



An  
Bord  
Pleanála

## Inspector's Report ABP-320017-24

<b>Development</b>	Construction of a master bedroom suite on top of the existing two-storey flat roof structure.
<b>Location</b>	Kilfenora, 3 Killiney Road, Dalkey, Co. Dublin, A96 KN80
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D24B/0158/WEB
<b>Applicant(s)</b>	David & Karen Whelan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kevin Farnan Liam Murray
<b>Observer(s)</b>	James O'Reilly
<b>Date of Site Inspection</b>	2 <sup>nd</sup> September 2024
<b>Inspector</b>	Gerard Kellett

## **1.0 Site Location and Description.**

- 1.1. The subject site is located at (Kilfenora) no.3 Killiney Road, Dalkey, Co. Dublin. The site relates to an existing two storey detached flat roofed dwelling. There is existing off-street parking to the front of the dwelling with garden to the rear. The site is accessed off Killiney Road to the east.
- 1.2. The pattern of development is residential in character. To the north is no.52. Killiney Rd which is a detached dormer bungalow type dwelling. To the south is no.2. Killiney Rd which is a detached bungalow type dwelling. To the east is a mix of detached single storey dwellings at Anglesey Park and a row detached two storey dwellings along Killiney Road to the southeast. To the west is no.11A Avondale which is detached two storey dwelling.
- 1.3. The subject site is not a Protected Structure or within an Architectural Conservation Area (ACA) nor are there any Protected Views in the vicinity.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the construction of a master bedroom suite on top of the existing two-storey flat roof structure.
- 2.2. The existing height of the dwelling is 6.269metres; the proposed addition (2.441metres) would equate to a height of 8.7metres. The additional floor would have a setback on all sides from the edge of the building. The existing parapet wall would be raised by 0.4metres to accommodate the works. A sloping skylight projection is detailed on the southern elevation which abuts the side wall of the dwelling. A green roof is proposed. The extension provides an additional floor area of 53.47sqm. The total site area is 0.07ha.

### 3.0 Planning Authority Decision

3.1. The Planning Authority GRANTED permission on the 31<sup>st</sup> May 2024 subject to 8no. condition(s).

### 3.2. Planning Authority Reports

#### Planning Reports

- The Planner's Report forms the basis for the decision. The report provides a description of the site, indicates the planning history, identifies the land use zoning designation and associated policy context from the Dun Laoghaire – Rathdown Development Plan 2022-2028.
- No concerns with respect to AA or EIA.

#### Other Technical Reports

- Engineering Department Drainage Division: No objection subject to conditions.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

Two number third-party submission(s) were made on the application making the following planning points:

- Design
  - Visual amenity
- Residential Amenity
  - Overbearing
  - Overlooking
  - Overshadowing
  - Overdevelopment

- Loss of privacy
- Impact on value of property
- Other
  - Accuracy of plans/particulars

## 4.0 Planning History

- PA REF: D16B/0411 – Refers to a grant of Permission for: 1. The replacement of the dormer type roof to the south (adjacent No. 2) and west (garden) elevations, with new first floor accommodation below a flat roof to match that existing to the north and east elevations. 2. The extension of the living/dining room as a single storey, into the back garden. 3. Alterations to the street elevation to include a timber clad bay window at first floor and copper clad canopy at the entrance door. 4. All associated site works.

## 5.0 Policy Context

### 5.1. Development Plan

5.2. The Dun Laoghaire – Rathdown Development Plan 2022 – 2028 is the relevant Development Plan for the subject site.

5.3. The subject site is zoned “Objective A” which has zoning objective *“to provide residential development and improve residential amenity while protecting the existing residential amenities”*.

5.4. Chapter 12 – Development Management

- 12.3.7.1 – Extensions to Dwellings ((iv) Alterations at Roof/Attic Level)
- 12.8.7.1 – Separation Distances

### 5.5. Natural Heritage Designations

The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- Dalkey Islands (SPA) (004172) within 2km to the east of the site.
- Rockabill to Dalkey Island (SAC) (003000) within 2km to the east of the site.
- Dalkey Coastal Zone And Killiney Hill. (pNHA) circa 750metres to the east of the site.

## 5.6. EIA Screening

Refer to Appendix 1 – Form 1. Having regard to the nature of the proposed development, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required in this instance.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Two third-party appeals have been submitted against the Planning Authority's decision to grant permission from the following:

- Kevin Farnan – No.1 Anglesey Park, Killiney (To the east of the site)
- Liam Murray – No.52 Killiney Road, Dalkey (To the immediate north of the site)

Both grounds of appeal raise the same issues and can be broadly summarised under the following themes:

- Design
  - Visual impact/out of character with area
- Residential Amenity
  - Overbearing to the side
  - Overlooking/loss of privacy from additional floor
  - Overshadowing

- Other
  - Overdevelopment of the site
  - Devaluation of property
  - Accuracy of plans submitted in particular the overall height proposed

## 6.2. **Applicant response to the third-party appeal**

The applicant has responded individually to each third-party appeal making the following points:

- Kevin Farnan – No.1 Anglesey Park, Killiney (To the east of the site)
  - The proposal would not represent overdevelopment of the site; density would remain at 14units to the hectare significantly less than what is promoted in the Development Plan.
  - The bedroom will have a significantly smaller floor plate than that of the existing second floor.
  - There is ample precedent in the surrounding area of 3 – 4 no storey buildings.
  - The streetscape is made of up various house styles and forms of housing developments and there is no distinct visual character within the immediate area.
  - The proposal offers a contemporary design which will contribute to the character of the area.
  - The proposal is modest and the design is cognisant of the surrounding area and will improve the visual amenity of the area.
  - The protection of residential amenity is considered to be appropriately addressed due to configuration and generous set back of the proposal.
  - The proposal will not result in any overlooking as per drawing no. P24-1002.

- The proposed green roof would not be used for socialising and the applicant will accept a condition limiting the use of this area solely for maintenance purposes.
  - The Development Plan supports Green roofs as a Sustainable Urban Drainage Scheme (SUDS) feature.
  - Photographs have been provided indicating the various house styles in the area.
- Liam Murray – No.52 Killiney Road, Dalkey (To the immediate north of the site).
    - The planners report from the Planning Authority raised no concern regarding overlooking or loss of privacy.
    - There is ample precedent in the surrounding area of 3 – 4 no storey buildings.
    - The drawing pack submitted had ample information for the Planning Authority to assess and that no further information was requested.

### 6.3. **Planning Authority Response**

Response received dated 15<sup>th</sup> July 2024 requesting the Board to uphold the decision of the Planning Authority.

### 6.4. **Observations**

One observation was made on the appeal, making the following points below:

- James O'Reilly (11A Avondale Crescent, Dalkey (To the west of the site).
  - Visual amenity
  - Overbearing
  - The accuracy of the submitted drawings.

## 7.0 Assessment

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

- Principle of Development
- Design
- Residential Amenity
- Other matters

### 7.2. Principle of Development

7.2.1. The subject site is in an area zoned 'Objective A' as per the Dun Laoghaire – Rathdown Development Plan 2022 – 2028 which has a zoning objective '*to protect and / or improve residential amenity*'. The subject site relates to an existing dwelling where extension(s) and alterations can be considered. Therefore, the principle of the development is acceptable, subject to normal planning considerations.

### 7.3. Design

7.3.1. A common thread in the grounds of appeal relates to concerns regarding the design of the proposed development and the visual impact of the surrounding area.

7.3.2. Section 12.3.7.1 (iv) of The Dun Laoghaire – Rathdown Development Plan 2022 – 2028 refers to criteria used to assess applications for roof alterations, of relevance to this appeal includes the character and size of the structure; its position on the streetscape and proximity to adjacent structures.

7.3.3. The existing dwelling comprises a contemporary design two-storey flat roof dwelling which height is familiar to the immediate building heights along the existing road. Permission for sought for the construction of a master bedroom suite on top of the existing two-storey flat roof structure. The existing height of the dwelling is 6.2metres and the proposed addition would equate to a height of 8.6metres (an increase in 2.4metres). The additional floor would have a setback on all sides from the edge of the building with a new parapet wall 0.4metres in height. A sloping projection is detailed in the southern elevation to accommodate a skylight.



- 7.3.4. I am of the view that by reason of the size, scale and massing in particular the height of the proposed development relative to the existing dwelling and the use of the proposed materials would be a contemporary addition and complement the existing dwelling on site and would be in keeping with the design and appearance of the existing dwelling. I consider the design acceptable in that regard.
- 7.3.5. I note the concerns raised pertaining to visual impacts. I have visited the site, and the proposed development would be visible when viewed along Killiney Road from the approaching north and south and from Anglesey Park from the approaching northeast.
- 7.3.6. I am of the view that by reason of the existing dwelling being set back 15metres from the public road; the proposed development set back from the front elevation by 2.2metres and the overall proposed height compared to adjoining neighbouring properties being a bungalow to the immediate south and a dormer bungalow dwelling to the north, would not appear excessively dominant in the streetscape and could be reasonable absorb due to the built character of the area. As such it is my opinion that the proposed development would not have a significant visual impact to the built environment. I consider the visual impact acceptable in that regard.
- 7.3.7. Having regard to the foregoing it is my view that the design of the proposed development would not cause any significant visual impact to the surrounding area and would be in accordance with section 12.3.7.1 (*Additional Accommodation in Existing Built-up Areas*) (iv) *Alterations at roof/attic level*) of the Dun Laoghaire Rathdown Development Plan 2022 – 2028.

7.4. Residential Amenity

- 7.4.1. The grounds of appeal have raised concerns relating to overbearance, overlooking/loss of privacy and overshadowing which I address in turn below. I have viewed the proposed development from each of the properties concerned at No.52 Killiney to the north and No.1 Anglesey Park to the east. I could not gain access to No.2 Killiney Road to the immediate south nor at No.11A Avondale Crescent to the west at the time of my site inspection.

#### *Overbearingance*

- 7.4.2. Overbearing has been raised by the residents of No.52 Killiney Road to the immediate north, No. 1 Avondale to the east and No.11A Avondale to the west.
- 7.4.3. The proposed development would be set back 2metres from the front edge of the existing building; be set back 2.6metres from the common boundary to the north (No.52 Killiney Road) and be set back 0.8metres from the common boundary to the south (No.2 Killiney Road) respectively. Having regard to these setbacks which in my opinion are acceptable, it is my view that the proposed development would not result in any undue overbearing when viewed from these properties. I consider this acceptable in that regard.

#### *Overlooking/loss of privacy*

- 7.4.4. Overlooking has been raised by the residents of No.52 Killiney Road to the immediate north, No. 1 Anglesey Park to the east and No.11A Avondale to the west.
- 7.4.5. Section 12.8.7.1 of The Dun Laoghaire – Rathdown Development Plan 2022 – 2028 states refers to a minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, for new developments.
- 7.4.6. No.1 Anglesey Park to the east is set back over 40metres from the front elevation of the existing dwelling to the front wall of this property and is separated by an existing public road. No.11A Avondale Crescent to the west is set back over 39metres from opposing first floor windows of the proposed development and this neighbouring property. I consider these separations distances acceptable in that regard.
- 7.4.7. The proposed development is set back c.2.6metres from the boundary of No.52 Killiney Road to the north and c3.1metres from No.2 Killiney Road to the south. All proposed windows in my view would be appropriately positioned not to cause any adverse overlooking to No.52 Killiney Road to the north and No.2 Killiney Road to the south. I consider the separations distances and positioning of windows acceptable in that regard.

- 7.4.8. Loss of privacy relating to private gardens areas has been raised by the residents of No.52 Killiney Road to the immediate north, No. 1 Anglesey Park to the east and No.11A Avondale to the west.
- 7.4.9. The private garden area to No. 1 Anglesey Park to the east has a separation distance of over 40metres from the front elevation of the existing dwelling to the front wall of this property and is separated by a public road. The private rear garden area to No.11A Avondale Crescent to the west is set back over 39metres from opposing first floor windows of the proposed development. There is existing boundary treatment and hedging along the western boundary which I consider to be acceptable and aids screening for this property. Having regard to these setbacks which in my opinion are acceptable, as such it is my opinion that the proposed development would not result in any loss of privacy when viewed from these properties. I consider this acceptable in that regard.
- 7.4.10. No.52 Killiney Road private amenity area in my view is located to northwest of the proposed development. The proposed roof garden would not be accessible to the applicant.. As such it is my view that the proposed development would not result in any undue loss of privacy to this property. I consider this to be acceptable in that regard. I consider it appropriate to attach a condition prohibiting the use of the roof area solely for maintenance work and not to be used as a terrace/balcony area. This could be addressed by way of an appropriate condition if the Board is of a mind to grant permission.
- 7.4.11. On balance and having regard to the separation distances and the position of windows it is my view that the proposed development would not adversely impact on the adjoining properties by way of overlooking or loss of privacy when viewed from these properties and would be in accordance with Section 12.8.7.1 of the current Development Plan.

### *Overshadowing*

- 7.4.12. Overshadowing has been raised by No.11A Avondale to the west.
- 7.4.13. The appeal site has a north to south alignment with No.52 Killiney Road to the north and No.2 Killiney Road to the south. Having regard to this alignment and setbacks from the buildings edge as previously discussed which in I consider acceptable, it is my view that the proposed development would not adversely impact on the adjoining properties by way of undue overshadowing.
- 7.4.14. On balance having regard to the foregoing and subject to conditions I do not consider the proposed development would cause any significant adverse impact on the residential amenity of neighbouring properties in terms of overbearing, overlooking, overshadowing or loss of privacy.

### 7.5. Other Matters

- 7.5.1. Over development has been raised as a matter of concern by the residents of No.52 Killiney Road to the immediate north, No. 1 Anglesey Park to the east and No.11A Avondale to the west. The front and rear curtilage of the site and the footprint of the existing structure would not alter as a result of the proposed development. I consider there would be ample private amenity space of over 250sqm retained to accommodate the extra bedroom space which in my view is in line with the current Development Plan standards for private amenity space. I consider this to be acceptable and does not represent over development of the site in this instance.
- 7.5.2. Devaluation of property has been raised as a matter of concern. No evidence has been submitted to support the views of the third party that the proposal would reduce property values in the area. Having regard to the nature and scale of the development and to the absence of any effects, and to the pattern of development in the area, I have no concerns in this regard.
- 7.5.3. Precedent has been raised by the applicant. It is my view the examples provided by the applicant relate to a different site context and that all applications are assessed on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

- 7.5.4. In relation to concern about inaccuracy of the drawings submitted, I am satisfied that the plans and particulars submitted with this application accurately outline of the proposal and I note the plans and particular submitted where deemed valid by the Planning Authority.

## **8.0 Appropriate Assessment Screening**

- 8.1. Refer to Appendix 2. Having regard to nature, scale, and location of the proposed development and nature of the receiving environment and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

- 9.1. I recommend that PERMISSION should be GRANTED for the reasons and considerations as set out below.

## **10.0 Reasons and Considerations**

- 10.1. Having regard to the nature, scale, location and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would comply with the zoning objective for the site, as set out in the Dún Laoghaire-Rathdown Development Plan 2022 – 2028, would not seriously injure the visual or residential amenity of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out 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 and the development shall be retained in accordance with the agreed particulars.

**Reason:**           **In the interest of clarity.**

2. The 'green roof' area of the proposed development hereby permitted shall not be used as a terrace/balcony area. Access shall be used solely for maintenance purposes only.

**Reason:**           **In the interest of residential amenity.**

3. The existing dwelling and the proposed extension shall be jointly occupied as a single residential unit and the extension shall not be used, sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:**           **To restrict the use of the extension in the interest of residential amenity.**

4. The site development and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:**           **In order to safeguard the residential amenities of adjoining property in the vicinity.**

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

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Gerard Kellett

Planning Inspector

26<sup>th</sup> September 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	320017-24			
<b>Proposed Development Summary</b>	Construction of a master bedroom suite on top of the existing two-storey flat roof structure.			
<b>Development Address</b>	Kilfenora, 3 Killiney Road, Dalkey, Co. Dublin, A96 KN80			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	<b>x</b>	
		<b>No</b>		
<b>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?</b>				
<b>Yes</b>			EIA Mandatory EIAR required	
<b>No</b>	<b>x</b>		Proceed to Q.3	
<b>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]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>	<b>x</b>	N/A		No EIAR or Preliminary Examination required
<b>Yes</b>				Proceed to Q.4



<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## **Appendix 2**

### **AA Screening**

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 Network, is the:

- Dalkey Islands (SPA) (004172); within 2km to the east of the site.
- Rockabill to Dalkey Island (SAC) (003000); within 2km to the east of the site.
- Dalkey Coastal Zone And Killiney Hill. pNHA; within 750metres to the east of the site.

The proposed development is located within a residential area and comprises the construction *of a master bedroom suite on top of the existing two-storey flat roof structure.*

Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and domestic nature of the development
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.