

An
Bord
Pleanála

Inspector's Report ABP320654-24

Development

The development of a corner site to house no. 27 to provide a new dwelling with associated parking space to the front of the property.

Location

27 The Elms, Stillorgan Road,
Donnybrook, Dublin 4, D04W9Y6.

Planning Authority

Dun Laoghaire-Rathdown County
Council.

Planning Authority Reg. Ref.

D24A/0418/WEB.

Applicant(s)

Michael & Maureen Dunne.

Type of Application

Permission.

Planning Authority Decision

Grant permission with conditions.

Type of Appeal

Third Party

Appellant(s)

- (1) Marie O'Callaghan
- (2) Mary Toomey
- (3) George & Yvonne Good
- (4) Michael & Jacinta O'Hanrahan
- (5) David Cronin

Observer(s)

- (1) Eileen Roddy
- (2) Pat & Barbara McCormack
- (3) Gavin Redmond & Dr Lisa Owens
- (4) Kevin Gleeson.
- (5) Tomas Delap

Date of Site Inspection

28/01/25.

Inspector

Anthony Abbott King.

1.0 Site Location and Description

- 1.1. The Elms is a suburban housing estate of detached houses with front and back gardens located to the north of the Stillorgan Road. The estate is located at the end of a cul-de-sac access road from the Stillorgan Road.
- 1.2. The Elms enjoys a sylvan setting enveloped by the grounds of the Elm Park Golf Club to the north-west, north and east.
- 1.3. The estate comprises 32 two-storey pitched roof detached houses constructed circa. 1970. The streetscapes are configured around a loop road. The loop road entrance is at the west of the estate.
- 1.4. These houses have front driveways. Notwithstanding on-street parking is evident.
- 1.5. No. 27 the Elms is located in a prominent position with the front and gable elevation visible from the estate entrance.
- 1.6. The Elms comprise streetscapes of identical detached house. The houses at the end of the streetscapes within the estate are located on corner sites with dual frontage onto the loop road, including no. 27 the Elms.
- 1.7. The front elevations of a number of the houses in the Elms have been upgraded. However, there are no contemporary infill houses within the estate to date.
- 1.8. The site area is given as 0.041 hectares.

2.0 Proposed Development

- 2.1. The demolition of a rear garden shed and the construction of a new 3 bedroom 3-storey detached dwelling house, with a gross floor area of 113 sqm., providing for one front garden car parking space, all on a corner site at no. 27 The Elms, Stillorgan.

The new dwelling house will match the overall height and parapet level of the existing house and will exhibit light brick / render elevations and a zinc roof.

The development will include a new entrance to the existing house and all associated works.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 9 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision CEO of Dun Laoghaire-Rathdown County Council reflects the recommendation of the planning case officer.

3.2.2. Other Technical Reports

The Transport Planning recommend the omission of the in-curtilage car parking space citing SPPR 3 of 'The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities' (15 January, 2024).

4.0 Planning History

There is no recent planning history on the site.

5.0 Policy and Context

5.1. Development Plan

The Dun Laoghaire-Rathdown County Development Plan 2022-2028 is the relevant local planning policy document. The following policy objectives are relevant:

- Chapter 13 (Land Use zoning objectives) Table 13.1.1 (Development Plan Zoning Objectives) and Map 2 are relevant.

The zoning objective for the subject development site is "A": *To provide residential development and improve residential amenity while protecting the existing residential amenities.*

Residential is a 'permitted in principle' land use.

Urban Consolidation

- Chapter 2 (Core Strategy), Policy Objective CS11 – Compact Growth - is relevant and states:

*It is a Policy Objective to deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary.
(Consistent with RPO 3.2 of the RSES).*

It is noted that Figure 2.9 (Core Strategy Map) defines the boundary of Dublin City and Suburbs. The development site is located within the boundary.

- Chapter 4 (Neighbourhood-People, Homes and Place), Policy Objective PHP18 (Residential Density) is relevant and states:
 - *Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.*
 - *Encourage higher residential densities providing that proposals provide for high quality design and ensure a balance between the protection of the existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.*

Policy Objective PHP19 (Existing Housing Stock-Adaptation) is relevant and states:

Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

Policy Objective PHP20 (Protection of Existing Residential Amenities) states:

It is a Policy Objective to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

Infill Housing

- Chapter 12 (Development Standards) Section 12.3.7 (Additional Accommodation in Existing Built-Up Areas) in particular Section 12.3.7.5 (Corner/Side Garden Sites) and Section 12.3.7.7 (Infill) are relevant.
- Section 12.3.7.5 provides assessment criteria for houses in corner / side gardens sites.
- Infill development is required to accord with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gateways, trees, landscaping, and fencing or railings.

Private Open Space

- Section 12.8.3.3 (Private Open Spaces) Table 12.10 (Private Open Space) is relevant:

house type	Private Open Space requirement (minimum)
1-2 bedroom	48 sq. m. *
3 bedroom	60 sq. m.
4 bedroom (or more)	75 sq. m.

Vehicular Entrances and Car Parking Standards

- Section 12.4.8 (Vehicular Entrances and Hardstanding Areas) requires vehicle entrances and exits to be designed to avoid traffic hazard for pedestrians and passing traffic. In general, for a single residential dwelling, the maximum width of an entrance is 3.5 metres.
- Section 12.4.5.6 (Residential Parking) & Table 12.5 (Car Parking Zones and Standards) provides car parking standards for residential development *inter*

alia near public transport (Zone 2). The car parking standard for a 3-bedroom house in zone 2 is 2 car parking spaces per unit.

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 Department of Environment Heritage and Local Government 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (2009) and the accompanying Design Manual (2009).
- 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

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

5 number appeals have been submitted. The appeal statements are summarised below.

6.1. Grounds of Appeal

- (1) The appeal statement of Marie O'Callaghan, No. 1 The Elms, Stillorgan Road, Dublin 4, prepared by Kiaran O'Malley & Co. Ltd. on behalf of the appellant, is summarised below:

- The appellant is opposed to the proposed development, which would be injurious to the visual amenity of the area and requests the Board to refuse permission.
- The proposal represents substandard development on a constrained and irregular shaped side garden plot that would not comply with development plan standards for new dwellings in side gardens.
- The development would fail to comply with 9 of the 13 parameters set out in Section 12.3.7.5 (corner / side garden sites) of the Dun Laoghaire-Rathdown Development Plan 2022-2028. The development site is not of a sufficient size to cater for a side garden dwelling compounded by the constraint of the highly irregular shape of the site.
- The irregular and constrained size and shape of the site, hacked out of the very narrow side garden of no. 27 the Elms, would result in a development out of character with the pattern of development in the estate in terms of design, layout and relationship with existing dwellings adjacent and would be inconsistent with development plan guidance.
- The proposed dwelling would have a discordant relationship with the existing house on the site, no. 27 the Elms, and with neighbouring properties at nos. 1, 2 & 28 the Elms. The proposed two-storey bay window feature at the front is forward of the established building line.
- The front building line and the side building line (presently aligned with the front elevations of nos. 28 & 29 the Elms) is materially breached. There would be an incongruous visual impact from the substantial gable elevation hard on the site boundary.
- The proposed residential accommodation is substandard, especially at the first floor level noting the deficient width of the first floor living room, and does not comply with the standards set out in the Quality Housing for Sustainable Communities. The applicable standards are minimum standards that cannot be relaxed by the planning case officer.
- While the open space provision is acceptable in terms of quantity, it is deficient in terms of quality for a family of 4 living in the proposed dwelling. The rear amenity space can only be accessed via a ground floor bedroom or

from the public path through a pedestrian gate and would have an inappropriate shape and width.

- The development would be deficient in terms of car parking provision. development plan standard is 2 spaces for a 3-bedroom house at this location. The omission of the 1 proposed car parking space would materially contravene the development plan with respect to car parking.
- The development would not harmonise with the existing dwellings in the estate. The proposed two-store bay window and second floor terrace would be inconsistent with the building line and the existing pattern of development providing a viewing platform for overlooking of adjoining properties.
- The appellant notes the condition to remove the balcony. However, the condition does not address the overall incongruous appearance of the proposal relative to established character.
- The proposed substantial dormer windows to the front and rear of the proposal would be inconsistent with the existing roofscape to the front of dwellings in the estate. The omission of the dormer is noted but would not address visual impact at the rear of the property.
- The proposed material finishes would not match the existing. The zinc roof would be particularly prominent. The incompatible material finish combined with a vertical emphasise would not be in visual harmony with the horizontal emphasis of the existing houses.
- The 2 number large first and second floor windows in the gable elevation would overlook the appellant's property and are out of character with the fenestration in the estate.
- The overall design response fails to overcome the physical constraints of the this irregularly shaped restricted corner site and does not match the existing design of the estate detracting from visual amenities.
- The proposed 3-storey gable located on the prominent side boundary would dominant the public footpath and would be a highly intrusive feature detracting from visual amenity entering the estate.

(2) The appeal statement of Mary Toomey, No. 8 The Elms, Donnybrook is summarised below

- The development (1) would have an adverse impact on the amenities of the residents of the Elms, (2) it would endanger public safety by reason of traffic hazard, (3) would be out of character with the landscape, (4) would depreciate the value of existing property, (5) would be inconsistent with the established pattern of development in terms of its size, design and layout, (6) would result in the removal of green area and trees, and (7) cause noise and overcrowding.
- The appellant requests the Board to reject the application. The appellant encloses a copy of the objection submitted to the planning authority (dated 10th July, 2024).

(3) The appeal statement of George & Yvonne Good, No. 7 The Elms, Stillorgan Road, Donnybrook is summarised below:

- The appellants have been resident in the estate since its development in 1978. A restrictive covenant at the time of purchase restricted the number of houses to 32 dwellings.
- The covenant is contained within the Fourth Schedule of the Indenture between the developer, Oakpark Developments, and the purchaser. The appellant claims that the covenant restricts any owner from implementing a development of the nature proposed.
- The development is substandard and would be out of character with the pattern of development in the area in terms of design and location. The development on a small wedge shaped site will disrupt the building line to the side of the existing house at no. 27 the Elms.
- The development would break established building lines. It will disrupt the close alignment with the front façade of no. 28 the Elms. The front of the proposed house would also break the building line of no. 26 the Elms.
- The development would result in overlooking, overshadowing and would have overbearing impacts on no. 28 the Elms adjoining.

- The development would result in sub-standard internal and external amenity space for future occupants. The garden is not accessible other than through a bedroom (Bedroom 2).
- The car parking provision is deficient. The existing houses have 2 car parking spaces.
- The development is in a prominent location at the entrance to the estate. The appellant claims that no attempt has been made to harmonise the proposed development with the existing dwellings in the estate. The materiality of the proposed zinc cladding is alien to the area.
- The development will be the only house in the estate where the gable wall represents the boundary with the public footpath.
- The proposal would represent an overly visually prominent and discordant element in the streetscape adversely impacting on visual amenities of the area.

(4) The appeal statement of Michael & Jacinta O'Hanrahan, No. 15 the Elms, is summarised below:

- The appellants object to the planning application by reason firstly that the applicant's title to the land is the subject of a restrictive covenant entered into by the applicants (binding them and subsequent purchasers) on the purchase of the houses in the estate.
- The restrictive covenant was prepared by the solicitors for the developer, Oak Park developments Limited, providing not to use the premises for any purpose other than as a single private or professional residence. The covenant formed part of the conveyance of the original 22 houses in the estate known as the Elms, sites 1-16 inclusive & 22-27 inclusive, including the appellant's house. Sites 17 to 21 inclusive were retained by the developer.
- The restrictive covenant attached to the conveyance of no. 27 The Elms. The benefit of the restrictive covenant is for the benefit of the other houses in the estate and can be enforced by law.

- A similar restrictive covenant attached to houses nos. 28,29, 30, 31 & 32, which were constructed before the estate was finished but are not included in the original 22 houses.
- Secondly, the development would not be in accordance of the proper planning and development of the estate and would exhibit alien elements by reason of the restricted site, the extensive zinc cladding and the introduction of box dormers.
- The 3-storey dual fronted house with balcony would overlook neighbouring properties, would have an inconsistent material finish and would elevate 3-storeys onto the roadway.
- The development would set a precedent for deficient car parking provision in the state, which would further damage the character of the estate.

(5) The appeal statement of David Cronin, No. 10 The Elms, is summarised below:

- The 32 similar houses in the estate form a cohesive unit that was designed and developed as single dwellings 45 years ago. The site of the proposed development at no. 27 The Elms is too tight to accommodate the proposal and would represent over development.
- The development is inconsistent with the criteria set out in the county development plan or the criteria set out in the document "Quality Housing for Sustainable Communities".
- The proposed 3-storey house with dual frontage with a balcony would overlook neighbouring properties. No other house in the estate is 3-storeys in height. The house would be inconsistent in design and would be out of character with the existing houses in this location.
- The zinc material finish of the roof is inconsistent with the identical roof finish in the estate comprising reddish / brown tiles. The prominent box dormer is also alien to the area.
- The development would set a precedent for deficient car parking provision in the estate, which would further damage its character.
- The appellant objects to the planning application by reason firstly that the applicant's title to the land is the subject of a restrictive covenant entered into

by the applicants (binding them and subsequent purchasers) on the purchase of the houses in the estate.

6.2. Applicant Response

The applicant response, prepared by Gráinne Weber Architects on behalf of the applicant, is summarised below:

- It the intention of the applicant to utilise the corner site to no. 27 the Elms to develop an alternative house type that would be suitable to a downsizer, young couple or small family.
- The letters intention *inter alia* is to address the requirements of the Dun Laoghaire-Rathdown County Development plan 2022-2028 and Quality Housing for Sustainable Communities.
- The building line of the infill house is in keeping with that of no. 27 the Elms with the exception of a bay window to the front. There is not a direct building alignment between the existing houses at nos. 27 & 28 the Elms.
- There are no issues of overlooking given the off-set building alignment with the properties to the rear (nos. 28 & 29 the Elms). There is a significant distance between the adjacent building at no. 1 the Elms, which is separated by a road, footpath(s) and mature trees.
- There is an existing gable window in the existing side elevation of no. 27 the Elms. A 20m distance is retained between the adjacent property at no. 1 the Elms and the proposed new gable windows in the infill house, as such, the windows would provide passive surveillance while not posing an overlooking threat.
- The applicant in response to the concerns of the planning authority provides options for the treatment of the front elevation. The option to replace the proposed front dormer with a standard size Velux rooflight is shown diagrammatically.
- The eaves and ridge height of the infill house match the existing house at no. 27 the Elms.

- The proposed zinc cladding would represent a modern yet subdued material finish. The zinc, granite and crisp white render proposed represents a quiet natural palette. The window frames will have a slender elegant proportion.
- The applicant claims that the residential accommodation standards for occupiers as outlined in 'Quality Housing for Sustainable Communities : Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007) are achieved, as appropriate in terms of floor space and layout for a 3-bedroom 5-person house. A table of comparison is provided.
- It is acknowledged that the main living room width is less than the recommended minimum unobstructed 3.8m. However, the living area floor space is greater than the advised 13 sqm at 15.54 sqm. The living space enjoys triple aspect fenestration. The option to flip the kitchen and living space is proposed as an alternative layout option. However, the alternative would be less desirable in terms of the benefit of south / westerly light.
- The rear side access to the existing house is retained. The access to the infill house amenity space to the rear is via a side gate in the boundary wall. Internally access can also be achieved via a study / guest bedroom.
- The site boundaries and trees are retained.
- A new in-curtilage parking space would make provision for the existing house. The applicant claims that on-street parking is sufficient but in curtilage parking is desirable. The existing on-street parking space to no. 27 the Elms would be retained to facilitate the infill house.

6.3. Planning Authority Response

The planning authority refer the Board to the previous planners report. The grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

6.4. Observations

5 Observations have been submitted. These observations are summarised below.

(1) The observation of Eileen Roddy, No. 13 the Elms, is summarised below:

- The observer signed a restrictive covenant between “Oak Park Developments Ltd,” and the purchaser in 1978, which restricted the number of houses in the estate to be constructed to 32 houses only.
- The three-storey detached house is greatly out of character in terms of design and location with the pattern of development, would be inconsistent with the planned streetscape and give rise to considerable negative impacts on the amenity of the overall small housing development.
- The development will disrupt the building line to the side of no. 27 the Elms, which currently aligns approximately with no. 28 the Elms.
- The site is too small to accommodate the development and the zinc roof is alien to the area.
- The development would be inconsistent with the Dun Laoghaire-Rathdown County Development Plan 2022-2028, including the size, design and relationship of the proposal with existing dwellings.
- The observer *inter alia* lists the following; the rear upstairs windows would result in overlooking; the internal accommodation is too small; the proposal would break the established side and rear building lines; the proposed car parking is deficient and; trees will have to be removed.
- The observer urges the Board to reject the application in its entirety.

(2) The observation of Pat & Barbara McCormack, No. 6 the Elms, is summarised below:

- This mature estate consists of 32 two-storey similar design houses with small front and rear gardens built in the 1970s.
- The proposal would be an ‘eyesore’ located at the entrance to the estate. The side gable wall would be the boundary to the estate.
- The exclusion of car parking will exacerbate congestion with 15 people resident between the existing and proposed properties.
- Refuse trucks regularly have difficulty negotiating the estate.

- The proposal would be a three-storey structure wedged into a smaller site and will overlook / overshadow the front and rear gardens of neighbouring properties.
- The proposed development does not harmonise with the existing estate, would disrupt the streetscape / roofscape by reason of the zinc clad roof finish.
- The Board is invited to visit to the estate in advance of deliberations to gauge the potential disruption. The observer urges a rejection of the application.

(3) The observation of Gavin Redmond & Dr Lisa Owens, No. 27a the Elms, is summarised below

- The development is inconsistent with planning policy framework and should be refused, including Section 12.2.7.5 (corner / side garden sites), Table 12.5 (Car Parking) and Table 5.1 (space provision and room sizes for typical dwelling) of the development plan. And Appendix (iii) of Quality Housing for Sustainable Communities.
- The development would not be suitable for elderly accommodation as the stairs is too narrow for a chair lift and there is no lift between floors. The designer is recommended to have regard to the Joseph Rowntree Foundation standards for lifetime homes.
- A three-bedroom house in Zone 2 requires two or more car parking spaces.
- The proposed house design while meeting main room requirements is deficient in the provision of aggregate living area and storage.
- The house design is deficient in terms of the design audit checklist provided in Appendix (iii).
- The application form is incomplete in terms of response and in instances questions are answered ambiguously.
- Condition 6 relating to drainage, requires calculations that were absent from the application, which prevented comment, which it is claimed is inequitable.

(4) The observation of Kevin Gleeson, No. 11 the Elms, is summarised below:

- The development is pursued to increase commercial value and would fail to protect existing residential amenities, including the removal of green areas and trees.
- The development, including the vehicular access that would endanger public safety, will increase traffic volumes in an already congested cul-de-sac of 23 houses within an area which has existing commuter traffic issues.
- The observer signed a covenant on the purchase of his house that only the 32 houses constructed by the developer 'Oak Park Developments' would be built on the estate.
- The development would be out of character and scale with sustainable development. The overdevelopment of the site would detract from the visual amenities of the area.
- The development will set a poor precedent for inappropriate future development in the cul-de-sac.

(5) The observation of Thomas Delap, No. 28 The Elms, is summarised below:

- The very narrow tall house squeezed into the side garden will have an adverse impact on the adjoining house and garden, the residence of the observer, in terms of privacy and light.
- The house is too large and tall for the site out of character with the estate and will require the use of adjoining gardens and the public path to construct.
- Building works traffic will increase congestion. The observer clarifies that he will not provide access to his property to facilitate building works.
- The dormer windows will overlook and it is requested that they are omitted from the development or replaced with Velux.
- There is existing car parking congestion in the estate most houses have 2-3 cars. The omission of car parking provision is unreasonable.
- The observer will be planting extensively along the boundary to screen the development. The observer requests a condition to protect boundary planting.

- The house will have to access the bins via the bedroom. The observer asks if a new gate is proposed to the side of the house to give access to the public path.
- There is a concern in the matter of disability access.

7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submissions, third party observations and my *de novo* consideration of the application. It is noted that there are no new substantive matters for consideration.

Development proposal

- 7.2. No. 27 the Elms is located in an estate of 1970s detached houses. The houses in the Elms are relatively uniform and comprise linear and marginally curved two-storey streetscapes with pitched roof profiles configured around an access road that loops the estate. The house would be located in the side garden of no. 27 the Elms. The development site is in a prominent location at the estate entrance.
- 7.3. The infill house (no. 27b the Elms) is positioned adjoining the south-west gable of no. 27 the Elms (which would be known as no. 27a the Elms) at an end of streetscape location. An existing rear garden shed (9 sqm.) will be demolished to facilitate the development. The proposal comprises a 3-bedroom dormer style three-storey detached infill house with a front and back garden. It would have one in-curtilage car parking space.
- 7.4. The infill house (no. 27b the Elms) would be sited between the south-west gable of the existing house at no. 27 the Elms and the boundary wall with the public domain. The proposed house would follow the established building line of the streetscape comprising 6 existing detached houses (22-27 the Elms inclusive). The front facade elevating north-west would have prospect over the grounds of Elm Park Golf Club and would have a roof level balcony.
- 7.5. The site area is given as 0.041 hectares. The site extends from the front boundary of no. 27 the Elms to the rear boundary along a north-west/south-east axis. The width of the site is restricted by the distance between the gable of no. 27 the Elms and the low side garden boundary wall that is tight with the public footpath.

- 7.6. The gable of the proposed infill dwelling would elevate directly onto the public footpath and would follow the site boundary tapering toward the interior of the plot. The applicant has clarified that the gable would be inside the existing side boundary wall.
- 7.7. A gap would be provided between the infill house (27b) and the existing dwelling house (1200mm) at no. 27a the Elms. The passageway would provide external access to the rear garden of no. 27a the Elms from the front of the property. The development proposal includes a new vehicular / pedestrian entrance to the existing house.
- 7.8. The infill house (27b) would have an inverse configuration internally comprising reception accommodation (living room / kitchen) at first floor level and bedroom accommodation at ground floor level (2 bedrooms & a bathroom). The attic level would accommodate a bedroom and ensuite bathroom.
- 7.9. The overall floor area is given as 113 sqm. The foot print of the house at its minimum width would be approximately 45 sqm. (10m x 4.5m).

Appels against the development

- 7.10. There are 5 number appeal statements. The grounds of appeal are summarised in Section 6.0 of this report. The concerns of the appellants overlap in regard to their grounds of appeal. The appellants *inter alia* state that the proposal would represent an over development of a small irregularly wedged shaped side garden that cannot accommodate an additional dwelling house.
- 7.11. The appellants *inter alia* state that the infill house would be inconsistent with the pattern of development in the estate. in terms of its 3-storey height, scale, overall design and massing on the corner of no. 27 the Elms, and would have an adverse impact on existing residential and visual amenities.
- 7.12. The infill house would break the front and side building lines and would exhibit an alien material finish, including extensive roof level zinc cladding, which would not harmonise with the existing dwellings in the estate creating a visually incongruous element in the streetscape at the entrance to the estate.
- 7.13. The appellants claim that the infill development would provide for substandard development in terms of the internal configuration and external amenity space.

Furthermore, a covenant entered into by the original purchasers in the estate would preclude the development of an additional house in the estate. These matters are interrogated below.

Assessment sub-headings

7.14. The relevant planning matters are assessed under the following headings:

- Zoning
- Compact growth & urban consolidation
- The Sustainable Residential Development and Compact Settlement Guidelines (2024)
- Infill residential development
- Corner site development criteria;
- Internal configuration and amenity;
- Open space provision
- Vehicular access & Parking
- Other matters

7.15. Zoning / principle of development

The site is zoned Objective “A” of the Dun Laoghaire-Rathdown Development Plan 2022-2028, which seeks to *provide residential development and improve residential amenity while protecting the existing residential amenities*. Residential development is acceptable in principle and may be permitted where the proposed development is compatible with the overall policies and objectives for the zone.

7.16. The development site comprises the side garden of an existing dwellinghouse located within an established suburban area where piped services are available. I consider the development site is an appropriate location for infill residential development.

7.17. Compact growth / urban consolidation

7.18. 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 / suburban areas and, as such, promote

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

- 7.19. The strategic objective of compact development is supported in principle by densification of urban / suburban sites in particular lands accessible by walking, cycling and public transport. The proposal is located less than 400m from the Stillorgan Road accessible to high frequency public transport, including the E1 & E2 (E-Spine) Dublin Bus Service.
- 7.20. Figure 2.9 (Core Strategy Map) of the Dun Laoghaire-Rathdown Development Plan 2022-2028 defines the boundary of "Dublin City and Suburbs"(Urban). The development site is located within the boundary line defining the city and suburbs.
- 7.21. Chapter 2 (Core Strategy), Policy Objective CS11 – Compact Growth – is to deliver 100% of all new homes, that pertain to "Dublin City and Suburbs", within or contiguous to its geographic boundary. The proposed development would provide an additional house within "Dublin City and suburbs".
- 7.22. 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.
- 7.23. 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.
- 7.24. The following assessment is informed by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities.
- 7.25. Infill development

The Dun Laoghaire Rathdown County Development Plan 2022-2028 provide a comprehensive policy framework to support compact growth and urban consolidation. Policy PHP18 (Residential Density) seeks to increase housing (houses and apartments) supply and promote compact urban growth through the

consolidation and re-intensification of infill / brownfield having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.

7.26. Chapter 12 (Development Standards), Section 12.3.7 (Additional Accommodation in Existing Built-Up Areas), Section 12.3.7.7 (Infill) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 encourages infill housing development in accordance with Policy Objective PHP19 (Existing Housing Stock-Adaptation).

7.27. Policy Objective PHP19 *inter alia* promotes densification of built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

Corner / Side Garden Site Criteria

7.28. Section 12.3.7.5 (Corner/Side Garden Sites) of the Dun Laoghaire-Rathdown Development Plan 2022-2028 refers to the sub-division of the curtilage of an existing dwelling house to provide an additional residential unit within a built-up area. The guidance criteria for infill development on corner sites include an assessment of the size, design, layout, relationship with the existing dwellings and immediately adjacent properties and the impact of the proposal on existing amenities.

7.29. The proposed development would extend an existing streetscape of detached houses to the side of no. 27 the Elms (approximate existing floor area 198 sqm) with the provision of an additional smaller detached house (floor area 113 sqm.) at the end of the streetscape. The infill house would follow the established suburban pattern of development in the estate comprising detached houses with front and rear garden.

7.30. The infill house would follow the front and rear building lines of the existing dwelling house at no. 27 the Elms. The eaves height and roof ridge height would be similar to the roof profile of the existing dwelling house. A side passage way would define the spatial relationship between the existing house and the infill house.

7.31. I consider that the proposed infill house would in general be consistent with the existing streetscape in terms of size, layout and relationship with the existing housing stock and the immediately adjacent property at no. 27 the Elms respecting the height and massing of existing residential units.

- 7.32. However, the infill house in design terms would be distinct and would exhibit front and rear dormers providing accommodation at attic level. The infill house would exhibit a two-storey projecting bay with second floor balcony (accessed from the front dormer) representing a unique feature within the existing streetscape. I note that the existing housing stock is two-storey with uninterrupted roof planes.
- 7.33. The infill house would exhibit a contemporary design solution, including the use of a palette of distinct materials. I consider that a contemporary design solution is a valid architectural response to the provision of an additional dwelling house within the streetscape.
- 7.34. I consider the proposal providing a contrast between the new-build infill house, emphasised by a distinct natural palette of materials represented by zinc cladding, granite detailing, crisp white render and Aluclad windows, and the receiving environment should also harmonise within the existing streetscape.
- 7.35. Section 12.3.7.5 guidance *inter alia* provides that corner sites may allow more variation in design. However, compact detached proposals should more closely relate to adjacent dwellings.
- 7.36. I note the compact nature of the development proposal: it is the intention of the applicant to utilise the corner site to no. 27 the Elms to develop an alternative house type that would be suitable to a downsizer, young couple or small family.
- 7.37. The existing streetscape of which the infill house would form part is characterised by a prominent uninterrupted roofscape. I would concur with the planning case officer that the proposed front elevation dormer and balcony would provide a visually incongruous feature within the existing streetscape.
- 7.38. I consider that the dormer and balcony should be omitted from the development and that the fenestration at attic level should be provided by a Velux rooflight.
- 7.39. Finally, I consider the building line, building height and roofscape (subject to condition) of the additional house will harmonise with the existing streetscape while the use of a distinct material palette of elevation finishes would advertise its new build nature.
- 7.40. Therefore, it is considered that no significant adverse visual impacts would result from the provision of an additional house within the existing streetscape subject to

condition. However, I acknowledge that the physicality of the streetscape will significantly change including when viewed from the entrance to the estate.

Overbearing, overshadowing and overlooking considerations

- 7.41. In the matter of the protection of existing residential amenities in terms of overbearing, overshadowing and overlooking impacts, I consider that the separation distance between the infill house and the existing dwelling house (separation passageway 1200mm) and the adjacent houses at nos. 28 & 29 the Elms (approximate separation distance of 14m) would mitigate significant adverse impacts.
- 7.42. The rear building line of the infill house would follow the rear building line of no. 27 the Elms. The rear fenestration of the infill house would elevate south-west and, as such, there would be no direct overlooking of the truncated rear garden of no. 27 the Elms to the north-east.
- 7.43. The infill house would break the front building line of the adjacent streetscape comprising nos. 28 & 29 the Elms located to the south-west of the development site. The rear elevation fenestration of the infill house would directly overlook the front gardens of nos. 28 & 29 the Elms. However, the rear amenity space to the back of nos. 28 & 29 the Elms would be screened by the massing of the subject dwelling houses.
- 7.44. Finally, the streetscape would be extend in a south-westerly direction toward the front elevations of nos. 1 & 2 the Elms located across the carriageway from the side garden of no. 27 the Elms. The applicant response notes that a significant distance of 20m would be maintained between no. 1 the Elms, which is separated by a road, footpath(s) and mature trees.
- 7.45. I consider that the separation distance between the proposal and no. 1 & 2 the Elms (approximately 20m measured from the front facades of nos. 1 & 2 the Elms to the site boundary with the proposed 27b the Elms) would mitigate adverse impacts. However, I acknowledge that the physicality of the streetscape opposite would significantly change as viewed from nos. 1 & 2 the Elms.
- 7.46. In the matter of the gable / south-west elevation fenestration, Section 12.3.7.5 guidance *inter alia* provides for the incorporation of first floor/apex windows on gables close to boundaries overlooking footpaths, roads and open spaces for visual

amenity and passive surveillance. It is considered that the proposed first and attic level gable fenestration would be appropriate given its location on the property boundary with the public domain.

Internal configuration and room space standards.

- 7.47. A number of appellants cite deficient internal room standards noting that the 'Quality Housing for Sustainable Communities : Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007) requires the application of minimum standards. The applicant claims that room standards are achieved.
- 7.48. The applicant response states that the proposed accommodation would be appropriate in terms of floor space and layout for a 3-bedroom 5-person house. A table of comparison is provided. I have reviewed the submitted table and note that the development would in general comply with requirements.
- 7.49. The applicant acknowledges that the main living room width is less than the recommended minimum unobstructed 3.8m. However, it is argued that the living area floor space is greater than the advised 13 sqm at 15.54 sqm. Furthermore, the living space enjoys triple aspect fenestration.
- 7.50. Section 5.3.2 (Space Requirements & Room Sizes) of the Guidelines provide that living room widths for 3-bedroom house should be a minimum 3.8m in width. The option to flip the kitchen and living space as an alternative internal layout of the first floor is proposed by the applicant in order to satisfy living room width deficiency. However, the applicant is of the opinion that the alternative option would be less desirable than the existing arrangement.
- 7.51. I note the alternative internal arrangement proposed by the applicant at first floor level to flip the kitchen and living room locations. I also note the urban consolidation context provided by the Sustainable Residential and Compact Settlement Guidelines for Planning Authorities (2023).
- 7.52. The Guidelines *inter alia* recognise the need for change and state that the continued application of housing standards conceived in the twentieth-century is inhibiting innovation in housing delivery in particular the inclusion of suburban housing standards. The Guidelines recommend a graduated and flexible approach to the application of residential development standards across all housing types in order to enable innovation.

7.53. I consider in general the proposal would satisfy standards for new houses and that the development would provide a reasonable standard of accommodation on site as presently configured.

Open space

7.54. SPPR2 of the Sustainable Residential Development and Compact Settlement Guidelines (January 2024) requires a minimum open space provision of 40 sqm. for a 3-bedroom house. The proposed infill house would have a rear amenity space that would satisfy quantitative standards.

7.55. A number of appellants claim deficient access to the rear amenity space citing an external side pedestrian gate access from the public domain rather than direct access from the reception area of the infill house, as the the living room / kitchen would be located at first-floor level.

7.56. I note the location of the living room / kitchen at first floor level and the indirect access arrangement to the rear garden private amenity space for the residents of the house at ground floor level.

7.57. I consider that the arrangement is not optimum. However, the applicant by response clarifies that the amenity area to the rear would have a dual access arrangement both from the side pedestrian entrance and via a ground floor study / guest bedroom. I consider on balance that the proposal would satisfy qualitative open space standards.

Vehicular Access & Parking

7.58. The applicant proposes to provide in-curtilage parking to the front of the infill house (no. 27b) by incorporating the existing vehicular access to. No. 27 the Elms within the development site. The existing house (no. 27a) would be provided with a newly constructed vehicular access (3.1m) that would puncture the existing low front boundary wall.

7.59. The Transport Planning Division of the planning authority cite SPPR3 (Car Parking) of the Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities (2024). The Division recommend that the proposed vehicular access and in-curtilage front garden parking space should be omitted from the development and replaced by landscaping.

- 7.60. A number of the appellants have cited existing car parking deficiency in the estate and the resultant additional congestion that may result from the proposal. I note the development plan car parking requirement in Zone 2. However, SPPR 3 of the Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities, Section (i) states:

In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.

- 7.61. Notwithstanding the observations of the appellants and observers in the matter of traffic congestion, I note the overall national and local policy context in support of modal change. I also note the route of the E1 and E2 radial Dublin Bus services (E-spine Bus Connects) running along the Stillorgan Road and the location of a bus stop proximate to the access road into the Elms estate.
- 7.62. I concur with the Transport Planning Division of the planning authority that the additional in-curtilage parking space should be omitted from the development given the accessible suburban location of the development proximate to frequent public transport and the requirement of the Guidelines to minimise car parking provision within urban neighbourhoods. The omission of the vehicular access and the in-curtilage car parking can be dealt with by way of condition.

Other matters

- 7.63. A number of the appellants and observers claim that the applicant's title to the land is the subject of a restrictive covenant entered into by the applicant (binding then and on subsequent purchasers) on the original purchase of no. 27 the Elms in the 1970s.
- 7.64. The restrictive covenant, prepared by the solicitors for the developer, Oak Park Developments Limited, provides that the original houses in the estate cannot be used for any purpose other than as a single private or professional residential premises. The covenant formed part of the conveyance of the original 22 houses in the estate known as the Elms, including no. 27 the Elms.

7.65. I note these matters. However, the Development Management Guidelines for Planning Authorities (June 2007), Section 5.13 (Issues relating to title to land) states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. These are ultimately matters to be dealt with and resolved by the Courts.

7.66. Finally, the observations of third parties are summarised in Section 6.0 of this report. These observations are noted.

Conclusion

7.67. It is considered that in general the proposed infill house (no. 27b the Elms) would satisfy the development management criteria provided by Section 12.3.7.5 (Corner/Side Garden Sites), including providing a reasonable level of accommodation on site while respecting existing residential amenities given that no significant adverse impact would result subject to condition.

7.68. I note the regulation of demolition / construction hours in order to protect residential amenities at the construction stage can be dealt with by way of condition.

7.69. I conclude that the proposed development would satisfy Section 12.3.7.7 (Infill housing) and Policy Objective PHP19 (Existing Housing Stock Adaptation) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, which *inter alia* encourages densification of existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

7.70. Furthermore, the proposed development would be in accordance with national and local urban consolidation goals including Policy Objective CS11 (Compact Growth) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, which requires 100% of new homes that pertain to Dublin City and Suburbs to be delivered within or contiguous to its geographic boundary.

7.71. The Appropriate Assessment Screening

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

The subject site is located within an established urban area and is connected to piped services and is not immediate to a European Site. The proposed development comprises the construction of an infill dwelling house as set out in Section 2.0 of this report.

No significant nature conservation concerns were raised in the planning appeal.

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

I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

8.0 Recommendation

- 8.1. I recommend a grant of permission subject to condition for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the grounds of appeal, the observations of third parties, the residential zoning objective and the policy framework provided by the Dun Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that the proposed development for an infill 3-bedroom house, subject to condition, would provide a reasonable standard of accommodation on site, would not have a significant adverse impact on neighbouring properties in the Elms estate, would be consistent with the urban consolidation policies of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, including Policy Objective PHP19 (Existing Housing Stock Adaptation) and Section 12.3.7.5 (Corner/Side Garden Sites), would be consistent with the Sustainable Residential Development and Compact Growth

Guidelines for Planning Authorities (2024) and, as such, would be consistent with the proper planning and sustainable development of the area.

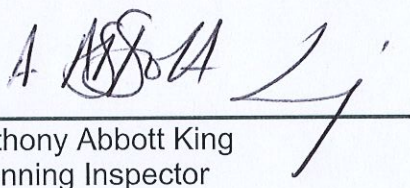
10.0 Conditions

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>Prior to the commencement of development the developer is requested to submit for the written agreement of the Planning Authority revised drawings providing for the following modifications:</p> <p>(i) The omission of the front elevation dormer and the associated roof balcony and balustrade and the substitution of a standard Velux roof light.</p> <p>Reason: In the interest of residential and visual amenity.</p>
3.	<p>Prior to the commencement of development, the applicant shall submit a revised site plan for the written agreement of the planning authority in compliance with the recommendation of the Transportation Planning Division of the Planning Authority to omit the proposed vehicular access and the in-curtilage front garden car parking space and to replace the parking area with appropriate landscaping.</p> <p>Reason: In order to clarify the scope of the permission and in compliance with SPPR3 of the Sustainable Residential Development and Compact Growth Guidelines.</p>
4.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p>

	Reason: In the interest of public health.
5.	<p>Surface 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>
6.	<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>
7.	<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>
8.	<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 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

04 February 2025

Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP- 320654-24	
Proposed Development Summary	Infill residential unit	
Development Address	27, The Elms, Stillorgan	
<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>		
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development would have a modest footprint (45 sqm.) and would not require significant demolition works (9sqm.).	
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is located on zoned residential lands in an established suburban area on piped services.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its mature suburban location and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	No
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No

There is a real likelihood of significant effects on the environment.	EIAR required.	No
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Inspector: A. M. S. L.
Date: 01-02-2025

DP/ADP: _____ Date: _____
(only where Schedule 7A information or EIAR required)