



An
Bord
Pleanála

Inspector's Report

ABP-319661-24

Development	Construction of a house and all associated site works.
Location	14 Ballybride, Rathmichael, Shankill, Dublin 18, D18 W1D0
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D24A/0093
Applicant(s)	John O'Connor
Type of Application	Permission
Planning Authority Decision	Refuse x 2
Type of Appeal	First Party
Appellant(s)	John O'Connor.
Observer(s)	Chris Lauder.
Date of Site Inspection	23/08/2024
Inspector	Alan Di Lucia

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	8
3.4. Third Party Observations	8
4.0 Planning History	9
4.1. On Appeal Site	9
4.2. In the Vicinity of Appeal Site	10
5.0 Policy Context	10
5.1. Development Plan	10
5.2. National Policy	13
5.3. Natural Heritage Designations	14
5.4. EIA Screening	14
6.0 The Appeal	15
6.1. Grounds of Appeal	15
6.2. Planning Authority Response	17
6.3. Observations	17
7.0 Assessment	18
8.0 AA Screening	23
9.0 Recommendation	23
10.0 Reasons and Considerations	23

Appendix 1 – Form 1: EIA Pre-Screening

Form 2: EIA Preliminary Examination

1.0 Site Location and Description

- 1.1. The appeal site is located within a cul-de-sac known as 'Ballybride' or 'Ballybride Manor' which is located in Rathmichael, west of the M50/M11 Junction in Shankill, Co. Dublin. The cul-de-sac is comprised of three storey dwellings on large plots with large garages. The location would be considered semi-rural in nature.
- 1.2. The site itself is 0.0435ha and forms part of the existing garden of the dwelling at no.14 Ballybride. (total landholding area approximately 0.225 ha). The appeal site is located to the southwest part of the landholding (left hand side of the existing house when viewed from the access.) The site is bounded by residential properties to the northeast and southwest, with Lordello road located to the rear. Currently a garden shed is located on the appeal site.
- 1.3. The existing lands from which the site is taken comprises a three-storey detached dwelling with a pitched roof profile connecting to a two-storey garage located to the front of the existing dwelling in the northeast corner of the lands. The existing property is set back from the public roadway and is served by off-street parking to the front.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a two-storey detached three-bedroomed dwelling with an overall floor area of 148.4 sqm on a standalone site separate from the existing property with the creation of a new access directly onto Ballybride.
- 2.2. From the drawings submitted to the Planning Authority the proposed dwelling has been designed to reflect the vernacular of the existing dwellings at this location.
- 2.3. New connections are proposed to the existing public utilities at this location including water / wastewater / surface water connections.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority made the decision to refuse planning permission for the proposed development on the 11th of April 2024. Planning permission was refused for two reasons which can be summarised as follows:

Reason One relates to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 [DLR CDP] in particular to zoning objective A1 which seeks *“To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans”* and to the designation of the lands to which the subject site is located as Tier 2 lands which are not currently sufficiently serviced to support new development. The future development of the Rathmichael area is contingent upon the timely delivery of supporting infrastructure as detailed under Section 2.3.7.2 and Appendix 1 of DLR CDP.

The reason to refuse highlights that the location of the subject site is within the boundary area of the Rathmichael Local Area Plan [RLAP], for which a local area plan will be prepared. Section 2.6.1.3 Local Area Plan-Making Programme of the DLR CDP notes that within the A1 zoned land at Rathmichael are a number of existing properties and that *“minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plan.”* Therefore, the Planning Authority considers the development as proposed would not constitute a minor modification or extension to an existing property and as such would be contrary to the provisions of Section 2.6.1.3, would set an undesirable precedent for similar developments and be contrary to zoning objective A1 for the area.

Therefore, it is considered that the development as proposed would be contrary to the proper planning and sustainable development of the area.

Reason Two relates to the existing deficiency in the provision of infrastructure at this location, particularly the lack of adequate pedestrian / cyclists' facilities throughout the road network in the area. It is considered that the proposal and the precedent it would establish in the area if granted, would result in additional traffic movements in an area lacking adequate pedestrian and cyclist facilities. The

conflicts that it would generate between all road users would endanger public safety by reason of traffic hazard.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report on file dated 19th February 2024 had regard to the following planning issues. (Note: No Further Information was requested by the Planning Authority.)

Principle of the Development

- Sets out the provisions of the DLR CDP relating to the subject site, in particular zoning objective A1, which seeks “*to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans*” and in principle residential use is permitted subject to the policies and objectives of the DLR CDP and consistent with the principles of proper planning and sustainable development. The A1 zoning allows for minor modifications or extensions to properties in the area in advance of the RLAP.
- The A1 zoning has been informed by the methodology set out in the National Planning Framework which differentiates between zoned land that is serviced and zoned land that is serviceable within the life of the DLR CDP. The lands to which the subject site relates are classified as zoned Tier 2.
- The future development of the area is contingent upon the delivery of supporting infrastructure, provided by a Plan led approach.
- The principle of the development is not considered appropriate by the Planning Authority.

Prematurity of the Development

- The report outlines the provisions of the guidance document ‘Development Management Guidelines for Planning Authorities’ (June 2007) as it relates to premature development pending the adoption of a local area plan and/or the deficiencies in the provision of infrastructure in a particular area.

- Notes that the preparation of the RLAP has been prioritised within the plan making programme of the Planning Authority.

Precedent within Ballybride

- The report outlines the current pattern of development at this location, which comprises of large dwellings on large sites. The subject site would result in the subdivision of a large site into smaller sites, which is considered piecemeal development and not plan led, if permitted would set an undesirable precedent in the Ballybride area for similar proposals.

Residential and Visual Impacts

- The Planner's Report is satisfied that the proposed development would not adversely impact existing residential amenities and overshadowing would not be detrimental to adjacent properties.
- The Planner's report is satisfied that the design of the proposed dwelling would not visually impact on the existing streetscape.

Compliance with Development Standards

- The Planner's Report is satisfied with Development Standards relating to Internal areas, Private Amenity Space, Separation distances and Refuse and Storage.
- The Planner's Report notes the technical report on file requesting further information concerning surface water run-off and considers that a suitable worded condition would suffice to address surface water concerns.

Other Matters

- The Planner's Report addresses the housing need issues submitted by the applicant's agent. The application under appeal is for the applicant's daughter. They had applied to convert the existing garage into a dwelling house, which was refused by the Planning Authority and appealed to An Bord Pleanála, no decision was made on this planning application when the applicants made this application to the Planning Authority but has subsequently been granted permission by An Bord Pleanála. The report notes that the applicant is willing to forego the permission granted by An

Bord Pleanála in favour on the infill site, but the mechanism to nullify the permission is unavailable to the Planning Authority.

- The Planner's Report did not consider that either Appropriate Assessment or Environmental Impact Assessment was required.

3.2.2. Other Technical Reports

- The Transport Planning report recommends that permission be refused on the grounds of conflicts between road users (pedestrians/cyclists/vehicles) and lack of adequate infrastructure in the area that the proposed development would endanger public safety by reason of traffic hazard.
- The Drainage Department requested further information relating to surface water run-off, the Planner's Report notes that a suitably worded condition would suffice to address surface water issues if permission was to be granted.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Six third party submissions received by the Planning Authority relating to the following issues.

- Overdevelopment of the site
- Out of character with the existing pattern of development at this location
- If granted would set a precedent for similar development proposals
- Would impact on privacy.
- Injure the visual and residential amenity of the area.
- Location is subject to considerable infrastructure constraints.
- DLR CDP zoning for the area
- Lack of RLAP.

4.0 Planning History

4.1. On Appeal Site

ABP Ref. 315412-22 (PA Ref. D22A/0742)

Permission refused by the Planning Authority for the change of use/conversion of existing two storey garage adjacent and connected to existing house into separate dwelling of 138 sqm, together with all site works & new utility connections.

Refused for one reason relating to zoning objective A1 of the DLR CDP and Section 2.6.1.3. that notes that within the A1 zoned lands at Rathmichael there are a number of existing properties and “*minor modifications and extensions to existing property can be considered in advance of the Local Area Plans.*” The Planning Authority considered that the development proposed would be contrary to the provisions of the DLR CDP and would set an undesirable precedent for similar developments.

The Decision was appealed to An Bord Pleanála where permission was granted for the following reason:

Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that the proposed development, would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity

PA Ref. D10B/0420

Permission granted by the Planning Authority for the retention of a single storey extension (79.4sqm) to the side on the existing house.

ABP Ref. PL 06D.233958 (PA Ref. D09A/0211)

The Planning Authority issued a Split Decision

Permission granted for the retention of an existing single storey utility room and kitchen of 81.5 sqm.

Permission refused for renovations and extensions of 732sqm to an existing 3-storey dwelling consisting of 3 storey extensions to all 4 main facades.

The Decision was appealed to An Bord Pleanála where permission for the proposed development and development to be retained was granted permission subject to conditions.

4.2. In the Vicinity of Appeal Site

ABP Ref. 315721-23 (PA Ref. D22A/0853)

Refers to a planning application comprising the construction of a new part single storey and part two storey detached contemporary four-bedroom house measuring 148sqm, access from the Lordello Road to the South of the subject site.

Permission refused by the Planning Authority

Refused for one reason relating to zoning objective A1 of the DLR CDP and Section 2.6.1.3. that notes that within the A1 zoned lands at Rathmichael there are a number of existing properties and *“minor modifications and extensions to existing property can be considered in advance of the Local Area Plans.”* The Planning Authority considered that the development proposed would be contrary to the provisions of the DLR CDP and would set an undesirable precedent for similar developments.

The Decision was appealed to An Bord Pleanála where permission for the proposed development was granted permission subject to conditions.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Dún Laoghaire Rathdown County Development Plan 2022-2028 [DLR CDP] is the relevant statutory plan for the Area.

The subject site is zoned Objective A1 for which it is an objective *“To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans.”*

Residential is a Permitted in Principle use under zoning Objective A1

Permitted in Principle is defined as *“Land uses designated under each zoning objective as ‘Permitted in Principle’ are, subject to compliance with the relevant policies, standards and requirements set out in this Plan, generally acceptable.”*

5.1.2. Section 2.4 Core Strategy

Sustainable Neighbourhood Infrastructure (2.4.3)

Introduces a new ‘Sustainable Neighbourhood Infrastructure’ land use zoning objective that seeks to enhance the importance of community infrastructure as part of the sustainable compact growth agenda set out in the core strategy.

5.1.3. Phasing (2.4.6)

“....., it is noted that Old Connaught and Rathmichael are not currently serviced, and the future development of these areas is contingent upon the timely delivery of supporting infrastructure. It is considered that a plan-led approach to the development of both Rathmichael and Old Connaught is of paramount importance to ensure the proper planning and sustainable development of these new residential communities.”

The DLR CDP commits to the preparation of the RLAP within the Development Plan period and that the process will provide for a more granular approach to land use zoning within the RLAP. It notes that within the A1 zoned lands at Rathmichael there are a number of existing properties. In the interim, until local area plans are prepared, *“Minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans.”*

5.1.4. Chapter 14 Specific Local Objectives.

Land Use Zoning Map 10 relates to the subject site.

Specific Local Objective 86 states that

“It is an Objective of the Council to prepare a Local Area Plan for Rathmichael.”

5.1.5. Chapter 12 Development Management Standards

Section 12.3.1.1 Design Criteria pertinent to the subject site.

- Levels of privacy and amenity, the relationship of buildings to one another, including consideration of overlooking, sunlight/daylight standards and the appropriate use of screening devices.

- Quality of linkage and walking and cycling permeability – to adjacent neighbourhoods and facilities and the nature of the public realm/streets and spaces. Walking and cycling permeability shall be maximised at every opportunity.
- Accessibility and traffic safety - proximity to centres and to public transport corridors, existing and proposed.
- Context - having regard to the setting of the site, the surrounding character, streetscape, and the impact of any proposed development on the development potential of adjoining sites.

Section 12.3.7.5 Corner/Garden Sites

Development Proposals shall have regard to the following:

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- Accommodation standards for occupiers.
- Development Plan standards for existing and proposed dwellings.
- Building lines followed, where appropriate.
- Car parking for existing and proposed dwellings provided on site.
- Side/gable and rear access/maintenance space.
- Adequate usable private open space for existing and proposed dwellings provided.
- Level of visual harmony, including external finishes and colours.
- 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.

5.1.6. Appendix 1: Tiered Approach to Land Zoning – Infrastructure Assessment.

Section 4.7 New Residential Communities: Old Connaught and Rathmichael

“Old Connaught and Rathmichael are not currently serviced, and the future development of these areas is contingent upon the timely delivery of supporting infrastructure. Implementation plans incorporating phasing programmes are to be prepared as part of the Local Area Plan making process for both new communities, linking development with the commensurate delivery of supporting infrastructure.”

Zoning Tier Rathmichael:

- Tier 2 pending delivery of requisite water infrastructure
- Tier 2 pending delivery of requisite waste-water infrastructure
- Tier 2 pending delivery of requisite transport Infrastructure

5.1.7. County Development Plan 2022-2028 Two-Year Progress Report. (March 2024)

The progress report details the status of the RLAP.

- Work is progressing on an Infrastructure Capacity Assessment Study (ICAS) for the southeast area of Dún Laoghaire-Rathdown. This Study will inform the Rathmichael LAP.
- An Area Based Transport Assessment (ABTA) for the Rathmichael LAP area is being undertaken as part of the ICAS.
- In addition, a Water and Wastewater Strategy, a SuDS Strategy and a Strategic Flood Risk Assessment are being prepared in addition to other relevant assessments to inform the plan-making for Rathmichael.
- Liaison with stakeholders and prescribed bodies is ongoing.

5.2. National Policy

5.2.1. National Planning Framework (Project Ireland 2024) [NPF]

Section 10.2 of the NPF introduced a new methodology for a two-tiered approach to land use zoning, which differentiates between zoned land that is available for development and zoned land that requires significant further investment in services for infrastructure for development to be realised:

National Policy 72a states that

“Planning authorities will be required to apply a standardised, tiered approach to differentiate between i) zoned land that is serviced and ii) zoned land that is serviceable within the life of the plan.”

5.2.2. Development Management, Guidelines for Planning Authorities (2007)

Section 7.16.1 of the guidelines states the following:

‘..... However, development which is premature because of a commitment in a development plan to prepare a strategy, Local Area Plan or framework plan not yet completed should only be used as a reason for refusal if there is a realistic prospect of the strategy or plan being completed within a specific stated time frame.’

5.3. Natural Heritage Designations

The following heritage sites are located within the vicinity of the subject site:

Ballyman Glen SAC (Site Code 000713) (2.9 km from site)

Rockabill to Dalkey Island SAC (Site Code 00300) (3.6km from site)

Loughlinstown Woods pNHA (Site Code 001211) (1.7km from site)

5.4. EIA Screening

The proposed development is of a class under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, namely Class 10. Infrastructure projects, (b)(i) construction of more than 500 dwelling units. However, as the proposed development comprises a single dwelling house, it is significantly below the 500-unit threshold limit. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for Environmental Impact Assessment

can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The agent for the applicant has submitted a first party appeal against the decision of the Planning Authority to refuse permission. The grounds of appeal can be summarised as follows:

6.1.1. Prematurity

- The subject site is located within an area designated for the Rathmichael Local Area Plan [RLAP] and that Zoning under the Dún Laoghaire Rathdown County Development Plan 2022-2028 [DLR CDP] is zoning objective A1 which is to “*provide for New Residential Communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans*”
- The Planning Authority’s lack of a Local Area Plan for Rathmichael is the basis behind the reasoning for the refusal. The Planning Authority have not prepared a Local area Plan for Rathmichael and have not been able to provide a date for issue. In the absence of the RLAP the Planning Authority’s policy has been to limit works to “*minor modifications and extensions to existing property.*”
- The appellant considers that the proposed development aligns with the A1 zoning objective and that it is unlikely due to size and scale to be incompatible with any future local area plan and that the Planning Authority must be reasonably be aware of the likely provisions to be included in the RLAP, to determine if the proposed development would be likely to be incompatible with the provisions of the RLAP.
- The appellant submits that the proposed development should not be refused based on prematurity and references the provisions of the Section 38 Guidelines ‘Development Management – Guidelines for Planning Authorities’

(June 2007). The submission also references the previous guidance 'Development Control Advice and Guidelines' (October 1982)

- The guidelines suggest that a planning authority should consider if proposals would likely be incompatible with the provisions of the local area plan, and a common-sense approach should be applied in determining planning applications in the absence of a local area plan.
- It is submitted that the proposal is minor in nature and appropriate to the zoning provision, that it is unreasonable to effectively sterilise large tracts of land for an unspecified time based purely on prematurity especially while the County is experiencing a housing crisis.

6.1.2. Pattern of Development

- The proposal for a two storey separate to the main house is considered similar to the two-storey attached garage on site, which is a common feature at this location and is sympathetic to the existing pattern of development at this location.

6.1.3. Housing Shortage

- Highlights the housing shortage of the area and details the difficulty the applicants' daughter has experienced in trying to enter the property market. The proposed development is to provide a dwelling house for their daughter.

6.1.4. New Local Area Plan

- Outlines the intention of the Planning Authority to prepare a local area plan for Rathmichael which will provide a "more granular breakdown of Land Uses" Its purpose will be to prioritise areas in accordance with achieving the provisions of the Core Strategy. No timescale for the delivery of the RLAP has been provided by the Planning Authority

6.1.5. Interim Sterilization of New Dwellings

- Considers the A1 zoning objectives which limits works in the absence of a local area plan to 'minor modifications and extensions to existing properties' prohibits the creation of new dwellings not due to a technical

or lack of infrastructure but because the Planning Authority have not formulated policy under a local area plan.

6.1.6. Denial of Natural Justice

- The Planning Authority's policy and lack of a RLAP denies the applicant to provide a dwelling house for their family. The 'holding pattern' by the Planning Authority denies the applicant natural justice. It is most likely that this policy will change with the RLAP, but in the intermittent period the applicant's family will be affected to their detriment.

6.2. Planning Authority Response

A Response Letter was received from the Planning Authority dated 17/08/2023 which states, inter alia, that:

"The Board is referred to the previous Planners Report. It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development."

6.3. Observations

One observation was received by Dr. Diarmuid Ó Gráda planning consultant acting on behalf of Chris Lauder. It is noted that the observer represents a group of ten adjoining residents and is the same submission made to the Planning Authority.

The issues raised by the observer can be summarised as follows:

- Outlines the zoning constraints of the DLR CDP in particular zoning objective A1 and that the RLAP has not been published to date and in the interim only minor modifications and extensions to existing property can be permitted.
- Notes the recent planning history for the conversion of the garage on site to a dwelling house. (ABP-315412-22). It notes that the applicant has stated that if the appeal was successful, they would forgo the intended development of the garage conversion.

- The observation questions the intended use of the conversion of the garage application and notes the potential of three family houses on the applicants' lands at this location. The precedent that the proposal would set in terms of infrastructure provision at this location.
- Considers that the proposal would seriously interfere with the visual amenity of the area and residential amenity of property in the vicinity.
- Overdevelopment of the landholding
- The observation recommends that permission be refused for four reasons which encompass the issues highlighted above.

7.0 **Assessment**

7.1. Having examined the application details and all documentation on file, including the submission and observation received in relation to the appeal, and inspected the site and having regard to local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of the Development
- Local Area Plan / Prematurity
- Denial of Natural Justice / Housing Shortage
- Lack of Pedestrian and Cyclist Infrastructure
- Development Management Standards

7.2. **Principle of the Development**

- 7.2.1. The subject site is zoned as "*Objective A1*" in the DLR CDP. A1 zoning is "*To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans*". The subject site is located within the boundary for the RLAP. There is currently no approved RLAP.
- 7.2.2. Residential development is 'Permitted in Principle' and generally acceptable on lands zoned objective A1, subject to compliance with the relevant policies, standards and requirements set out in the County Development Plan.

- 7.2.3. The Core Strategy highlights that on land subject to zoning objective A1 that a wide range of uses are both permitted in principle and open for consideration. This approach acknowledges that a local area plan process allows for a more granular breakdown of land uses. The Core Strategy acknowledges that within the A1 zoned lands at Rathmichael are a number of existing properties and that minor modifications and extensions to these properties can be considered in advance of the Local Area Plan.
- 7.2.4. The Core Strategy details that the lands at Rathmichael are currently not serviced and that in accordance with the tiered approach to zoning detailed in the National Planning Framework, the lands zoned A1 at Rathmichael are Tier 2 lands and their future development is contingent upon the timely delivery of supporting infrastructure. It is considered that a plan led approach to the development of Rathmichael is of paramount importance to ensure the proper planning and sustainable development of these new residential communities.
- 7.2.5. I consider that the further subdivision of the lands in an ad-hoc non planned approach would establish an undesirable precedent for similar development proposals in the Rathmichael area and that a planned approach as would be set out in a Local Area Plan would ensure that the zoning objective A1 is achieved through a sustainable approach. I consider that the provision of minor modifications and extensions to properties at this location is a planned approach to the sustainable development of the area until the provisions of the RLAP are approved.
- 7.2.6. I conclude that the development of a new dwelling at this location is not a minor modification or extension to an existing property and subsequently cannot be permitted in principle in the absence of a Local Area Plan and is therefore not in accordance with the provisions of zoning objective A1 of the DLR CDP.

7.3. Local Area Plan / Prematurity

- 7.3.1. The timeframe for the RLAP has yet to be determined, however preparatory work has commenced, as referenced in the County Development Plan 2022-2028 Two-Year Progress Report (March 2024)
- 7.3.2. The lands to which the subject site is located are within the defined boundary of the RLAP and are currently zoned A1 as per the DLR CDP. The lands are characterised as Tier 2 lands and their future development is contingent upon the

timely delivery of supporting infrastructure. The RLAP will provide a more granular / detailed breakdown for zoning within the RLAP boundary. I consider that the characterisation of the A1 zoned lands Tier 2 a critical factor in the determination of the zoning provision for the RLAP, which is ultimately dependant on the delivery of required infrastructure. Therefore, I do not consider that it can be pre-determined what zoning provisions will be incorporated into the RLAP and whether the proposed development would be compatible of the RLAP.

- 7.3.3. I note that the Development Management, Guidelines for Planning Authorities (2007) states that prematurity of development due to a commitment in a development plan to prepare a local area plan should only be used if there is a realistic prospect of the local area plan being completed within a specific stated timeframe.

In the case of the appeal site the DLR CDP states that it intends to initiate and/or give effect to, within the lifetime of the DLR CDP the preparation of a Local Area Plan for Rathmichael. There is a commitment in the development plan to prepare a RLAP, however no specific stated time frame exists except that of the timeframe of the DLR CDP which is to the period to 2028 and there is no indication that this timeframe will not be achieved.

- 7.3.4. I am satisfied that based on the zoning objective A1, which provides for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans, and the characterisation of the lands as Tier 2 zoned lands, that proposals other than minor modifications or extensions to existing properties cannot be considered in the absence of a local area plan. Based on the above, I consider that the development proposed is premature pending the approval of the RLAP and not solely on commitment alone as set out in the Development Management Guidelines

7.4. Denial of Natural Justice / Housing Shortage

- 7.4.1. I note that at the time of submission of the planning application to the Planning Authority, that the appeal relating to the conversion of the existing garage on site to a stand-alone residential unit (ABP-315412-22) had not been decided. The applicant indicates that if permission was permitted for the change of use that they would be happy to accept a condition or give an undertaking as part of that

decision, that they will not proceed with the change of use. I note that there is no provision in the Planning and Development Acts to attach a condition to a planning permission or to provide for an undertaking not to proceed with a development permitted under a separate planning permission. As the decision on this appeal has subsequently been decided and permission has been granted to provide a 138sqm residential unit on a separate site at this location, I do not consider the grounds of appeal in relation to denial of natural justice and housing shortage an issue in this instance. Permission has been permitted for a dwelling unit on the overall landholding from which the subject site is taken and there is no indication from the Planning Authority that a Local Area Plan for Rathmichael will not be prepared within the timeframe of the DLR CDP.

7.5. Lack of Pedestrian and Cyclist Infrastructure

- 7.5.1. I note that both the grounds of appeal and the observation submitted make no reference to the Planning Authority's second reason to refuse planning permission, which relates to the conflict between pedestrian/cyclist/vehicular movements and the lack of Infrastructure to facilitate the safe movements throughout the road network in the area.
- 7.5.2. The report from the Transport Planning Section concludes that residents of the proposed development would be reliant on travel by car to a lack of local facilities /amenities/destinations within a reasonable time due to lack of safe walking infrastructure to the public transport network.
- 7.5.3. Following a site inspection, I note that the road network in the area consists mainly of narrow road carriageways interspersed periodically with narrow segregated walkways. It would not be feasible to walk / cycle from the proposed site to the nearest centre of activity, without experiencing conflicts of traffic movements between pedestrians / cyclists and motor vehicles. Therefore, I concur with the Planning Authority's report in terms of the lack of adequate infrastructure throughout the road network at this location that conflicts exist between pedestrians / cyclists / vehicles and that the increase in traffic movements generated by the proposed development and the precedent it would set for similar developments at this location would endanger public safety by reason of traffic hazard.

7.6. Compliance with Development Management Standards

Pattern of Development

- 7.6.1. The existing pattern of development at this location consists of large houses and garages on large sites. Permission was granted on the subject site for the subdivision of the lands of the existing house to change the use of the existing two storey garage to a residential unit. The subject site, if permitted would be the second subdivision of the lands in question providing a total of three dwelling units on the lands. I consider that the development of a third residential unit on the landholding would be out of character with the pattern of development at this location.

Residential and Visual Impacts

- 7.6.2. The proposed development located in the side garden of the existing dwelling comprises a two-storey 3-bedroomed detached dwelling with a pitched roof profile. The external finishes include concrete roof tiles, uPVC fascia, gutters and downpipes, selected brick render, painted sand / cement render. I consider that the proposed development aligns with the vernacular architecture of the existing dwellings at this location.
- 7.6.3. The layout and setback position of the proposed dwelling from the roadway aligns with the existing house on site, the front boundary treatment to match the existing would not severely impact the existing residential amenities. I consider that the development as proposed would not be out of context with the existing street scape at this location.
- 7.6.4. I note that the separation distance between the proposed development and the western shared boundary with the adjacent property is approximately 1m. I note that the proposed side elevations at first floor level include small opaque windows serving bathrooms. I consider that due to size, location and separation distances from boundaries that the upper floor windows would not adversely impact on the adjoining property by way of overlooking.
- 7.6.5. I consider that based on the location of the proposed development and the orientation and size of neighbouring sites that the degree of overshadowing would not be detrimental to adjacent properties.
- 7.6.6. Therefore, I am satisfied that the proposed development is in accordance with Section 12.3.7.5 of the Development Management requirements of the DLR CDP

regarding Corner / Side Garden Sites and that the design of the proposed house respects the vernacular architecture of the location and would not visually impact on the existing streetscape.

8.0 AA Screening

- 8.1. Having regard to the relatively minor development proposed within an existing residential area and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

Having considered the contents of the application, the provisions of the Dún Laoghaire- Rathdown Couty Development Plan 2022-2028, the ground of appeal and observations submitted, my site inspection and my assessment of the planning issues, I recommend that the Board uphold the decision of the Planning Authority to refuse permission for the reasons and considerations set out below

10.0 Reasons and Considerations

- 1) Having regard to the A1 zoning objective of the lands relating to the subject site as set out in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 , the objective of which is to provide '*for new residential communities and Sustainable Neighborhood Infrastructure in accordance with approved local area plans.*' and that minor modifications and extensions to existing properties can be considered in the absence of the relevant local area plan. It is not considered that the proposed development of a new residential unit at this location is a minor modification or an extension to an existing property. The proposed development would not be in accordance with any approved local area plan and would therefore be contrary to the A1 zoning objective. It is considered that development of the kind proposed would be premature by reference to the order of priority for development indicated in the development plan and the adoption of a local area plan in

accordance with the development plan. Pending the adoption of a local area plan for the area the development as proposed would be contrary to the proper planning and sustainable development of the area.

- 2) It is considered that the additional traffic generated by the proposed development, and the precedent it would set for similar developments, would endanger public safety by reason of traffic hazard, due to the increase in conflicts between pedestrian/cyclist/vehicle movements resulting from the proposed development and the inadequate provision of pedestrian and cyclist facilities throughout the road network at this location.

Alan Di Lucia
Senior Planning Inspector

11th September 2024


Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319661-24			
Proposed Development Summary	Detached two storey house of 148 sqm together with all site works including a new entrance onto Ballybride and all new utility connections			
Development Address	14, Ballybride, Rathmichael, Shankill, Dublin 18, D18W1D0			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓	
		No		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	✓	Class.....10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	✓	Class.....10 (b) (i) Construction of more than 500 dwelling units		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319661-24	
Proposed Development Summary	<ul style="list-style-type: none"> Detached two storey house of 148 sqm together with all site works including a new entrance onto Ballybride and all new utility connections 	
Development Address	<ul style="list-style-type: none"> 14, Ballybride, Rathmichael, Shankill, Dublin 18, D18W1D0 	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed is for one dwelling in an existing residential area.</p> <p>None of Significance</p>	<ul style="list-style-type: none"> No No
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<ul style="list-style-type: none"> The proposed development is for one dwelling in an existing residential area. None of Significance 	<ul style="list-style-type: none"> No No

<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<ul style="list-style-type: none"> • Not near any ecologically sensitive sites or protected species • None near the site 	<ul style="list-style-type: none"> • No • No
<p align="center">Conclusion</p>		
<ul style="list-style-type: none"> • There is no real likelihood of significant effects on the environment. • EIA is not required. 		

(only where Schedule 7A information or EIAR required)

11.0 Appropriate Assessment- Screening (APB-319661-24)

11.1. Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

11.2. Background on the Application

A screening report for Appropriate Assessment was not submitted with this application/ appeal case. Therefore, this screening determination has been carried out *de-novo*.

11.3. Screening for Appropriate Assessment- Test of likely significant effects

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

11.4. Brief description of the development

The proposed development comprises the construction of a two-storey detached three-bedroomed dwelling with an overall area of 148.4 sqm on a stand alone site separate from the existing property with the creation of a new access directly onto Ballybride.

New connections are proposed to the existing public utilities at this location including water / wastewater / surface water connections.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related -uncontrolled surface water/silt/ construction related pollution

11.5. Submissions and Observations

None

11.6. European Sites

The development site is not located in or immediately adjacent to a European site. The closest European site is Ballyman Glen SAC, within 3km of the proposed development.

A summary of European Sites that occur within within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

Summary Table of European Sites within a possible zone of influence of the proposed development

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
000713	Ballyman Glen SAC	2.8 km	None	N
003000	Rockabill to Dalkey Island SAC	3.6km	None	N

11.7. Identification of likely effects

Construction of the proposed development is identified as the only element that may give rise to likely effects on a European Site but due to the distance from and lack of connectivity to the habitat for which the site is designated it is considered that the effect is not considered there is no possibility of effects on a European Site.

11.8. Mitigation measures

None required

11.9. Screening Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Ballyman

Glen SAC, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the following:

The nature and extent of the development proposed and the distance from the European Site and demonstrated lack of any ecological connections.

AA Screening summary matrix

Summary Screening Matrix				
European Site (link to conservation objectives www.npws.ie)	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Ballyman Glen SAC (000713)	Within 3 km. This site is outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated.	No possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated	No effect	Screened out for need for AA
Rockabill to Dalkey Island SAC (003000)	Within 4kms. fThis site is outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated..	No possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated	No effect	Screened out for need for AA