



An
Bord
Pleanála

Inspector's Report ABP316181-23

PLANNING AUTHORITY:
DÚN LAOGHAIRE-RATHDOWN COUNTY COUNCIL

PLANNING AUTHORITY REF. NO.:
D23A/0027

APPLICANT:
KIERAN NOLAN AND CHRIS CANNON

TYPE OF APPLICATION:
PERMISSION

TYPE OF APPEAL:
FIRST PARTY

APPELLANT:
KIERAN NOLAN AND CHRIS CANNON

OBSERVER:
MULTIPLE, FROM IN/AROUND BALLINCLEA HEIGHTS (APPEAL SITE
LOCATION)

DATE OF SITE INSPECTION:
26 JUNE 2023

INSPECTOR:
DIARMUID Ó GRÁDA

1.0 Site Location and Description

This appeal concerns a property located towards the southern end of Killiney, County Dublin. It forms part of the low-density coastal residential suburban area called Ballinlecka that lies north of Killiney golf course and about 1 kilometer inland from the sea.

The Ballinlecka estate is quite extensive and it occupies rising ground that affords it a very pleasant aspect. It was laid out on the *Garden City* model and its coastal landscape setting gives it a distinctive character. That visual/residential amenity has been considerably enhanced over recent decades through the garden planting undertaken by individual residents.

Approached from the city Ballinlecka is reached from the R118/R119 at Killiney Road. Ballinlecka Heights, which includes the appeal site, forms part of the most elevated end of the estate. That site is situated on a cul-de-sac formed of multiple similar houses that line both sides of the roadway.

These are two-storey detached houses that were built over 50 years ago. No.91, the subject site, has a stated floor area of 166 square meters and it faces north-east. It is set back 7 meters from the street and it has a back garden of 11 meters approx.

The lodged drawings show the existing house to be a four bedroom 2 storey structure with a pitched and tiled roof. Its front elevation is entirely consistent with those on either side i.e. nos. 90 and 92.

Notable features of this house type include the shallow roof pitch and the white horizontal wall paneling attached between the ground and first floor levels. The paneling complements the otherwise prevailing brick finish of the main facade. There

are three large windows at first floor level, in both the front and rear elevations. There is also an attached domestic garage with a flat roof.

The house was unoccupied at the time of my site inspection but I did gain entry to the rear of the adjoining house, no.92.

2.0 Proposed Development

- Demolition of the existing house and its replacement with a much larger structure, going from the current stated 166 square meters to 313 square meters. The replacement house would also be higher, going from the current stated 7.7 meters to 8.83 meters. An attic floor would be included i.e. there would be accommodation on three floor levels.
- There would be 5 bedrooms in total, spread over all three floors. The ground floor bedroom would serve an intended granny flat which would have a separate front entrance.
- Instead of the existing pitched roof the drawings show over half of the top level given over to a flat roof terrace inserted 8 meters above the garden level. It would occupy about 50 square meters and would be bordered by what is described as a glazed hand rail 1 meter high approx.
- There are also relatively extensive terraces shown for the first floor and top floor levels, comprising 21 square meters and 22 square meters respectively. Those lower terraces would have a southern aspect.
- The front elevation would contain two entrances. One of them would serve the proposed granny flat formed on the east side, adjoining no.92 Ballinlea Heights.
- At the front the first floor would contain a notably large staircase window i.e. almost 8 square meters, with no glazing bars. Above that there would be a notable dormer window serving the top floor i.e. over 4 square meters.

- The front elevation shows the glazed surround of the flat roof rising over the front elevation, more than 11 meters long. The rear elevation shows extensive glazing also, reaching across all floors.
- There is an appearance of horizontal layering, with the full width glazing surrounds (on three floors) being prominent in the rear elevation, having an aggregate length of 28 square meters approx..

3.0 Planning Authority Decision

3.1. Decision

To refuse permission for two reasons,

- 1 The proposed development, which includes the demolition of an existing dwelling and its replacement with one new single dwelling, would be contrary to Section 12.3.9 Demolition and Replacement Dwellings, and to Section 3.4.1.2 Policy Objective CA6: Retrofit and Reuse of Buildings, whereby it is a policy objective to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible. The proposed development would be contrary to Policy Objective PHP19: Existing Housing Stock - Adaptation, of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the overall design of the proposed development, the proposal would constitute an incongruous form of development, which if permitted would be visually dominant and overbearing when viewed along Ballinclea Heights and would therefore be injurious to the residential and visual amenities of the area, set an unwelcome precedent, and would depreciate the value of the property in the vicinity. The proposed development would therefore fail to accord with the provisions of Section 12.3.7.5 and 12.3.7.7 of the 2022-2028 County Development Plan and would, if permitted, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

3.2.2. The main issues are:

- The proposed demolition/replacement of the existing house
- The site layout
- The impacts on residential/visual amenity
- Vehicular access/car parking, and
- The drainage arrangements.

3.2.3. There is no concern regarding the building line and the intended building height is acceptable.

3.2.4. Parking would be provided to the front, with satisfactory private amenity being retained to the rear.

3.2.5. The proposed accommodation would be of a high standard and there is no concern about the floor area (313 square meters).

3.2.6. The applicant has not submitted any rationale or justification for demolishing the existing dwelling. No structural report was submitted either. In the same way, no rationale was presented for the intended granny flat.

3.2.7. The proposal would set an undesirable precedent at Ballinclea Heights. It is preferable to have a deep retrofit of structurally-sound habitable dwellings rather than their demolition or replacement. The existing house is habitable and in good condition.

3.2.8. The house type would be significantly out of character with the streetscape having regard to the roof design, external finishes, the balconies at three levels and the design of the fenestration.

3.2.9. There is concern over the elevated balconies by reason of consequent overlooking and loss of privacy.

3.2.10. Other Technical Reports

Drainage Planning Report

Further information was required regarding surface water disposal.

4.0 Planning History

Permission was granted over the past two decades for small/modest additions/extensions to houses close-by at Ballinclea Heights. They include the following:

no.76 (ref.D22B/0447) – single-storey extensions to side/rear and garage conversion,

no.77 (ref.D08B/0795) – single-storey extension to the front,

no.85 (ref. D06B/1016) - rear extension and garage conversion,

no.88 (ref. D20B/0316) - reconstruction of garage,

no.92. (ref. D09B/0148) - extensions/alterations to existing extension including, inter alia, to form a family flat.

5.0 Policy and Context

5.1. Development Plan

6.0 Under Section 12.3.7.7 new infill development shall respect the height/massing of existing residential units. It shall retain the physical character of the area, including notable 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 or early to mid-20th century suburban *Garden City* planned settings and

estates that do not otherwise benefit from Architectural Conservation Area (ACA) status or similar.

Section 12.3.7.7 (Additional Accommodation in Existing Built-up Areas) provides guidance in relation to extensions to houses and they set out guiding principles that would inform decisions about infill development. They include conforming with the established building line and avoiding excessive scale and height. Overshadowing, overbearing and overlooking are notable considerations, as are the proximity, height and length along mutual boundaries. External design and finishes shall generally be in harmony with the existing.

Section 12.3.9 states the Council has a preference to promote the deep retrofit of structurally-sound habitable dwellings in good condition, as opposed to their demolition and replacement, unless a strong justification has been presented. The Council will assess single replacement dwellings within an urban area on a case by case basis and may only permit such developments where the existing dwelling is uninhabitable.

Policy Objective CA6 (Retrofit and Reuse of Buildings) explains that retrofitting and reuse recognizes the embodied energy in existing buildings and thereby reduces the overall embodied energy in construction, as set out in the Urban Design Manual (Department of Environment, Heritage and Local Government, 2009).

6.1. EIA Screening

Having regard to the minor nature and scale of the development proposed, the site location outside of any protected site, the nature of the receiving environment in an existing built-up area, the intervening pattern of development, the limited ecological value of the lands in question, the availability of public services, 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 (First Party)

- This property is situated within an established residential area typified by conventional suburban housing, comprising relatively large two-storey dwellings.
- The existing house has no architectural merit. Its retention would not be beneficial in terms of visual amenity.
- The site has an unhindered view to the rear, overlooking the local golf course. There is a large rear garden.
- The intended house would not appear incongruous. It responds to existing dwellings surrounding the property. It would have a minimal impact on those adjoining houses. The building height should be acceptable.
- The proposal would fully respect the front/rear building lines.
- The attic conversion would have a bedroom overlooking the amenity lands to the rear.
- It is necessary to demolish the house in order to provide adequate/suitable accommodation for the family. The dwelling would incorporate a granny flat to serve a family member with special needs.
- The demolition would make way for more extensive accommodation. It is also necessary to achieve a higher long-term energy rating at a reasonable cost.
- This would be a two/three-storey house, maintaining separation from the boundary. There are ample precedents in the locality. It is one of many contemporary dwellings granted permission throughout the country.

- The roof balustrade would be omitted. The balcony areas to the rear could also be reduced, if required by An Bord Pleanála.

7.2. Applicant Response

Not applicable

7.3. Planning Authority Response

The appeal does not raise any new issue that would justify a change in the attitude of the Council.

7.4. Observations

Numerous observations were lodged by local residents. They include an observation by Ballinclea Heights Residents Association Ltd., as well as many individual submissions by residents living close to the appeal site. The observations submitted at Council level are similar to those received by An Bord Pleanála. The main points arising in those several submissions are:

- Ballinclea Heights retains its original consistency and harmony in terms of streetscape and house types. This proposal would unsettle that.
- The applicant's claim regarding the architecture of Ballinclea Heights is unsubstantiated. It expresses 20th century modernist architecture, reflected in the open frontages, facade composition with concrete facing-brick, timber and tile-hanging arranged with horizontal emphasis. Many local houses have been tastefully extended, maintaining both privacy and amenity.
- It is essential that new infill development retains the height and mass of the existing houses. This is a proposal for a three-storey house (with third floor level roof terrace) within a street of two-storey houses. It would not respect the established streetscape. There would be a clash in scale, as well as a breach of the building line.

- The development would be intrusive and incongruous, having an adverse impact on the amenity of the adjoining residents. The height/bulk would be overbearing, with overlooking and overshadowing of adjoining residents. No house on the street has front-facing dormer windows at second floor level.
- The proposed front elevation would bear no resemblance to existing houses. There would be excessive height and the rear extension would cause overshadowing.
- The roof/attic profiles would diverge significantly from the established pattern. They do not have due regard to the setting. The unjustified extra height of the proposal would bring overshadowing/overbearing.
- There is no need for the elevated balconies as the application site contains ample garden space. The excessive height would cut off sunlight from the solar panels of adjoining houses.
- The balconies would bring overlooking and loss of privacy/amenity. There would be external terraces at first floor level and at roof level. The drawings show a glazed handrail 1.1 meters above the third floor roof terrace.
- There would be a notable loss of embedded energy. Demolition is not justified as a nearby house has been renovated to reach the A2 rating standard, even without use of solar panels.
- Demolition of the existing house is contrary to the Development Plan (Policy Objective CA6, Section 3.4.1.3, and PP19 (Chapter 4) which recognize the embedded energy in the existing building and favour retrofitting rather than demolition.
- The proposed garden walls and timber slatting would be very inconsistent with the established pattern. Existing mature hedgerows would be destroyed.
- The proposal would not resemble a family home. It appears to be for multi-family occupation as an apartment block.
- The house type precludes attic conversions, having regard to the roof pitch and shallow building depth. This proposal would raise the roof ridge 1.5 meters above what is shown on the lodged plans.

- Adequate details of off-street car parking have not been provided.
- The claim that this proposal would include an attic conversion is incorrect because the proposal is for an entirely new house.
- The applicant responded 'No' as to whether the proposal involved demolition of a habitable house.
- The applicant did not submit adequate information regarding construction waste management or construction environmental management.
- There are discrepancies in the lodged drawings. Window dimensions are incorrect and also the lateral separation, as is the roof pitch. The proposal would be over 1 meter forward of the existing house.
- Supposed precedents in Fingal County are irrelevant as Dún Laoghaire-Rathdown has its own distinct development plan.

7.5. Further Responses

None

8.0 Assessment

9.0 The Planning Authority identified the main issues as

- the proposed demolition/replacement of the house,
- the site layout,
- impacts on residential/visual amenity,
- vehicular access/car parking
- the drainage arrangements.

In my opinion the most important issue is the impact of the proposed demolition/replacement of the house on the receiving environment at Ballinaclea

Heights. Other issues follow from that, including the consequent impact on residential/visual amenity.

- 10.0 Vehicular access/parking and drainage are not material issues and they could be addressed by conditions.
- 11.0 The receiving environment at Ballinclea Heights gives paramount importance to the streetscape context. Any significant structural intervention should have due regard to the design and form of the existing houses and their setting.
- 12.0 This is a mature housing estate laid out on the *Garden City* model over a half century ago. It still retains those characteristics i.e. a low density with a consistent building line to the front. The houses have generous front/rear gardens and there is ample lateral spacing between the houses. This proposal would materially disrupt that mature estate layout.
- 13.0 This proposal is rather unusual. Amongst its uncommon features would be the incorporation, from the outset, of a granny flat to serve a family member with special needs. Moreover, the supporting case for that is sparse.
- 14.0 I do not agree with the appellant's contention that the existing house has no architectural merit, or that its retention would not be beneficial in terms of visual amenity. The existing houses have retained the essential features of the original *Garden City* layout. Residents have enhanced their surroundings through extensive planting of trees and shrubs. They have also demonstrated how this house type can be adapted and extended.
- 15.0 Where interventions have occurred the street frontage has kept the scale and general appearance of the house type.
- 16.0 The established house type has features such as the prominent roof slope and the roof ridge. The consistent series of roof slopes is a distinguishing feature of the estate. It grants it a consistency and harmony. The intended house would appear

incongruous. It would not respond to existing dwellings surrounding the property where the streetscape is prominent.

- 17.0 It is argued that the proposed demolition would make way for more extensive accommodation. However, there is ample scope for domestic extensions without demolishing the house.
- 18.0 The Council has cited the Development Plan provision which seeks to retrofit and reuse such houses. This is a suitable case for doing that, having regard to the embedded energy involved.
- 19.0 This proposal would notably disrupt the mature harmony. Its colors and over-extensive glazing, combined with the multiple changes in levels, would be inconsistent and would be visually unsettling. Adjoining houses would suffer a property devaluation along with the burden of excessive overlooking and overbearing.
- 20.0 These houses benefit from their spacious layout. They have ample gardens, especially to the rear. In that context, there is little justification for constructing such extensive amenity/recreation space equivalent in such elevated positions, i.e. above the raised roof, or in balconies that would disturb neighbours. The multiple screens intended around those balconies indicate that they would pose a threat to the privacy of third parties.
- 21.0 The proposal would seriously disrupt the streetscape. The front elevation would stand out for the long and wide layer of glazed balcony surround, rising above the houses and very much at odds with its neighbours. Omitting the intrusive glass surround would not remove the intrusion as the substantial flat roof balcony would remain.
- 22.0 To the rear the stepped and terraced appearance of the house would resemble a scaled-down football stand. The oversized window intended at first floor level would

appear out of place in this setting and in the context of the period architecture of Ballinlea Heights. The same finding would apply to the dormer window above it.

23.0 It is stated in the appeal that the roof balustrade would be omitted. However, that would not omit the sizable balcony. It is also stated that the balcony areas to the rear could be somewhat reduced. That would not, however, remove the overbearing or the presence of overlooking.

24.0 The intended house type would be excessively at odds with its neighbours. It should be considered out of place within such a mature housing estate.

25.0 The Council planner's report erroneously stated the existing house is a 5 bedroom structure (rather than a 4 bedroom one). The Council is correct, however, in stating that the use of the granny flat would require clarification.

26.0 Recommendation

27.0 I recommend that permission be refused for the reasons and considerations set out below.

28.0 Reasons and Considerations

1 The proposed development, which includes the demolition of an existing dwelling and its replacement with a new dwelling, would materially contravene Section 12.3.9, Section 3.4.1.2 and Policy Objectives CA6 and PHP19 of the Dún Laoghaire-Rathdown County Development Plan whereby it is the Council's policy objective to require, where possible, the retrofitting and reuse of existing buildings rather than their demolition and reconstruction. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2 Having regard to the overall design of the proposed development, the proposal would constitute an incongruous form of development, which if permitted would be

visually dominant and overbearing when viewed along Ballinlea Heights and would therefore be injurious to the residential and visual amenities of the area. It would set an undesirable precedent and would depreciate the value of the property in the vicinity. The proposed development would therefore fail to accord with the provisions of Section 12.3.7.5 and Section 12.3.7.7 of the 2022-2028 County Development Plan and would, if permitted, be contrary to the proper planning and sustainable development of the area.

Declaration

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.

Diarmuid Ó Gráda,
Planning Inspector

28 June 2023