



An  
Bord  
Pleanála

## Inspector's Report ABP-314722-22

### Development

Retention of development comprising of amendments made to planning permission An Bord Pleanála Ref. ABP-304737-19 (DLRCC Ref. D19A/0221) during construction to provide ventilation including: (1) Replacement of permitted sills of approx. 60cm with continuous glass sections on all elevations; & (2) Installation of 5 additional sliding door/window sections (1 on north elevation, 2 on south elevation and 2 on east elevation). This site is in an architectural conversation area.

### Location

Villa Mara, Kilmore Avenue, Killiney, Co. Dublin

### Planning Authority

Dun Laoghaire Rathdown County Council

### Planning Authority Reg. Ref.

D22B/0334

### Applicant(s)

Enda Woods

### Type of Application

Retention

**Planning Authority Decision**

Grant

**Type of Appeal**

Third Party

**Appellant(s)**

Mervyn and Jean McKeown

David Williams and Hilary Murray

Margaret and Feichin McDonagh

**Observer(s)**

Hugh Kane

**Date of Site Inspection**

16/09/2023

**Inspector**

Lorraine Dockery

## 1.0 Site Location and Description

1.1. The subject site, which has a stated area of 0.066 hectares, is located at the junction of Kilmore Road/Saintbury Avenue and Station Road, Killiney, Co. Dublin. The site contains a two-storey over basement detached dwelling of stated floor area of 692m<sup>2</sup>. This is an established residential area, with dwellings of varying styles evident, most on relatively large plots.

## 2.0 Proposed Development

2.1 Permission is sought for retention of development comprising of amendments made to planning permission An Bord Pleanála Ref. ABP-304737-19 (DLRCC ref. D19A/0221) during construction to provide ventilation to include:

(1) Replacement of permitted sills of approx. 60cm with continuous glass sections on all elevations; and

(2) Installation of 5 additional sliding door/window sections (1 on north elevation, 2 on south elevation and 2 on east elevation).

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission GRANTED, subject to 1 standard condition

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The main points of the planner's report include:

- Report reflects decision of planning authority; recommends grant of permission

### 3.2.2. Other Technical Reports

A/Conservation Officer: Refusal recommended as proposal considered not to accord with provisions of County Development Plan, including Policy Objective HER13: Architectural Conservation Areas

## 3.3 Prescribed Bodies

None

## 4.0 Planning History

The most recent relevant history is as follows:

D19A/0221 (ABP-309737-19)

Permission GRANTED on appeal for removal of the existing pitched roof and construction of a single-storey extension (118m<sup>2</sup>) at roof level to provide new second floor level extension with new roof terraces to main house together with new internal staircase and other associated internal works to form new living accommodation, together with a new external wrought iron spiral staircase to link the main floor of the house to the rear gardens

Planning Enforcement

ENF 06222- Enforcement file regarding alleged non-compliance with Condition No. 1 of ABP-304737-19

## 5.0 Policy and Context

### 5.1 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'.

Residential development is permitted in principle under this zoning objective.

Section 12.3.7.1 Extensions to Dwellings

Section 12.3.7.1(ii) Extensions to the Rear and Section 12.3.7.1(iv) Alterations at Roof/Attic Level

## Chapter 11 Heritage and Conservation

The site is located within the Killiney Architectural Conservation Area. Policy Objective HER13: Architectural Conservation Areas noted

Site is located within Objective Area 130 which seeks 'To ensure that development within this objective area does not (i) have a significant negative impact on the environmental sensitivities in the area including those identified in the SEA Environmental Report, and/or (ii) does not significantly detract from the character of the area either visually or by generating traffic volumes which would necessitate road widening or other significant improvements'.

### 5.2 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.

### 5.3 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.

## 6.0 The Appeal

### 6.1 Grounds of Appeal

Three appeals were received with their content all similar in nature. The main points of the appeal submissions received may be broadly summarised as follows:

- Contravention of zoning objective
- Impacts on residential amenity including overlooking, impacts on privacy and increased noise; property devaluation; light pollution
- Amendments to design suggested
- Procedural Matters relating to previous decision of ABP (304737-19) and whether revised proposal submitted as part of first party appeal response was permitted; description of development as previously permitted (whether opaque or translucent glass was permitted); unauthorised development/enforcement; misinterpretation and inadequate assessment of proposal by planning authority; matters relating to building regulations not valid planning considerations

## 6.2 Applicant Response

A response was received on behalf of the first party, which refutes the grounds of appeal. The main elements of the response are:

- Proposal would not give rise to new concerns in terms of residential and visual impacts
- As viewed from surrounding public areas, the 'as constructed' roof extension appears visually the same as that previously permitted by ABP
- Separation distance to appellants properties range from 55m to 134m
- Given the separation distances, the noise generated by the proposal could not be assessed as significant
- Acknowledges errors in original application including in SSA letter to planning authority with reference to obscure glazing when none was proposed- contends that planning authority assessed proposal with regards to translucent glass not opaque

## 6.3 Planning Authority Response

A response was received which states that the grounds of appeal do not raise any new matters which in the opinion of the planning authority would justify a change of attitude to the proposed development.

## 6.4 Observations

An observation was received, which raises similar concerns to those outlined above from the third party appellants including, inter alia, impacts on residential amenity; devaluation of property and extent of development previously permitted on site

## 6.5 Further Responses

Further responses were received from all three appellants which largely reiterate the points made in their original submissions. No new planning matters raised, conditions suggested.

## 7.0 Assessment

7.1 I have read all the documentation attached to this file including inter alia, the appeal submissions, the report of the Planning Authority, further responses and observation received, in addition to having visited the site.

7.2 The primary issues, as I consider them, are the impacts of the proposed works on residential and visual amenity of the area.

7.3 At the outset I highlight to the Board that there is significant discussion in both the appeals, further responses and observation received regarding the nature and extent of development permitted under ABP-309737-19, namely whether a revised proposal submitted as part of the first party appeal was permitted planning permission or otherwise. It is clear to me (from Condition No. 1) that this revised proposal was not permitted and it was the development, as set out in drawings originally submitted to the planning authority on 03/04/2019 that was granted permission. An Bord Pleanála also clarified this matter by way of email to the planning authority on 04/03/2022. Contrary to the extensive discussion within the documentation received, it is my opinion that there is no ambiguity in relation to this matter and I shall not address it further.

7.4 Secondly, a significant volume of material and discussion forms part of this appeal relating to whether or not the glazing on the subject extension, permitted under ABP-304737-19, was translucent in nature or opaque. The third parties all contend that

the glazing was to be opaque in nature and reference a cover letter submitted to the planning authority as part of the original planning application by the applicants agent (dated (April 2<sup>nd</sup>, 2019) in this regard which states *'There will be no overlooking of any surrounding residences as the glazing on the additional side will be opaque. Accordingly, there is no loss to the amenity of any adjoining property'* (my italics). The third parties also refer to an axonometric model, submitted as part of the 2019 appeal, which they state supports their case. The applicants contend that this statement in the cover letter was inserted in error. In terms of the axonometric model, they state that this was not produced nor did not claim to be perfect representations of all parts of the proposed scheme down to precise wall details. They state that they were incomplete renderings. I do not accept this justification and consider that while the cover letter or axonometric drawings are not required from a validation perspective to comply with Planning and Development Regulations, 2001 (as amended), any decision made on an application is based on the full extent of information contained within the application submitted, including all supporting documentation. All information should be complete and accurate- the precise wall detail would have formed an important component of the application in this instance, given the nature of the development. I also note that the first party appeal submission in ABP-304737-19 states that *'...the existing opaque glazed elements used on the south and western elevation are to be replaced with solid metallic cladding to match the existing structure...'* (no page no, section before summary).

- 7.5 I again reiterate that I am of the opinion, as set out above, that permission was not granted for the revised proposal submitted as part of the first party appeal to An Bord Pleanála. However, while the initial statement referenced above (in italics) has some ambiguity in my opinion as to what side the applicant is referring to, this second statement in the first party appeal leads me to believe that it was intended by the applicants to have opaque glazing on the south and western elevations. This was also the understanding of the Inspector in his report on ABP-304737-19, as set out on Page 14 of his report. I highlight to the Board that the public notices (application form or site notice) did not refer to the glazing as being opaque. Neither did the submitted drawings. The Board did not condition the glazing to be opaque in their decision nor was it referenced in the Board Order or Direction. In this current application, the planning authority have not engaged in relation to this matter.



- 7.6 While I highlight this matter for the Board, I am of the opinion that any matter regarding possible/alleged non-compliance with a grant of permission is a matter for the enforcement section of the planning authority. I can only assess the proposal based on that applied for in the submitted public notices. The glazing in this current application is translucent. I am of the opinion that any matter of overlooking would be no greater by the insertion of the additional doors and lowering of cills than that previously permitted by the Board in the previous appeal on this site. Given the separation distances involved, ranging between 55m and 134m, I am satisfied that any impacts are in line with what might be expected in an area such as this. I note the significant amount of screening in the general vicinity. The proposed works are of a scale, height, massing and design appropriate to its urban location and context. Given the layout and design rationale put forward, I therefore do not anticipate levels of overlooking to be excessive and I consider that such matters would not be so great as to warrant a refusal of permission or amendment to design proposed. The Board may wish to condition opaque glazing for the proposal, I am of the opinion that it is not necessary in this instance for the reasons cited above. I am satisfied in this regard.
- 7.7 The operative County Development Plan is generally favourable to such extensions, subject to normal planning criteria and I note section 12.3.7.1(ii) and (iv) in this regard.

#### Visual Amenity

- 7.8 In terms of visual amenity, I note the contents of the appeal submissions, observation and further responses received. I consider this to be a relatively minor development, namely amendments to a previously permitted extension to a residential dwelling. I do not have issue with the extent or scale of the proposed works and consider that the proposed development would integrate well with the existing permitted development on this site. The proposal would have no greater impact on the Architectural Conservation Area nor on the character of the area than that previously permitted. 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.

7.9 I note the varying house styles in the vicinity. I consider that the proposal is in accordance with Development Plan policy for such works, including Objective Area 130. I am satisfied in this regard.

#### Residential Amenity

7.10 In terms of impacts of the proposal on residential amenity, I have dealt with the matter of overlooking above and I refer the Board to same. I am cognisant of the relationship of the proposed development to neighbouring properties. The proposed works 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 would not be so great as to warrant a refusal of permission. The proposal is considered to be in accordance with national and local policy in this regard.

7.11 Given the nature of the proposal before me, namely relatively minor amendments to a previously permitted extension to a private dwelling house, together with the separation distances with neighbouring properties, I do not anticipate noise levels to be any greater than would normally be expected from any residential situation. Permission was previously permitted for an access to the roof from this extension. I am satisfied in this regard.

7.12 I note the concerns raised in relation to light pollution. Given the nature and extent of the works proposed, I do not consider that impacts on light pollution would be any greater than that previously permitted. I am generally satisfied in this regard.

#### Other Matters

7.13 I have no information before me to believe the proposal would lead to devaluation of property in the vicinity.

7.14 Matters of unauthorised development/enforcement are a matter for the planning authority outside the remit of this appeal.

7.15 I acknowledge that compliance with Building Regulations is outside remit of this planning appeal. I am satisfied however that the applicants cited ventilation in the context of the Building Regulations as a justification for need for proposed works.

7.16 A comprehensive assessment was undertaken of the proposal by the planning authority and I have no information me to believe that the planning authority erred in their assessment of same.

### Conclusion

7.17 Having regard to the above, I am satisfied that the proposed development is in accordance with the provisions of the operative County Development Plan, 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.

## **8.0 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.

## **9.0 Recommendation**

9.1 I recommend that permission be GRANTED for the development, subject to conditions.

## **10.0 Reasons and Considerations**

Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities or residential amenity of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 11.0 Conditions

1.	<p>The development shall be retained 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.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>Save for the amendments granted on foot of this permission, the development shall be completed in strict accordance with conditions of Register Reference ABP-304739-19, save as may be required by other conditions attached hereto</p> <p><b>Reason:</b> In the interests of clarity</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Lorraine Dockery  
Senior Planning Inspector

17<sup>th</sup> September 2023