terms of the supply to Torca Road may not be of any merit given the lack of detail available on this particular issue.

- 7.2.10. Overall, local planning provisions are generally supportive of varying types of residential developments on land zoned 'A' subject to them demonstrating that they achieve an appropriate balance between the protection of the established residential amenities that are sensitive to change and the improved residential amenities which are taken to include densification at appropriate locations.
- 7.2.11. In relation to national planning provisions I note that NPO 33 which is one of the National Planning Framework's (NPF) National Policy Objectives sets out the prioritisation of the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- 7.2.12. Moreover, in relation to NPF of further relevance is NPO 35. This National Policy Objective seeks increased residential density in settlements through a range of measures including infill development.
- 7.2.13. Of further note NPO 3a seeks that 40% of all new homes nationally are delivered within the built-up footprint of existing settlements with NPO3b seeking that at least half of all new homes are targeted in five cities in Ireland and their suburbs including Dublin.
- 7.2.14. In relation to the planning history of the site, it is also of note that the Board refused permission under ABP Ref. PL06D.236449 (See Section 4.1.1 of this report above) for the subdivision of the curtilage of Hill House in order to facilitate the construction of a similar sized two storey dwelling house similar served by a new entrance onto the private lane that provides access onto Torca Road. Notwithstanding, the four substantive as well as robust given reasons and considerations set out in the Board's Order, the Board did not raise any concern in relation to the general principle of residential development. Further, the general principle of the proposed development was not set out as a substantive planning issue of concern in the accompanying Boards Inspectors Report for this appeal case.

7.2.15. Having regard to the above considerations, I am however satisfied that the general principle of the proposed development is acceptable, subject to safeguards.

7.3. Access

7.3.1. As set out under Section 3.1.1 of this report above the Planning Authority permission was refused for the proposed development on public safety endangerment grounds given the lack of adequate sightlines at the access laneway onto Torca Road. It was also considered by the Planning Authority in their given reason for refusal that the increase of vehicular and pedestrian traffic arising from the proposed dwelling would endanger public safety reason of a traffic hazard and/or obstruction of road users.

7.3.2. The Planning Officer in their report assessing the proposed development concurred with the Planning Authority's Transportation Division which considered the laneway entrance as being substandard with poor visibility in both directions onto Torca Road.

7.3.3. They also concurred with Transportation Division that the installation of a convex mirror and changes to the vegetation would not overcome the public safety issues that would arise from additional access and egressing of this entrance.

7.3.4. Further, they concurred with the Transportation Division's recommendation that permission should be refused on the basis that the proposed development would endanger public safety by reason of a traffic hazard or obstruction to road users.

7.3.5. The First Party in their grounds of appeal do not concur that this would be the case and they contend that this proposal would only result in an increase in two cars using this lane as well as its entrance onto Torca Road. They further contend that the convex mirror on the opposite side of the road provides good sightlines and that there have been no accidents on the lane serving the site, 'Hill House' and 'Heather House' onto Torca Road.

7.3.6. The Third Parties, despite considering that the Planning Authorities reasons for refusal should have raised other planning concerns arising from the proposed development, on the other hand support the Planning Authority's given reason for refusal and contend that Torca Road does not have the capacity to absorb any further increase in traffic. With this cul-de-sac road being substandard in its nature, including in terms of it not accommodating pedestrian footpath at the side of the road upon which the existing entrance opens onto. But also, they note that this cul-de-sac road not only

accommodates the traffic generated by the 25 dwellings opening onto it but also it accommodates pedestrian access onto Killiney Hill which increases the number of vulnerable users that use this public road.

- 7.3.7. I consider it is of note to the Board there reasons and considerations for refusal of the that the previous application on this site (Note: ABP Ref. PL06D.236449). The proposed development which this appeal case related to was permission for a development that consisted of a dwelling house of a given floor area of 243m², which I note is 29m² larger than the five-bedroom dwelling house sought under this application (Note: proposed dwelling has a given floor area of 214m²). I also note that it included a substantial garage structure. The Board's first given refusal reason and consideration related to concerns over the constraints of the access road. In this regard, the Board was not satisfied that the additional traffic movements generated by the proposed development would not endanger public safety by reason of traffic hazard and result in obstruction of road users. For this reason the Boards first reason and consideration for refusal of permission concluded that the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.3.8. In addition to this the Board's second reason and consideration of refusal of planning permission referred to the access serving the proposed dwelling as being 'substandard' and in close proximity to boundaries.
- 7.3.9. Like the previous proposed development determined by the Board no physical improvements are proposed to either the entrance from the private lane onto Torca Road in order to achieve the required sightlines in either direction without being obstructed.
- 7.3.10. Further no improvements are proposed under this application to address the substandard 2.5m width of the private lane, its poor concrete surfacing, no physical changes are proposed to the shared access serving 'Hill House', 'Heather House' and the proposed dwelling at the end point of this private road through to the pinch point to the west of 'Hill House', 'Heather House' and the proposed new dwelling, i.e., where this private lane changes its westerly direction to a northerly direction for its main stretch that links onto Torca Road.
- 7.3.11. In addition, to this the significant changes in gradient between the proposed new entrance and along the route of the private lane to where it reaches Torca Road is not

clarified in the drawings submitted nor are any surface water drainage measures proposed to deal with surface water through to contaminant run-off that arises from it. With the additional traffic arising from the proposed dwelling adding to the level of contaminants likely to be arising from vehicle movements on this private lane given the fact that there is no evident existing measures in place for either surface water capturing and its diversion through to interception of contaminants and pollutants such as those arising from vehicle movements.

- 7.3.12. In addition, little clarity is given in the documentation provided in relation to actual ownership of the private lane serving Hill House and Heather House, with Hill House appearing to be the initial backland dwelling accessed via the private lane onto Torca Road. It is simply indicated that the private lane is subject to a right-of-way for Hill House and Heather House. It is not clear who the legal owners are and whether or not the applicants have the right and/or consent to provide a new vehicle entrance serving a new separate substantive in its own right five-bedroom dwelling on it whereby this proposed dwelling will be dependent upon this lane for all types of access and egress that would arise from it.
- 7.3.13. Moreover, at the time of my inspection there had been a heavy frost the night before. Despite my inspection occurring mid-afternoon the level of overshadowing meant that the lane had not thawed and this resulted in the laneway itself being very slippery underfoot and for vehicles with black ice foot. Of further note the concrete surface also contained mosses and other types of plants through to small debris build up that adds to concrete being a slippery surface when not treated and maintained.
- 7.3.14. The only safety measure that is present is the convex mirror erected on the opposite side of the entrance onto Torca Road.
- 7.3.15. In relation to this convex mirror I observed that it is a modest in dimension mirror and whilst I acknowledge that it does improve visibility for those exiting from the private laneway's entrance onto Torca Road, notwithstanding, it is not adequate to resolve the issues arising from the entrance and private laneway upon which access and egress is proposed for the new dwelling.
- 7.3.16. Further, the documentation provides no clarity on any legal consent for this to be maintained in perpetuity or until such time as required sightlines can be achieved onto

Torca Road. Indeed, it also does not provide any evidence that a more improved mirror could be installed in its place.

7.3.17. As such the obstructions on either side of the entrance are such that there is minimal visibility for vehicles exiting from the entrance onto Torca Road and this presents a significant road safety and traffic hazard already for existing road users including vulnerable road users where there is one modest in width footpath on the opposite side of Torca Road.

7.3.18. Further, there is no space provided along the length of the lane for two vehicles to pass one another safely without having to mount the grass verges. This is not an adequate solution for the existing situation and the proposed dwelling house would intensify vehicle and other types of vulnerable users movements along the length of this private laneway.

7.3.19. I note that the Board Inspector in their report for PL06D.236449 stated the following: *“it is not reasonable to compound an already unsatisfactory situation. Two houses currently use the steep access laneway off Torca Road. Additional turning movements generated by the proposed development would result in traffic hazard and obstruction of road users”*; and, that *“it would be desirable that a passing place be provided somewhere along the middle of this laneway to obviate the need for traffic to have to reverse back onto Torca Road – this being the easiest because of the incline on the laneway. There would appear to be sufficient width within the laneway reservation to permit of the construction of such a passing place”*.

7.3.20. I am of the view that like the previous application that the proposed development would compound an already unsatisfactory situation with the additional access and egressing movements adding to the level of traffic hazard and road safety issues that arises from the two existing dwellings of Hill House and Heather View, both substantial dwellings in their own right.

7.3.21. Moreover, this is not a modest proposed dwelling, it is another five double bedroom dwelling house that would be served by substandard private lane and a substandard access onto the public domain together with a poorly designed access arrangement serving both Hill House and the proposed dwelling. With this including the two significant in length driveways running alongside one another adding unnecessarily to the level of potential hardstand and loss of deep soil.

- 7.3.22. In relation to the concerns arising from the additional nuisances that would arise on the private lane and entrance onto Torca Road during construction activities, subject to the proposed development being otherwise acceptable, it would be standard practice to impose appropriate conditions and/or that would deal with the additional traffic, the noise, potential spillages and the like.
- 7.3.23. Based on the above considerations, I concur with the Planning Authority's given reasons for refusal and to permit the proposed development would be contrary to the proper planning and sustainable development of the area.

7.4. Amenity Impact

- 7.4.1. I am not convinced from the documentation submitted with this application that it illustrates the correct ground levels for the site through to the relationship with other properties. I also note that it is contested that what is depicted as an adjoining shed is as described with the owner of this property indicating its residential use as part of their property.
- 7.4.2. I am also not convinced based on the information provided that it has been demonstrated that there is adequate separation distance between the proposed dwelling's first floor level glazing and opposing first floor glazing.
- 7.4.3. In particular the level of glazing on what is indicated to be the front, rear, and side elevations.
- 7.4.4. As such I am not convinced that the proposed dwelling is one that would not give rise to actual overlooking or perception of being overlooked given the elevated nature of the site relative to other adjoining properties.
- 7.4.5. Of further concern I am not convinced that the documentation provided with this application have demonstrated that no adverse overshadowing would arise from the proposed development for the adjoining properties given the orientation of the site, the significant changes in ground levels alongside the proximity of the proposed dwelling to other Third Party properties in residential use.
- 7.4.6. Moreover, I consider that the architectural design is not one that could be considered to be harmonious or respectful with the pattern of development within its setting. In particular with adjoining properties.

7.4.7. Despite these concerns I consider that these in themselves are not sufficient in their own right to warrant refusal of the proposed development given that such matters could ideally have been overcome by a more qualitative architectural response to the site in the first place and secondly by way of a request for additional information if there had been no other substantive concerns arising from the proposed development. This, however, was not the case in this situation given the substantive concerns arising from the substandard private lane and access onto Torca Road as previously discussed above.

7.5. Drainage

7.5.1. As previously mentioned above this site is landlocked and access to services such as public water supply and foul drainage is via private owned land outside of which the applicant has demonstrated any legal consent for any improvements and/or intensification of the same.

7.5.2. It is also a concern that it is contended by the Third-Party landowner whose property the foul drainage runs through that there are issues with this infrastructure which are such that give rise to residential nuisances in the form of malodours and the like.

7.5.3. The documentation provided with this application does not demonstrate that the existing foul drainage infrastructure and connection to the public mains sewer has the capacity without any upgrading to accommodate the additional loading arising from a dwelling with a population equivalent of 10 persons.

7.5.4. Also, inadequate details are provided on surface water drainage and that the proposed development would not give rise to any additional surface water runoff outside of the proposed site area or that sufficient surface water drainage solutions would be incorporated to ensure that surface water is dealt with within the confines of this 0.26acre site without any reliance onto the foul sewer.

7.5.5. If surface water is to be discharged to the foul sewer the capacity to absorb this has not been demonstrated and/or if additional improvements are required to the existing infrastructure. It cannot be assumed without evidence that existing service infrastructure is fit for purpose or of the standard required to accommodate in accordance with best practices the additional loadings and demands arising from the proposed development.

- 7.5.6. Moreover, the drawings do not clarify that permeable solutions would be incorporated to lessen the loss of deep soil from the significant in length new driveway and the like.
- 7.5.7. Nor does it show any interceptor for contaminants arising from it and the paved area which also accommodates car parking.
- 7.5.8. Furthermore, it is noted that there are no proposed improvement measures for the reduced site area that would arise for Hill House from the proposed development despite its extensive areas of hardstand through to the loss of deep soil that would arise from the residential subdivision.
- 7.5.9. I am not satisfied that adequate information has been provided in relation to the above matters to make an informed decision.
- 7.5.10. I also note that the Planning Authority's Drainage Division considered that inadequate surface water disposal details had been provided and that was unclear whether the proposed hardstand accorded with Section 12.4.8.3 of the Development Plan.
- 7.5.11. In relation to this particular section of the Development Plan, it sets out that a minimum of one third of front garden areas should be maintained in landscape/grass in the interest of urban greening and SUDS. This I note has not been incorporated into the design and layout of the proposed development for either the proposed dwelling or the existing dwelling.
- 7.5.12. Further, it requires that each driveway, parking and hardstanding area shall be constructed in accordance with SuDS. As well as include measures to prevent drainage from the driveway entering onto the public. Similarly, this has not been demonstrated in the submitted drawings. If it were the case that the proposed development was otherwise acceptable, that is to say that it gave rise to no other substantive planning concerns, arguably this matter could have been dealt with by way of additional information.
- 7.5.13. As such I consider that the substantive concerns raised in relation to the private lane and access onto Torca Road are of sufficient merit and weight to sustain a refusal of outline permission in this case.

7.6. Depreciation of Property Values

- 7.6.1. The documentation submitted by Third Parties has not substantiated by way of appropriate professional evidence how and the extent of any material devaluation

would arise from the provision of a dwelling in what is essentially a residential suburban area. As such on the basis of the information provided I am not satisfied that it can be concluded that the proposed development, if permitted, would give rise to any material devaluation of their property or that this concern has basis to support the refusal of outline permission in this case.

7.7. Other Matters Arising

7.7.1. **Compliance with Section 12.3.7.6:** Of concern the Development Plan under the said section sets out a number of standards applicable to backland residential development that the proposed development is not consistent with.

Firstly, the proposed development is not single storey nor has the two storey design demonstrated that it would not as raised as a concern above avoid overlooking of adjoining properties.

Secondly, having regard to the concerns raised above together with other concerns raised in this section of the assessment I am not satisfied that it has been demonstrated that the design is of qualitative standard and/or merit.

Thirdly the private access laneway serving the proposed dwelling, Hill House and Heather House is significantly less than the minimum 3.7-metres width that is stated under this section of the Development Plan must be provided to the proposed dwelling and 3.1 metres at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles. As previously noted in the main assessment above the average width of the private laneway is 2.5m along its main length.

Fourthly, no improvements have been proposed to improve the physical layout of the entrance onto Torca Road under this application. Nor indeed no improvements have been proposed to improve the private laneway to provide safe access and egress for existing and proposed dwellings it would serve.

Based on these considerations I am not satisfied based on the information provided with this application that the proposed development is consistent with the standards set out in the Development Plan for backland development.

7.7.2. **Ground Levels:** The documentation submitted with this application do not clarify the changes in ground levels that are present along the northern and western boundaries

of the site and what level of ground augmentation that would be required for the proposed separate entrance and driveway proposed under this application.

7.7.3. **Landscaping & Boundary Treatments:** The documentation submitted with this application do not provide any adequate details in relation to landscaping and boundary treatments associated with the proposed development sought. This includes but is not limited to the removal of mature trees and of further note Section 12.2.6 of the Development Plan on the matter of urban greening sets out that applicants should explore the potential of the same in developments including by way of the provision of high quality landscaping (including tree planting), that make use of a diverse range of species of plants. This is not demonstrated in this application nor is any compensatory measures for the loss of mature trees from the site which would facilitate the proposed development sought under this application.

7.7.4. **Climate Action:** Section 12.2.1 of the Development Plan which deals with the matter of Climate Action and the Built Environment sets out that the: "*Planning Authority will support and encourage buildings of innovative design which seek to achieve Passive or Net Zero Carbon design standards*". The proposed design does not include any such measures and the documentation submitted by the appellant indicates that a lesser standard of BER 1 for the new dwelling house is proposed. When this fact is taken together with other concerns such as the necessity for the design to subdivide the curtilage of Hill House so that the existing house and the proposed dwelling would be served by two substantive in length driveways, the lack of any details in sustainable drainage solutions, the lack of EV charging for the car parking spaces through to landscaping approaches having regard to the provisions in place in the Development Plan which seeks climate resilient development I am not of the view that the design and layout has had regard to achieving a qualitative outcome in this regard.

7.8. **Appropriate Assessment**

7.8.1. Having regard to the nature, scale and extent of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the separation distance to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect,

either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

8.1. I recommend that outline planning permission be **refused**.

9.0 Reasons and Considerations

1. Having regard to the backland location, the design as well as layout of the proposed development, including the manner in which access and egress to the public road network would be provided, it is considered that the proposed development would lead to endangerment of public safety due to the lack of adequate sightlines at the access laneway onto Torca Road. In this regard, it is considered that the proposed development would be serviced by an existing substandard entrance, which has inadequate sightlines for pedestrians and vehicles exiting onto Torca Road. The increase of vehicular and pedestrian traffic, by way of the proposed dwelling, would endanger public safety by reason of traffic hazard or obstruction of road users, or otherwise. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

31st day of January, 2023.