



An  
Bord  
Pleanála

## Inspector's Report ABP-318253-23

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### Development

Permission consequent to an outline permission for a detached house, vehicular entrance, septic tank and associated site works.

### Location

Belline, Killiney Hill, Killiney, Co. Dublin.

### Planning Authority

Dun Laoghaire-Rathdown County Council

### Planning Authority Reg. Ref.

D22A/1039

### Applicant(s)

Raymond Reilly

### Type of Application

Permission

### Planning Authority Decision

Grant permission.

### Type of Appeal

Third Party

### Appellant

Niall Sinnott

### Observer(s)

None.

### Date of Site Inspection

22<sup>nd</sup> December 2023

### Inspector

Bernard Dee

## **1.0 Site Location and Description**

- 1.1. The site, called Belline, comprises a long rectangular shaped area of undeveloped and overgrown land located to the west of the Killiney Hill Road on the section approximately 50m south of the intersection of Killiney Hill Road with Seafield Road. The site area is given as 0.0845 hectares (845m<sup>2</sup>) and was overgrown on the day of the site visit and consequently access to the site was not possible. The front boundary consists of a boundary wall and there is no existing vehicular access point to the appeal site.
- 1.2. The area is characterised by mostly detached housing located on either side of the Killiney Hill Road, which is a relatively narrow road with a footpath only on the eastern side. The detached houses adjacent to the subject site are single storey with 'Beline' (same name as the appeal site) to the north being the home of the third party appellant in this case - Niall Sinnott and Thora Burgess. 'Rocklands' is located immediately south of the appeal site and is owned by Griania Judge who appears to be a co-appellant in this case as her appeal submission is attached to that of Niall Sinnott and Thora Burgess.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of permission consequent on a grant of outline permission for a detached, single storey house with a floor area of circa 188m providing for four bedrooms, vehicular entrance, septic tank and percolation area, in addition to all associated site works. The septic tank and percolation area were omitted on foot of Further Information Request where the applicant was able to provide proof of the availability to connect to an Irish Water sewer.
- 2.2. The dwelling plan takes the form of a long and narrow footprint mainly of single storey height with additional height on the main entrance facade facing onto Killiney Hill Road. This footprint is due to site constraints and the outline planning permission layout drawings. It is uncertain from the online or physical drawings how many bedrooms are proposed as two rooms are labelled as bedrooms and the designation of two other rooms are illegible but they could also be bedrooms. The outline permission related to 4 no. bedrooms for the purposes of this appeal it can safely be assumed that the proposal relates to a four bedroom dwelling.

- 2.3. The architectural style of the proposed dwelling could best be described as 'eclectic' with perhaps the front pitched (not hipped) roof at the eastern end of the dwelling designed to blend with the hip roofed architectural style of its neighbours. The remainder of the dwelling has a flat roof structure which has a height (excluding raised rooflights) of 4.61m which is significantly less than the 6.31m height of the pitched roofed section of the dwelling as measured from the lowered ground floor level.
- 2.4. Parking for one or two cars (this is not clarified by the documentation on file) is provided to the front (east) of the proposed dwelling and there is a 6.15m setback from the public road to the vehicular gate of the appeal property. There is landscaped area to the rear (west) of the proposed and a 17m<sup>2</sup> internal courtyard.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant permission on 18<sup>th</sup> September 2023 subject to 9 no. conditions.

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

The Planning Report states that the site is zoned 'Objective A' permitting in principle residential development and that infill development is encouraged once all other criteria including residential amenity and traffic safety are met. As this is an application for permission consequent to a grant for an outline permission, the provisions of Section 36(4) of the Planning Act apply, i.e. planning permission for a dwelling at this location cannot be refused where the application conforms with the conditions applied to the outline permission as issued by the Board.

The initial Planning Report noted that the proposed dwelling was in compliance with Development Management standards contained in Chapter 12 of the Development Plan with regard to internal areas, private amenity spaces and separation distances from neighbouring dwellings. In addition, the Planning Report did not raise any objection to the layout or design of the proposed dwelling. Waste water treatment proposal and the access onto Killiney Hill Rod were the two issues that the Planning

Report identified s problematic and requiring further information in order to assess these issues.

Further Information was requested on 23<sup>rd</sup> February 2023 and received on 22<sup>nd</sup> August 2023 in relation to the following 2 no. items:

- Revisions to the on-site waste water treatment system required s the proposal was not acceptable to the EHO and not in compliance with Condition 2 of the Bord Order Ref. ABP-305694-19.
- The proposed access arrangements were not considered to be in compliance with the access permitted by the outline permission.
- The applicant responded by omitting the on-site waste water treatment system and obtaining a connection agreement with Irish Water and also by explaining in the Further Information response how the access was in fact compliant with the access permitted by the outline permission.

The Planner's Report accepted that the Further Information items had been satisfactorily addressed and recommended that a grant of permission should be issued for the proposed dwelling.

### 3.2.1. Other Technical Reports

The reports of the DLRCC departments after the receipt of Further Information detailed in the preceding section can be summarised s follows:

- **Transportation Planning:** Initially a refusal of permission was recommended on traffic hazard grounds - sightlines. The maximum achievable sightlines of 10 m to the north and 10.3m to the south were not considered acceptable and not in compliance with the minimum of 45m set out in Table 4.2 of the Design Manual for Urban Roads and Streets (DMURS). The proposed entrance is substandard and hazardous. The proposed provision of CCTV and mirrors as visual aids was not considered acceptable. There is no additional report from Transportation Planning following the receipt of Further Information on file/online but presumably this issue was resolved given the positive decision of the Planning Authority in this instance.

- **Environmental Health Officer:** Following the receipt of Further Information there is no objection to the proposed dwelling subject to compliance with the requirements of Irish Water.
- **Drainage Planning:** No objection subject to recommended conditions.

#### 3.2.2. Prescribed Bodies

- **Irish Water:** No objection subject to recommended condition.

### 4.0 Planning History

- **Ref. D21A/1090** - Permission consequent on the grant of outline permission (Ref D19A/0539, ABP-305694-19) was sought for the construction of a detached, single-storey dwelling (circa 189m<sup>2</sup> including an internal courtyard, 17m<sup>2</sup>) with vehicular entrance and all other associated site development works above and below ground, including a septic tank and percolation area. Permission was refused on 27<sup>th</sup> July 2022 for the following reason:

*Having regard to the outline planning permission granted by ABP-305694-19 (D19A/0539), and Section 36(4) of the Planning and Development Act 2000 (as amended), this application D21A/1090 for permission consequent, does not accord with the requirements of Condition 1 of ABP-305694-19 (D19A/0539), in terms of inadequate details including regarding site survey contours, finished ground levels to existing site and road levels. Furthermore, this application for permission consequent does not accord with Condition 2 of the outline planning permission due to drainage arrangements relating to the provision of septic tank and percolation area(s) on the subject site, which do not comply with the requirements of the planning authority for such works and services. In particular, the proposed wastewater treatment is not in accordance with EPA Code of Practice for Domestic Waste Water Treatment Systems 2021. The subject application is therefore not in accordance with the conditions of ABP-305694-19 (D19A/0539), and accordingly, the Planning Authority is not satisfied that this application for permission consequent is not within the terms of the outline permission. Furthermore, the development proposed by D21A/1090 would, if permitted, be prejudicial to public health, and*

*would seriously injure the amenities and depreciate the value of property in the vicinity. The development proposed in the application for permission consequent would, therefore, be contrary to the proper planning and sustainable development of the area.*

- **Ref. PL06D.305694 (D19A/0539)** – Outline permission for the construction of a detached, single-storey dwelling (circa 190m<sup>2</sup>) with vehicular entrance and all other associated site development works above and below ground, including a septic tank and percolation area was sought but refused on 8<sup>th</sup> September 2019 for the following reason:

*Having regard to the restricted visibility at the proposed entrance, the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. The proposed development would, be contrary to Section 8.2.4.9(i) of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 (Vehicular Entrances and Hardstanding Areas (i) General Specifications) and would be contrary to the proper planning and sustainable development of the area.*

Outline permission was granted by the Board against the recommendation of the Inspector who cited traffic hazard as a reason for recommending refusal of outline permission. The Board Order contained 5 no. conditions.

## **5.0 Policy Context**

### **5.1. Development Plan**

Under the Dun Laoghaire-Rathdown County Development Plan 2022-2028, the site is zoned Objective A for which the objective is to *“To provide residential development and improve residential amenity while protecting the existing residential amenities”*.. Residential development is listed within the ‘Permitted in Principle’ category of this zoning objective.

Relevant policies contained in Chapter 2 Core Strategy, Chapter 4 Residential Development and Chapter 12 Development Management includes the following.

## Chapter 2 – Core Strategy

### 2.6.2.1 Compact Growth and Regeneration

#### (ii) Brownfield and Infill Lands

Delivery of a compact growth agenda requires increased focus on re-using previously developed ‘brownfield’ land, supporting the appropriate development of infill sites, and the re-use or intensification of existing sites. The Planning Authority acknowledges that infill and brownfield development can be more challenging to deliver than greenfield development for a variety of reasons and not least the challenge of integration with existing communities. Furthermore, this approach has to be supported by the requisite social and community infrastructure. However, the extent to which we prioritise brownfield/infill over greenfield development will reduce the rate of land use change and urban sprawl, delivering increased efficiencies in land management and support the Core Strategy objective for a transition to a low carbon society. Furthermore, it can bring enhanced vitality and footfall to an area, contribute to the viability of services, shops and public transport, and enable more people to be closer to employment and recreational opportunities, as well as to walk or cycle more and use the car less.

**Policy Objective CS12 – Brownfield and Infill Sites** It is a Policy Objective to establish a database of strategic brownfield and infill sites to be regularly updated and monitored so that brownfield re-use can be managed and coordinated across multiple stakeholders.

## Chapter 4 - Neighbourhood, People, Homes and Places

**4.3.1.3 Policy Objective PHP20: Protection of Existing Residential Amenity –** Ensure that the residential amenity of existing homes in the built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

## Chapter 12 Development Management

**12.3.7.5 Corner/Side Garden Sites –** including subdivision of an existing curtilage to provide an additional house in a built-up area. The PA, will have regard to parameters such as size, design, layout and relationship with existing dwelling; impact on adjoining properties, accommodation standards for occupiers, parking provision, adequate usable private open space and visual amenity. Subject to design

and level of accommodation, there may be some relaxation in private open space and car parking standards.

12.3.7.7 Infill In accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. 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. (Refer also to Section 12.3.7.5 corner/side garden sites for development parameters, Policy Objectives HER20 and HER21 in Chapter 11).

## **5.2. Natural Heritage Designations**

None in close proximity to the appeal site.

## **5.3. EIA Screening**

Having regard to the nature of the proposed development in an established urban area, where infrastructural services are available, 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**

The Third Party appellant has appealed the decision of the Planning Authority to grant planning permission and in summary the issues raised include the following:

- The access proposals for the appeal site are not adequate and constitute a traffic hazard due to the heavy traffic on Killiney Hill Road and the inability to achieve the necessary sightlines at the access point as set down in DUMRS.



- Proposals for CCTV and pole mounted mirrors will not sufficiently address the lack of adequate sightlines at the access point of the appeal site.
- The proposed dwelling would have an adverse impact on the residential amenity of neighbouring properties which would be contrary to the guidelines set down in the Development Plan.
- The footprint of the proposed house projects too far into the site and the height of the building is excessive which would result in unacceptable shadow cast on the building to the north of the appeal site
- The presence of a “machinery room” upstairs in the drawings may provide a space for a fourth bedroom which would be contrary to the three bedroom dwelling specified in the outline permission.

## **6.2. Planning Authority Response**

- The submitted details do not change the opinion of the Planning Authority with regard to this case.

## **6.3. First Party Response**

The First Party response to the issues raised by the Third Party can be summarised as follows:

- The proposed CCTV and pole mounted mirrors should provide adequate mitigation against the short sightlines achievable at the appeal site entrance. There is precedent for this type of mitigation at Paddock Wood, Killiney Hill Road – Ref. D06A/0709 (see photos in the First Party response submission).
- The 50kmph speed limit and the use of speed ramps along Killiney Hill Road further reduce the traffic hazard at the proposed entrance to the site.
- The initial proposal to have waste water treated on the site has been abandoned and instead an agreement has been reached with Irish Water to link into the mains sewage infrastructure to the south of the appeal site and drawings illustrating this connection were submitted as Further Information to the Planning Authority.

- A 'Suncast Analysis' enclosed with the First Party Response demonstrates that no significant overshadowing would occur that could adversely impact on the amenity of neighbouring properties.

#### 6.4. **Observations**

- None.

### 7.0 **Assessment**

7.1. The main issues that arise for assessment in relation to the appeal can be addressed under the following headings:

- Principle of Development
- Site Entrance and Issue of Traffic Hazard
- Impact on the residential amenity of the area
- Other Issues
- Appropriate Assessment Screening

#### 7.2. **Principle of Development**

7.2.1. The proposed development is for permission consequent on a grant of outline permission for a detached single storey house and ancillary site development works. Regard must be had to Section 36(4) of the Planning Act which states:

*(4) Where an application for permission is made to a planning authority consequent on the grant of outline permission, the planning authority shall not refuse to grant permission on the basis of any matter which had been decided in the grant of outline permission, provided that the authority is satisfied that the proposed development is within the terms of the outline permission.*

7.2.2. In addition, the site is residentially zoned and residential development is therefore acceptable in principle on the appeal site.

### **7.3. Site Entrance and the Issue of Traffic Hazard**

- 7.3.1. Refusal was recommended on two previous occasions (Ref. D19A/0539 and Ref. D21A/1090) by the Planning Authority as insufficient sightlines were proposed at the site entrance. Ref. D19A/0539 was overturned by the Board's decision on appeal Ref. PL06D.305694. On the day of the site visit it was apparent that the sightlines were restricted by the existing boundaries with particular reference to walls at the front of houses and was further restricted by the lack of a footpath/set back on the western side of the Killiney Hill Road.
- 7.3.2. The proposed sightlines are certainly not optimum at this location but having regard to the Board's previous grant of outline planning permission, a refusal on traffic hazard grounds is not possible having regard to Section 36(4) of the Planning Act.
- 7.3.3. Regard must be had to the 6.150m setback from the edge of the public road to the vehicular entrance gate at the appeal site which is sufficient to accommodate the length of a car. This would in effect eliminate any traffic hazard risk associated with sightlines regarding ingress to the subject site.
- 7.3.4. With regard to the issue of egress at the appeal site, the provision of 'visibility aids' in the form of mirrors and/ or cameras would certainly decrease but not eliminate the traffic hazard risk. However, having regard to the 50kmph zone within which the appeal site is located, to speed ramps north and south of the appeal site and to the low traffic generating potential of a dwelling with 1 /2 no. parking spaces (it is not clear from the drawings on file how many parking spaces re proposed and this issue is not referenced in the Planning Authority reports on file), the level of traffic hazard risk associated with the proposed dwelling, assuming 2 no. spaces are proposed, is within acceptable parameters.

### **7.4. Impact on the Residential Amenity of the Area**

- 7.4.1. The layout and design of the proposed house does not give rise to overlooking leading to a loss of privacy of neighbouring properties and similarly overshadowing leading to a loss of daylight should not arise to any significant degree.
- 7.4.2. The First Party response provides sufficient evidence that overshadowing of neighbouring properties is not a significant issue in this instance and the drawings indicate that overlooking of neighbouring properties to any meaningful extent over and above typical infill development should not occur in this case.

## **7.5. Other Issues**

- 7.5.1. The issue of a septic tank with associated percolation area in an urban location which was originally proposed is now no longer an issue following a Further Information submission indicating that connection to the mains sewage infrastructure has been agreed in principle with Irish Water.
- 7.5.2. A design issue which to my eye seems incongruous in the proposed dwelling is the pitched roof which covers the front (eastern) section of the proposed dwelling which is higher than the rear flat roofed section of the house. Above the entrance lobby and master bedroom and music room is an undesignated room lit by a rooftop skylight. The Third Party calls this a “machine room” and fears that this space could be converted into an additional bedroom. For aesthetic reasons and to assist the proposed dwelling in visually integrating into its architectural context, I have drafted a condition for the Board’s consideration reducing the height of this pitched section of the proposed dwelling to match the height of the flat roof section of the proposed dwelling to the rear.

## **7.6. Appropriate Assessment Screening**

- 7.6.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

I recommend that permission be granted for the following reason and considerations and subject to the conditions as set out below.

## 9.0 Reasons and Considerations

Having regard to the existing pattern of development in the area and to the infill nature of the development, to the location of the site within a 50 kilometre per hour speed limit zone and to the provisions of the Dún Laoghaire-Rathdown Development Plan 2022-2028, it is considered that the proposed development, subject to compliance with the conditions as set out below, would not would endanger public safety by reason of traffic hazard and would represent an appropriate response to a serviced infill site and not have an adverse impact on the visual or residential amenity of the area. The proposed development of a dwelling, would, therefore, be in accordance with the proper planning and sustainable development of the area

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 22 <sup>nd</sup> day of August 2023 and by the further plans and particulars received by An Bord Pleanála on the 10 <sup>th</sup> day of November, 2023, 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. Reason: In the interest of clarity.
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The height of the pitched roof section of the proposed dwelling shall be reduced in height to match the height of the flat roof section of the proposed dwelling.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interests of visual amenity.</p>

3.	Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800]to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Reason: In order to safeguard the [residential] amenities of property in the vicinity.
4.	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. Reason: In the interest of visual amenity.
5.	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. Reason: In the interest of public health.
6.	Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water. Reason: In the interest of public health.
7.	All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works. Reason: In the interests of visual and residential amenity.
8.	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

	<p>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. Reason: 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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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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**Bernard Dee**  
**Planning Inspector**  
**9<sup>th</sup> January 2024**