



**An
Bord
Pleanála**

Inspector's Report ABP319097-24

Development

The proposed development will consist of demolition of an existing garage and the construction of 1 two storey building, consisting of one 2 bed house along the west side of 9 Kilbarrack Road, Dublin D05VX00, 1 on-site car parking space accessed from the existing entrance on the Kilbarrack Road, and the construction of one new vehicular entrance to number 9 Kilbarrack Road.

Location

No. 9 Kilbarrack Road, Dublin 5.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

WEB2033/23.

Applicant(s)

Stephanie Regan

Type of Application

Permission.

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Stephanie Ryan.

Observer(s)

2 Observers

(1) Claire Boylan & Ian McLaughlin.

(2) John Richardson & John Kenny

Date of Site Inspection

27/06/24.

Inspector

Anthony Abbott King.

1.0 Site Location and Description

- 1.1.** The development site comprises the side garden of no. 9 Kilbarrack Road.
- 1.2.** Kilbarrack Road extends west of Howth junction to the Howth Road. The streetscape is characterised by mature single-storey and two-storey detached and semi-detached suburban houses along the eastern section of the road.
- 1.3.** No. 9 Kilbarrack Road is located on the south side of Kilbarrack Road at the eastern end of the Kilbarrack Road proximate to the junction with the Howth Road.
- 1.4.** The streetscape on the south side of Kilbarrack Road in the location of the proposed development is characterised by bungalows including no. 9 Kilbarrack Road, which is a substantial dormer style bungalow extended to the rear and at roof level.
- 1.5.** The rear elevation includes a one-and-half storey rear projection with feature triangular window. The front and rear gardens are substantial.
- 1.6.** There is a garage structure located in the side garden behind the front building line in the location of the proposed infill house. The adjoining neighbouring house to the west is no.11 Kilbaarck Road - a semi-detached bungalow.
- 1.7.** There are two contemporary design infill 3-storey houses located to the east of no. 9 Kilbarrack Road at no. 5 and no.3 Kilbarrack Road, which extend the streetscape in the direction of the Howth Road.
- 1.8.** The vehicular access to no. 5 Kilbarrack Road is from an access lane to no. 7 Kilbarrack Road (located to the south of no. 9 Kilbarrack Road in a backland location). The lane separates the curtilage of no. 9 Kilbarrack Road from the houses to the east.
- 1.9.** Howth junction DART station is located at the western end of Kilbarrack Road within 1Km (15-20 minute walk) The development is adjacent to the Howth Road, which has a frequent Dublin Bus service and a dedicated cycleway along the coast.
- 1.10.** The site area is given as 209.4 sqm.

2.0 Proposed Development

- 2.1. The proposed development comprises the subdivision of a mature residential plot to provide an infill house in the side garden with a new vehicular access to facilitate the main dwelling house.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for the following reason:

The proposed development of an infill dwelling, which would sit substantially forward of the front building line of no. 11 Ki/barrack Road, due to its proximity, scale and appearance the proposed dwelling would have a substantial and negative impact on the residential amenities of no. 11 in terms of visual amenity, overbearance and excessive overshadowing. Furthermore, the proposed development would, in its design, form and materials be a visually discordant, obtrusive and incongruous structure on the streetscape out of keeping with the scale and character of the existing dwellings in the vicinity. In itself and by the precedent established for development of suboptimal and marginal sites, the proposed development would seriously injure the residential amenities of the area, in particular No. 11 Ki/barrack Road, and would be contrary to both the current Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the CEO of Dublin City Council reflects the recommendation of the planning case officer.

3.2.2. Other Technical Reports

The Transportation Planning Division of the planning authority recommend a grant of planning permission subject to condition.

Drainage Division recommends seeking additional information due to the lack of adequate drainage information.

The Archaeology Section of the planning authority have no objection subject to condition.

Nature Conservation in the Department of Housing, Local Government and Heritage note that the proposed development has the potential to disturb nesting birds and recommends the attachment of a regulatory condition in the matter of the removal of hedgerows.

4.0 Planning History

There is no relevant recent planning history?

5.0 Policy and Context

5.1. Development Plan

The following policy objectives *inter alia* of the Dublin City Development Plan 2022-2028 are relevant:

The applicant site is zoning objective Z1 (Map C) (Residential): *to protect, provide and improve residential amenities*. The proposed development of an infill house is permissible.

- **Strategic Considerations**

Chapter 2 (Core Strategy) of the Dublin City Development Plan 2022-2028 details the projected population targets for Dublin City, which are vertically aligned with national population projections.

Section 2.2.2 (Population and Housing Targets) states:

The NPF identifies a minimum target population of 1,408,000 (minimum target population) for Dublin City and Suburbs (including all four Dublin local

authority areas) by 2040, representing a 20-25% population growth range from 2016.

Furthermore, Chapter 2, Section 2.7.4 (Development Management) states:

Development management will play a leading role in the implementation of the development plan on a site by site basis, ensuring that development applications (planning application, Part 8, Section 5 etc.) are in substantial compliance with policies, objectives, and standards as set out in this development plan.

- **Urban Consolidation**

Chapter 5 /Quality Housing and Sustainable Neighbourhoods\, is relevant including:

Policy QHSN6 (Urban Consolidation) is relevant. The policy promotes and supports residential consolidation and sustainable intensification through the consideration of applications *inter alia* for infill development, backland development, mews development, re-use/ adaption of existing building stock, and use of upper floors subject to the provision of good quality accommodation.

Policy QHSN10 (Urban Density) is relevant. The policy promotes residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

- **New House Development**

Chapter 15 /Development Standards\, Section 15.5.2 /Infill Development\ is relevant.

Infill development refers to lands between or to the rear of existing buildings capable of being redeveloped i.e. gap sites within existing areas of established urban form. Infill sites are an integral part of the city's development due to the historic layout of streets and buildings.

Chapter 15 (Development Standards), Section 15.13.3 (infill/ Side Garden Housing Developments) is relevant and states:

The planning authority will favourably consider the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development including unit sizes, dual aspect requirements, internal amenity standards and open space requirements. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed. The planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:

- *The character of the street.*
- *Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.*
- *Accommodation standards for occupiers.*
- *Development plan standards for existing and proposed dwellings.*
- *Impact on the residential amenities of adjoining sites.*
- *Open space standards and refuse standards for both existing and proposed dwellings.*
- *The provision of a safe means of access to and egress from the site.*
- *The provision of landscaping and boundary treatments which are in keeping with other properties in the area.*
- *The maintenance of the front and side building lines, where appropriate.*
- *Level of visual harmony, including external finishes and colours.*
- *Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas and the Council will support innovation in design.*
- *Side gable walls as side boundaries facing corners in estate roads are not considered acceptable and should be avoided.*

- *Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible.*

Use of first floor/apex windows on gables close to boundaries overlooking footpaths, roads and open spaces for visual amenity and passive surveillance

Chapter 15. Section 15.11 /House Development) provides standards *inter alia* for floor area, Daylight/ sunlight, private open space and separation distances between buildings.

In relation to Section 5.11.3 (Private Open Space) the following is relevant:

Private open space for houses is usually provided by way of private gardens to the rear of a house. A minimum standard of 10 sq. m. of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces

The following national and regional planning policy documents are relevant in the context of sustainable residential land-use and the strategic policy objective to achieve compact growth:

- The National Planning Framework (NPF) (Project Ireland 2040) (Government of Ireland 2018);
- The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly (EMRA) (June 2019).
- The Department of Housing, Local Government and Heritage 'The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities', (15 January, 2024).

5.2. EIA Screening

- 5.3. Having regard to the nature and scale of the proposed development for one infill dwelling house in an established urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed

development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, prepared by Collaborative Architecture on behalf of the appellant, are summarised below.

- The appeal statement provides a rebuttal on the reason for refusal only. The appellant claims the other matters highlighted by the planning case officer not included in the reason for refusal can be addressed through condition. The appellant has disaggregated the reason for refusal into 3 sub-reasons:
 - o Negative impact on surrounding residential amenities (front massing only)
 - o Negative impact on the character and appearance of the streetscape.
 - o Setting a precedent for development of marginal spaces between existing buildings.
- The houses on the south side of Kilbarrack Road are not uniformly aligned. There are existing steps forward and backward of the building line. No. 9 Kilbarrack Road sits forward of no.11 Kilbarrack Road. The 3-storey town houses to the east of no. 9 Kilbarrack Road, at no. 5 & 3 Kilbarrack Road, are set further forward. There is a diagram with the appeal statement illustrating that there is no established consistent building line on the south side of Kilbarrack Road.
- The projection forward of no. 9 Kilbarrack Road already overshadows no. 11 Kilbarrack Road. The proposal has been constrained to the existing front building line. It is claimed the location of the proposal does not exacerbate the existing overshadowing.
- The appellant disagrees that the form, mass and general appearance departs from the existing forms and character of the streetscape. However, Kilbarrack

Road does not have a consistent architectural language and is characterised by the evolution of style from early/ mid 20th century to the present.

- The arched form is not a unique form on the street. The porch of no. 9 is arched and all the opposite semi-detached properties have arched entrances with some circular windows at first floor. No. 19 which is a modern style with out of proportion windows to the rest of the street departs much further in character. Rather than being incongruous and out of character the design seeks to draw inspiration from existing architectural details and respect for adjacent massing and ridge heights.
- The appeal statement includes streetscape elevations on Kilbarrack Road illustrating the electric mix of building form and architectural design. One of the streetscape elevations incorporates the proposal in order to illustrate fit for context. The roof parapet heights of the proposal do not exceed the two adjacent properties. It is claimed that the infill proposal is not overbearing in scale.
- The material finishes are chosen for their tonal quality as the adjacent properties have white render and red ceramic roof tiles. There is no uniformity on Kilbarrack Road in terms of materiality. The planning authority should welcome innovative design and sustainable materials.
- It is claimed that the refusal by the planning authority citing undesirable and unsustainable precedent is contrary to policy objective QHSN6 (urban Consolidation) and policy objective QHSN04 (densification of suburbs). The site has particularly strong public transport links within 90m of a cycleway leading into the city centre, 100m from a bus stop and 1Km from the Dart.
- The appellant cites the policy framework supporting and promoting compact growth and urban consolidation including the Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities (2024) and *inter alia* the Dublin City Development Plan 2022-2028 guidelines on promoting infill development.
- The appellant acknowledges that there is some loss of amenity to no.11 Kilbarrack Road. However, it is claimed that the proposal will create a spacious, sustainable and high quality home for a young family showcasing

how good design can help create housing on infill sites close to public transport in accordance with national and local planning policy.

- Finally, it is claimed the proposal would not set a precedent for infill development on Kilbarrack Road, as there are no other viable marginal sites available to accommodate infill development on the road in terms of liveable building width and outdoor amenity open space. Therefore, there is a low possibility for this proposal for setting a precedent for further infill development on Kilbarrack Road.
- A diagram showing the separation distance between houses in the vicinity illustrates the potential insufficient plot dimensions for future infill development.

6.2. Applicant Response

N/A First Party Appeal

6.3. Planning Authority Response

The planning authority would request that An Bord Pleanála uphold their decision to refuse permission. The planning authority request in the event of a positive recommendation that the following conditions attach:

- Section 48 development contribution;
- A naming and numbering condition.

6.4. Observations

There are two number observations on this 1st party appeal, which are summarised below.

(1) Claire Boylan & Ian McLaughlin, 5 Kilbarrack Road, Raheny, Dublin.

- The proposed vehicular access to no. 9 Kilbarrack Road creates a blind spot raising the risk of collisions;
- The proposed development is of a visually eccentric nature and has no parallel in the local area in terms of appearance and vehicular access.

The planning authority was categoric in its non-acceptance of the proposed laneway entrance for public safety and residential amenity reasons;

- The inaccurate mapping of boundaries in the application does not align with resident's title.
- The appeal does not seek to fully address the multiple negative findings of the planning authority. It is arguable that the sheer volume of issues identified may well have contributed to a cumulative overall rejection of the proposal;
- In the matter of precedent, the assertion by the appellant that there is insufficient space to the side of existing houses to warrant infill development in the vicinity is not valid response for the overall Council area;
- The separation distance distances provided by the applicant accurately represent the distancing between certain properties (in particular the claim there is sufficient distance between no. 9 and no. 11 Kilbarrack Road;
- The referencing of extensions and or change of uses made to the original garages constructed circa. 1940 on. The other side of the Kilbarack Road as infill site development is inaccurate and has no relevance to the development proposal for an independent residential unit.

(2) John Richardson of 11 Kilbarrack Road & John Kenny of 7 Kiolbarrack Road, prepared on their behalf by Peter P. Gillet & Associates.

- The planning authority assessed the development against the local and national policy framework for densification of the suburbs subject to the protection of residential and visual amenities, including infill and side garden development, which runs counter of the appellant's assertion that the planning authority did not place sufficient emphases on the Government Guidelines;

- The observer does not concur with the planning case officer in the begin assessment of the impact of the rear two-storey section of the proposal. Rather there will be a clear negative impact as the rear two-storey section will extend beyond the rear building line of no.11 Kilbarrack Road and will be considerably higher in elevation. The rear two-storey section of the proposal will present as an obtrusive high monolithic wall directly located on the common boundary.
- The front of the new house will project a considerable 4.2m beyond the front building line of no.11 Kilbarrack Road and would be located directly on the property boundary. The observer agrees with the negative effects highlighted in the assessment made by the planning case officer including that the residential amenity of no. 11 Kilbarrack Road would be seriously compromised and the value of the property depreciated.
- Furthermore, the observer claims the proposal will result in an exacerbation of existing overshadowing of the front elevation of no. 11 Kilbarrack Road.
- The observer concurs with the objective analysis of the planning authority with reference to the impact on streetscape amenity and visual character. It is claimed that the over developed profile of the proposal and its incongruous design render it unsuitable for the narrow and restricted site.
- The observer agrees with the assessment that the proposal is an insensitive and inappropriate insertion into a narrow gap, which is too limited in width and set back from adjoining development to accommodate a new dwelling.
- Furthermore, the applicant does not enjoy the required legal interest to develop along the side property boundary, consisting of a wall and hedgerow. A wire fence within the hedgerow defines the property boundary and, as such, the proposal would over sail the boundary. No consent to remove the two boundary features has been sought or would be given.

- It is claimed that the proposal represents an encroachment (of at least 600-700mm) onto the neighbouring property at no. 11 Kilbarrack Road and that the required consent will not be provided by the property owner. Therefore given the already restricted width of the development footprint the infill house would not be viable.
- The observer claims the appellant has not addressed the major issue of discrepancy between the submitted plans, OS maps and the property portfolio maps (deed). It is highlighted that this matter is a significant planning consideration acknowledged by the planning authority and unresolved.
- The observer attaches a letter from Solicitors 'Liston & Company' dated 22/11/2003 and a deed map, plus two folio maps, of the applicant's ownership, for the information of the Board.
- It is claimed the documents evidence that the appellant does not have sufficient legal interest to support the planning application or carry out the development.
- The observer claims that the restricted nature of the site to adequately provide for satisfactory and safe vehicular access arrangements arguably could have formed the basis for another refusal reason. The observer notes that the appellant has not taken the opportunity to appeal this finding of the planning authority.
- No proposals for foul or surface water drainage have been provided. This is a fundamental requirement to ascertain if the proposal can be adequately serviced. The observer claims this issue warrants refusal in its own right;
- The appeal only attempts to rebuke the reason for refusal. The appellant has not addressed the other issues raised by the planning case officer, which it is claimed cumulatively led to the refusal of planning permission.
- Finally, the overall application is seriously defective in terms of accurately depicting property boundaries, boundary treatments and how the proposal will be serviced.

7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submission, the third party observations, the reason for refusal and encapsulates my overall consideration of the application. It is noted there are no new substantive matters for consideration.
- 7.2. The applicant proposes to sub-divide the garden of no. 9 Kilbarrack Road to build a two-storey infill house in the side garden on the westside of this mature residential plot. The proposal would require the demolition of the existing garage structure (21 sqm.). The applicant proposes to utilise the existing vehicular access to the main dwelling house at no. 9 Kilbarrack Road as the entrance to the new house.
- 7.3. A new vehicular access to the main dwelling house would be created in the existing side boundary wall defining the plot to the east from a tarmacadamed lane, which provides access to no. 7 Kilbarrack Road located in a backland location behind no. 9 Kilbarrack Road . The new side entrance would give access to the existing in-curtilage car parking area within the truncated front garden of no. 9 Kilbarrack Road.
- 7.4. The planning authority refused permission for the infill house due to its location forward of the building line of no.11 Kilbarrack Road, proximity to neighbouring properties, scale and appearance, which would have a substantial and negative impact on the residential amenities of no.11 Kilbarrack Road in terms of visual amenity, and overbearing and excessive overshadowing impacts.
- 7.5. Furthermore, the planning authority considered that the proposed development, in its design, form and materials would be a visually discordant, obtrusive and incongruous structure on the streetscape out of keeping with the scale and character of the existing dwellings in the vicinity. The refusal cites the precedent the house itself would set for infill house development on sub-optimal and marginal sites seriously injuring the residential amenities of the area.
- 7.6. The relevant planning matters arising, including the grounds of appeal, are interrogated in my assessment under the following main headings below:
- Zoning/ principle of development
 - Compact growth/ urban consolidation

- The Sustainable Residential Development and Compact Settlement Guidelines (2024)
- Infill development
- Building design
- Residential standards
- open space
- Potential impact on adjoining properties
- Vehicular access
- Other matters including land title

7.7. Zoning/ principle of development

The site is zoned Z1 (Residential) in the Dublin City Development Plan 2022-2028: *to protect, provide and improve residential amenities*. Residential development is acceptable in principle and may be permitted where the proposed development is compatible with the overall policies and objectives of the development plan.

7.8. The subject lands comprise the side garden of a mature residential plot accommodating a substantial dormer style bungalow where piped services are available.

7.9. The development site is in an accessible location served by frequent public transport. The DART at Howth Junction is approximately 1 Km to the west of the development site. The Howth Road to the immediate east is served by Dublin Bus routes 6 (frequency hourly) and Routes H3 and H2 (15 minute frequency). There is a dedicated cycleway proximate extending along the coast. I consider the location is appropriate for infill housing subject to satisfying the requirements for new infill house development.

7.10. Compact Growth / Urban Consolidation

National Planning Framework (NPF 2018) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region (EMRA) (2019) encourage and support the densification of existing urban areas and, as such, promotes the use of

performance based criteria in the assessment of developments to achieve well designed and high quality outcomes.

- 7.11. The strategic objective of compact development is supported in principle by densification of urban sites in particular lands accessible by walking, cycling and public transport. The subject development site is located north of the city centre in a mature suburban location proximate to public transport corridors to the city core. I consider that the development site is accessible.
- 7.12. Urban consolidation and compact growth housing objectives based on target populations are incorporated into the Dublin City Development Plan 2022-2028, which *inter alia* through development management is required to provide sustainable new homes targeting a 20-25% population growth range (for the four number Dublin local authorities) from 2016 to 2040.
- 7.13. The policy framework provided by the Dublin City Development Plan 2022-2028 supports the infill development of brownfield, vacant and underutilised sites. Policy QHSN6 (Urban Consolidation) of the plan promotes and supports residential consolidation and sustainable intensification through the consideration of applications *inter alia* for infill development, backland development, mews development, re-use/ adaption of the existing building stock and, the use of upper floors subject to the provision of good quality accommodation.
- 7.14. Policy QHSN10 (Urban Density) promotes residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 7.15. The Sustainable Residential Development and Compact Settlement Guidelines
The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024) set national planning policy and guidance in relation to the planning and development *inter alia* for urban settlements with a focus on sustainable residential development and the creation of compact settlement.
- 7.16. The Guidelines expand on higher-level policies of the National Planning Framework, setting policy and guidance that include development standards for housing. Chapter 5 (Development Standards for Housing) provides *inter alia* guidance for separation

distance, private open space, public open space, car parking, bicycle parking and storage and daylight standards. The following assessment is informed by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities.

7.17. Infill Development

The policy framework of the Dublin City development Plan 2022-2028 favourably considers the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development including unit sizes, dual aspect requirements, internal amenity standards and open space requirements. The criteria provided in Section 15.13.3 of the Dublin City Development Plan 2022-2028 for infill side garden house development are interrogated below.

7.18. Building Design

The proposed infill house would have a given floor area of 109 sqm. The footprint of the infill house would be configured on an north-south axis. The house would have a long floor plan determined by the constraints of the restricted site providing for narrow frontages to the streetscape (north elevation) and to the rear garden (south elevation).

- 7.19. The long floor footprint is broken by an internal courtyard separating the house into a front volume and a rear volume. The courtyard provides natural light to the internal spaces within the narrow floor plates. The site inclines to the south. The slope in the site has been exploited by the applicant to create a change in levels internally. The change in level reduces the height of the rear volume externally.

Building line

- 7.20. The reason for refusal *inter alia* cites the fact that the infill house would sit substantially forward of the front building line of no. 11 Kilbarrack Road. The observer(s) note that the infill house building line would be set forward of the building line of no. 11 Kilbarrack Road (4.2m). The appellant acknowledges that No. 9 Kilbarrack Road sits forward of no.11 Kilbarrack Road and justifies same by reason of the pattern of development characterised by existing steps forward and backward in the streetscape. The appellant claims the existing projection forward of no. 9 Kilbarrack Road overshadows no.11 Kilbarrack Road.

- 7.21. I note the established building line on this side of Kilbarrack Road is not uniform. I also note that the proposed house would follow the building line of the main dwelling at no. 9 Kilbarrack Road. The front elevation (north) of the infill house subtly acknowledges the change in the existing building line between no. 9 Kilbarrack Road and no.11 Kilbarrack Road by modulating the front facade. The two-storey entrance bay of the infill house is set forward of the single-storey window bay. I consider the location and positioning of the infill house in the streetscape acceptable.
- 7.22. The appeal statement includes horizontal streetscape elevations on Kilbarrack Road (north & south). One of the streetscape views incorporates the photomontage of the infill house illustrating fit for context. The appellant claims that the roof parapet height of the proposal does not exceed the two adjacent properties. I consider that the proposal would be acceptable in terms of streetscape height, scale, massing and design given the existing eclectic mix of building form and architectural style on Kilbarrack Road.

Elevation design and material finish

- 7.23. The infill house would have a modest presence on the street frontage given the restricted width of the infill site (3670mm). The infill house front elevation comprises a single-storey bay with mansard roof (window bay) and a two-storey bay (entrance bay) to Kilbarrack Road. The front facade is inserted between a dormer bungalow at no. 9 Kilbarrack Road and a bungalow at no.11 Kilbarrack Road, respectively.
- 7.24. The infill house would read as a two-storey element in a predominantly single-storey streetscape. The fenestration at first floor level is provocative in scale and form introducing a curvilinear vertical two-storey entrance bay to the diminutive two-bay elevation.
- 7.25. The applicant's architects have provided an analysis of the streetscapes in the vicinity of the proposed development as part of the appeal statement. I note the architectural/ visual analysis provided by the appellant as an evidence base to support the elevation design of the infill house, which demonstrates an understanding of context.
- 7.26. The appeal statement evidences elements in the adjoining streetscapes that influence and determine the elevation design response including the adoption of the

curvilinear (arched form) vertical two-storey entrance bay. I note that the height of the infill house would align with the ridge height of the adjoining houses.

7.27. The applicant proposes to use a white or light coloured ceramic tile to clad the elevation and a 'pretty plastic recycled tile' (red / terracotta). The material finishes are innovative and atypical. The applicant's architect justify building design and material finish by reference to the inconsistent architectural language on Kilbarrack Road, which is characterised by the evolution of style from early/ mid 20th century to the present.

7.28. The appellant has chosen material finishes for their sustainability and tonal quality to reflect the adjacent material palette of neighbouring properties, which have white render and red ceramic roof tiles. I caution that the architectural concept in execution is in part dependent on the quality of the material finish. The regulation of the elevation materials to be used at construction stage can be dealt with by way of condition if a positive recommendation is recorded.

7.29. I consider that the introduction in a generally mono-chrome streetscape of a white / cream ceramic tile and a red / terracotta plastic recycled tile may be challenging in concept. However, the limited frontage of the infill house would restrict the visual exposure of the elevation finishes to a narrow visual vignette. While providing the infill house with a robust visual presence on street distinct in character from the flanking dominant in scale dwelling houses at no. 9 Kilbarrack Road and no.11 Kilbarrack Road.

7.30. I consider that the material finish and building form proposed would successfully represent the separate and distinct infill nature of the development in the streetscape, reflecting the atypical narrow plot width of the new infill intervention, while providing a visual contrast with the existing mature streetscape. Finally I consider that the building design in the streetscape, in terms of height, form and finish, would be robust, evidenced-based, quality contemporary design response to the restricted dimensions of the infill site and mature suburban context.

7.31. Residential Standards

The proposed infill two-bedroom house would in general satisfy internal residential standards providing a reasonable standard of accommodation.

7.32. Open Space

The Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024) requires 30sqm for a 2-bedroom dwellings. A garden comprising approximately 50 sqm. would be provided to the rear of the infill house with south orientation. The infill garden would be separated from the garden of the main dwelling house by a boundary wall. The residual garden of no. 9 Kilbarrack Road would remain substantial. In addition an internal courtyard would provide approximately 10sqm. of open space.

7.33. The potential impact on adjoining residential properties

The infill site is located between the single-storey west elevation of no. 9 Kilbarrack Road and the single-storey east elevation of no.11 Kilbarrack Road, which is a semi-detached bungalow. It is noted that the rear elevation of no. 9 Kilbarrack Road includes a one-and-half storey rear projection with feature triangular window.

- 7.34. In terms of visual and overbearing impacts, there will be significant change to the physical environment to the front, side and rear of no. 9 Kilbarrack Road and no.11 Kilbarrack Road by reason of the construction of the infill house in the separation distance between the adjoining houses. The existing separation distance accommodates a single-storey detached garage (21 sqm.) set back from the front building line.

No. 11 Kilbarrack Road

- 7.35. The garden of no. 11 Kilbarrack Road has a south orientation. The infill house would be aligned with the rear building line of the existing house at no. 11 Kilbarrack Road. It would project marginally beyond the rear building line of 11 Kilbarrack Road. The applicant has utilised the incline of the site sloping to the south to create a split level ground floor plan internally reducing the height of the two-storey volume to the rear relative to the front volume.
- 7.36. It is considered that the massing of the east elevation (single-storey with pitched roof) of no.11 Kilbarrack Road would screen the bulk of the development, which would be located on the shared property boundary, when viewed from the rear looking north east. I acknowledge the proximity of the infill house located on the property boundary. Furthermore, the infill house would present a two-storey volume to the existing single-storey pitched roof rear elevations immediately adjoining. However, there are mitigating considerations.

- 7.37. I do not consider that the development would represent a serious adverse impact on the amenities of no. 11 Kilbarrack Road given the screening provided by the massing of the east section (kitchen extension) of the existing house and the relatively modest scale, height and roof profile (sloped inward mansard style) of the rear two-storey volume of the infill house generally aligned with the rear building line of no. 11 Kilbarrack Road.
- 7.38. Furthermore, I do not consider that the proposed development would have a significant adverse impact on no. 11 Kilbarrack Road in terms of overshadowing to the amenity space to the rear. The mitigating factors include: the south orientation of the back garden of no. 11 Kilbarrack Road; the inclusion of a courtyard within the internal floor plan of the infill house, which breaks up the two-storey massing along the property boundary, opposite the fenestrated east elevation of no. 11 Kilbarrack Road providing for light to the east elevation windows (two windows and a door) and; the extent of the amenity space to the rear of no.11 Kilbarrack Road unaffected by the development.
- 7.39. The overshadowing to the front elevation of no. 11 Kilbarrack Road would be modest given the north orientation of the fenestration and the proximity and massing of the existing dwelling house at no. 9 Kilbarrack Road set significantly forward of no. 11 Kilbarrack Road.

No.9 Kilbarrack Road

- 7.40. I acknowledge that the physical impact on no. 9 Kilbarrack Road would be significant. The residential plot would be sub-divided and the infill house would be constructed onto the west elevation of the main house. However, overlooking, overshadowing and overbearing impacts would be limited by the existing rear extension of no. 9 Kilbarrack Road and the omission of window openings in the side elevation of the new infill house.
- 7.41. The submitted drawings illustrate a blank two-storey wall extending forward of the rear building line of the single-storey extension to the rear of no. 9 Kilbarrack Road. It is considered that the rear two-storey massing of the infill house would overshadow the patio area from the east. However, the omission of window openings to the side elevation and the relatively modest scale, height and roof profile (mansard) of the rear two-storey volume would mitigate impact on the amenities of the existing

dwelling house. On balance the impact on the existing dwelling house on site would be acceptable given that the potential impacts would be limited to the west of the sub-divided plot.

7.42. Vehicular access

The Transportation Planning Division of the planning authority does not object to the proposal subject to condition. The Transportation Planning Division report that Kilbarrack Road is a 50kph single lane carriageway with mandatory cycle lanes either side which are unprotected. There are proposals by the active travel office for a scheme along Kilbarrack Road.

In consequence, the vehicular access for the new house (retained existing vehicular entrance on site) does not allow for a turnaround requiring a parked car to enter the side either in reverse or in forward gear. Therefore vehicles must carry out turnabouts on Kilbarrack Road when accessing / egressing the new house, which is not acceptable to the Transportation Planning Division in the context of 50 kph speed limit and mandatory cycle lanes.

- 7.43. The Transportation Planning Division recommend a more appropriate configuration, which would require a shared front garden to serve the existing and proposed house. I consider that the servicing of the proposed new house and the existing dwelling house can be clarified as part of the appropriate configuration. This matter can be dealt with by way of condition.

7.44. Other Matters

The Drainage Division of the planning authority recommended seeking additional information due to the lack of adequate information. The Drainage Report notes that no drainage details have been submitted. The Drainage Division Report states that the developer is required to submit a drainage layout indicating how both foul and surface water are to be managed for the development. Furthermore, the developer shall ensure that an appropriate Flood Risk Assessment is carried out for the proposed development. The Drainage Report recommends that permission should be withheld until these matters are addressed.

- 7.45. The appellant has not addressed these matter in the appeal statement. However, I do not consider that the deficiency in drainage management documentation would

warrant a refusal of planning permission. I consider this matter can be dealt with by way of condition given that the development has access to piped services.

- 7.46. The Archaeology Section of the planning authority report that the proposed development is within the Zone of Archaeological Constraints for an enclosure/ fort documented on the First Inch Ordinance Survey (surveyed 1837). This matter can be dealt with by way of condition.

Land Title

- 7.47. Finally, both observers highlight the matter of clarification of accurate boundaries. The observers claim that the applicant has submitted inaccurate boundaries that do not align with title. Therefore, it is claimed that the applicant does not enjoy the required legal interest to develop. One of the observers has attached a solicitors letter, 'Liston & Company' dated 22/11/2003, and a deed map to their observation, which states that the applicant does not have sufficient legal interest to make the application and to carry out the development.
- 7.48. The planning authority acknowledges the matter of land title within the planning case officer assessment report. I note these matters are flagged as warranting further investigation.
- 7.49. The Board may wish to seek clarity on the matter of property title before a positive decision is recorded on the application. The Development Management Guidelines for Planning Authorities (2007) Section 5.13 (Issues relating to title to land) *inter alia* states that the planning system is not a mechanism for resolving disputes about title to land these are ultimately matters for resolution in the Courts. Furthermore, it should be noted that a person is not entitled solely by reason of a permission to carry out development. I am satisfied with the bona fides of the applicant in this matter.

Conclusion

- 7.50. In conclusion, it is considered that the proposed development, subject to condition, would provide an acceptable level of accommodation on site, would not have a significant adverse impact on adjoining residential amenity of existing properties, including the main dwelling house on site and no. 11 Kilbarrack Road adjoining to the west, and, as such would be consistent with the proper planning and sustainable development of the area.

7.51. Finally, the Development Management Guidelines for Planning Authorities (2007) Section 5.13 (Issues relating to title to land) *inter alia* states that the planning system is not a mechanism for resolving disputes about title to land these are ultimately matters for resolution in the Courts. Furthermore, it should be noted that a person is not entitled solely by reason of a permission to carry out development. I am satisfied with the bona fides of the applicant in this matter. However, the Board may wish to seek clarity on the matter of property title before a positive decision is recorded on the application. I have drafted a grant of planning permission below.

7.52. I conclude that the proposed development comprising an infill dwelling house located on serviced residential zoned land in an accessible location, serviced by fixed-rail and high frequency bus public transport and alternative mobility options, aligns with the urban consolidation policy framework provided by the Dublin City Development Plan 2022-2028 and with national guidance on the achievement of compact growth.

7.53. The Appropriate Assessment Screening

The proposed development comprises an infill dwelling house in an established suburban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS.

8.0 Recommendation

8.1. I recommend a grant of planning permission subject to condition having regard to the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the grounds of appeal, the residential zoning objective, the location of the development site serviced by high frequency public transport (including DART at Howth Junction) and a dedicated cycleway, the urban consolidation policy framework provided by the Dublin City Development Plan 2022-2028 and national and regional compact growth policy objectives and guidelines, including the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024), it is considered that the proposed development,

subject to condition, would provide a reasonable level of accommodation on site, would represent a robust and innovative design response to the provision of an additional residential unit on a restricted infill site in a mature suburban location, would not have a significant adverse impact on the residential amenities of adjoining properties, including the main dwelling house on site and the adjoining residential property at no.11 Kilbarrack Road and, as such, would be consistent with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed 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>Reason: In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Surface and foul water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>The developer shall comply with the following requirements of the Transport Planning Division of the planning authority, which requires</p>

	<p>shared front garden parking for the existing dwelling house at no. 9 Kilbarrack Road and the new infill house.</p> <p>Prior to the commencement of development a revised car parking layout and servicing plan including elevation drawings shall be submitted to the planning authority incorporating the following for written approval of the Transport Planning Division:</p> <p>(i) The new vehicular access shall have a maximum width of 3m and shall not have outward opening gates;</p> <p>(ii) The front garden area serving no. 9 Kilbarrack Road and the new dwelling shall be free of any internal boundary wall / fence between properties;</p> <p>(iii) There shall be no increase in footpath and kerb dishing as a result of the proposed development;</p> <p>(iv) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer;</p> <p>(v) The developer shall be obliged to comply with the requirements set out in the Code of Practice.</p> <p>Reason: In the interest of road safety and orderly development.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 800 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity</p>
7.	<p>A proposal for house numbering shall be submitted to and agreed in writing with the planning authority.</p>

	Reason: In the interest of urban legibility.
8.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site, located within the zone of archaeological constraint given its proximity to a identified enclosure/ fort on the first addition ordnance survey (circa.1837), and to secure the preservation and protection of any remains that may exist within the site.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the</p>

	<p>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 the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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.



Anthony Abbott King /
Planning Inspector

05 July 2024