



An
Coimisiún
Pleanála

Inspector's Report ABP-322581-25

Development	Remodelling and extension to house with associated works.
Location	19 Merville Avenue, Stillorgan, Dublin, A94WP78
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D25A/0166/WEB
Applicant(s)	Orla Meade
Type of Application	Permission
Planning Authority Decision	Grant, subject to conditions
Type of Appeal	Third Party
Appellant(s)	1. Kieran & Suzanne Walsh 2. John Sweeney & Linda Tormey
Observer(s)	None.
Date of Site Inspection	13 th August 2025
Inspector	Suzanne White

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The appeal site has a stated site area of 0.047ha and is located on the northeast side of Merville Avenue, in the south Dublin suburb of Stillorgan.
- 1.2. The site contains a detached, and later extended, dwelling house that was constructed in the 1950s. This dwelling is setback from Merville Avenue by a front garden area that also accommodates off-street parking. The rear garden of No. 19 backs onto Glenalbyn Tennis Club. The original dwelling has been extended at attic level by way of a rear dormer extension. The dwelling has been extended at ground floor level also, to the rear and side. There is also a single storey outbuilding in the rear garden, in proximity to the boundary with No. 21 to the northwest.
- 1.3. The site is adjoined on its southern side by a dwelling, No. 17 Merville Avenue, of similar architectural design and palette of materials which is similarly setback from the eastern side of Merville Avenue. This dwelling appears to have been extended with front and rear dormer roof extensions.
- 1.4. No. 21 Merville Avenue, to the northwest, is a gable fronted dwelling which is similarly setback from the eastern side of Merville Avenue. This adjoining property appears to have been later extended by way of a dormer extension on the southern sloping roof and also by way of a part side and rear single storey extension.
- 1.5. Merville Avenue has a varied streetscape of single, dormer and two storey dwellings which have been extended and altered over the years. Front dormer extensions to dwellings are a notable feature of the area.

2.0 Proposed Development

- 2.1. Planning permission is sought for:
 - Remodelling and extension (155.7sqm) of the existing dwelling (176.1sqm), comprising: removal of the roof and sections of internal and external walls and existing extension to rear (74.3sqm); construction of new two storey element over existing walls and replacement roof over the rest of the remaining original footprint; the addition of 4no. dormer windows to front and rear elevations;
 - new single storey extension to rear, with pyramidal roof;

- Widening of the existing vehicular entrance from 2.9m to 3.2m and construction of new piers of 1.15m height;
- All associated landscaping, drainage, and site development works.

3.0 Planning Authority Decision

Decision

Permission GRANTED subject to 21 conditions, by Order dated 25th April 2025.

Planning Authority Reports

Planning Reports

The main points of the planner's reports (taking account of the further information submitted) include:

- Residential development, including extensions, is permitted in principle under Zoning Objective 'A'.
- Planner's report for previous application (D24A/0819) raised no concerns regarding the design, scale and layout of the proposed dwelling.
- The Planning Inspector for ABP-319835-24 considered the replacement dwelling would not result in an overbearing impact and did not raise concerns regarding the proposed design. The Board Direction also did not raise concerns in this regard.
- This is a partial demolition (91sqm including the shed structure to the rear) to facilitate the proposal and relates to internal areas/walls. Reason for refusal of D23A/0819 has been overcome and there is no concern regarding demolition.
- The site can comfortably accommodate the increased floor area. Adequate private amenity space would be retained and the dwelling would meet the required floor area standards.
- The proposal would not have any negative impacts arising from overlooking, overshadowing or overbearing appearance. No unduly negative impacts arise with regard to overshadowing. Though the proposed window on the northern

side elevation at first floor level serving an ensuite bathroom should be fixed frosted/opaque.

- Wide variety of architectural styles on Merville Avenue and the proposed design is acceptable and will not result in a negative impact on the streetscape.
- Proposed outbuilding to rear acceptable.
- Proposed modified vehicular entrance is acceptable.

Other Technical Reports

- Transport Planning: no objection, subject to conditions
- Drainage: no objection, subject to conditions
- Environmental Enforcement: no objection, subject to conditions

Conditions

The following conditions attached by the Local Planning Authority are of note:

- Condition 2: glazing with the ensuite window located on the northern (side) elevation at first floor level to be opaque/frosted glass
- Condition 6: restricts the width of the vehicular entrance to a maximum of 3.5m
- Condition 7: final details of the design and location of building services e.g. heat pumps to avoid generating potential conflicts in terms of noise amenity

Prescribed Bodies

None.

Third Party Observations

During the course of the Planning Authority's determination of this application they received 3 No. Third Party Observations. I consider that the substantive planning issues raised correlate with those raised by the Third Parties to this appeal (See: Section 7 below).

4.0 Planning History

Site

ABP-319835-24 (D23A/0819): planning permission refused for demolition of dwelling, construction of dwelling, modification of vehicular entrance and all associated site works, for the following reasons and considerations:

The Board considered that the applicant has not provided an adequately robust justification for the demolition of the existing dwelling at the subject site to facilitate the construction of a replacement dwelling. The subject dwelling does not appear to be fundamentally uninhabitable, and it is considered that appropriate ameliorative, repair, and extension works (subject to planning permission, as applicable) would result in the existing dwelling providing an improved level of habitability and energy efficiency.

It is considered that the proposed development would be contrary to Policy Objective CA6 and the requirements of Section 12.3.9 of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028, where retrofit is prioritised and it is also stated that the planning authority may only permit such developments where the existing dwelling is uninhabitable. The proposed development, if granted permission, would set an undesirable and negative precedent for similar demolition of habitable dwellings in their entirety in the local area and the wider County, and would be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board did not share the Inspector's interpretation of Section 12.3.9 of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028, which states that "The Planning Authority will assess single replacement dwellings within an urban area on a case by case basis and may only permit such development where the existing dwelling is uninhabitable".

The Inspector's interpretation being that while preferable, subject to the provision of a strong justification, it is not an absolute obligation on an applicant (to demonstrate uninhabitability) that seeks the demolition of an existing dwelling as part of facilitating the construction of a new dwelling.

The Board considered Section 12.3.9 to be conditional, i.e. if a dwelling is assessed as uninhabitable, then the planning authority may permit a replacement dwelling.

Other relevant planning history:

ABP - PL06D228265 (P.A. Ref No. D07A/1708): 11 Merville Avenue (located c. 48m south east of the subject site).

On appeal to the Board permission was granted subject to conditions for the demolition of an existing detached garage and erection of two four-bedroom detached dormer bungalows in the side garden. The overall height of the proposed dormer bungalow development would be the same as that of the existing bungalow (Note: 7.3 metres). Decision date: 24/09/2008.

5.0 Policy Context

Development Plan

The applicable plan is the Dún Laoghaire Rathdown County Development Plan, 2022-2028, under which the site is located on lands zoned Objective 'A'. The stated land use zoning objective for such lands is: *"to provide residential development and improve residential amenity while protecting the existing residential amenities"* and residential development is deemed to be permissible.

Objective CA6 - to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction as set out in the Urban Design Manual (Department of Environment Heritage and Local Government, 2009).

Objective PHP18 - increase housing supply and promote compact urban growth, including through infill; encourage higher densities, ensuring a balance with protection of existing amenities and established character.

Objective PHP19 – objective to conserve and improve existing housing stock and densify existing built-up areas through small scale infill development having due regard to amenities of existing established residential neighbourhoods.

Objective EI6 - to ensure that all development proposals incorporate Sustainable Urban Drainage Systems (SuDS)

Chapter 12 of the Development Plan sets out Development Management Standards. It includes Section 12.3.9 of the Development Plan which deals with the matter of demolition and replacement dwellings.

Regional

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES), 2019 to 2031.

This is a strategic plan which identifies regional assets, opportunities and pressures as well as sets out appropriate policy responses in the form of Regional Policy Objectives (RPO's). Of relevance is the following objectives:

RPO 7.40: "Local authorities shall include policies in statutory land use plans to promote high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing buildings, including retro fitting of energy efficiency measures in the existing building stock and energy efficiency in traditional buildings. All new buildings within the Region will be required to achieve the Nearly Zero-Energy Buildings (NZEB) standard in line with the Energy Performance of Buildings Directive (EPBD)."

RPO 7.41: "Support and promote structural materials in the construction industry that have low to zero embodied energy & CO2 emissions."

National

- Project Ireland 2040 - National Planning Framework (NPF).
- Climate Action Plan, 2024.

Natural Heritage Designations

None within the zone of influence. The nearest Natura 2000 Sites are South Dublin Bay SAC (Site Code: 000210) and the South Dublin Bay & River Tolka Estuary SPA

(Site Code: 004024) which are at their nearest point are c2.4km to the northeast of the site.

6.0 EIA Screening

Having regard to the nature, scale and extent of the development sought under this application, the site's location within an established built-up suburban area of Dublin City which is served by public infrastructure, the nature of the receiving environment, the existing pattern of residential development in the vicinity, and the separation distance from the nearest 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 in this case.

7.0 The Appeal

Grounds of Appeal

Two third party appeals were received, submitted by the occupiers of both adjoining dwellings, Nos. 17 & 21 Merville Avenue. The grounds of appeal can be summarised as follows:

- Proposed development is excessive and would be inconsistent with the character of development in the area.
- Proposal is contrary to policy CA6 and PHP19 as the majority of the house would be demolished, save two walls. The nature of the proposal in the statutory notices is misleading.
- Risk of damage to existing drainage infrastructure which crosses the site and serves 5no. dwellings adjacent. Damage to drains could result in pollution of the surface drain that discharges to the Kilmacud Stream, raising an Appropriate Assessment issue.
- Construction works may cause undue nuisance and damage to neighbouring property. Query buildability of the proposal and provision of Health & Safety Plan.

- Overlooking and loss of privacy arising from window to back bedroom at 1st floor level.
- Land registry search indicates two owners of the property, whereas the planning application states one owner. The application is therefore invalid.
- New planning application is almost identical to the previous application (D23A/0819) and appeal (ABP-319835-24). Ask that submission on previous appeal be taken into account.
- Overshadowing of neighbouring garden due to increased height of dwelling (increasing from 6metres to 8.3m). Although lower than the ridge height of No.21, that is a different house type (semi-d dormer with “A” frame roof).

Applicant Response

A response was received from the first party, which may be summarised as follows:

- The design of the proposed development respects the existing context in terms of scale, style, materials and landscaping; has regard to the visual impact the proposal will have on the streetscape and existing character of the street; and has regard to the established proportion, heights and materials of surrounding buildings. The design accords with the policies of the CDP.
- The proposed remodelled and extended property is substantially the same as the design proposed under D23A/0819 that the County Council and Board Inspector considered could be comfortably accommodated on site and would not have any negative impacts on adjoining residential amenity.
- Care has been taken in the design to ensure that excessive overshadowing does not arise. There is an existing degree of overshadowing on the eastern side of Merville Avenue, which is to be expected in a built-up suburban area.
- The statutory notices cannot be considered factually incorrect or misleading. The description of development was set out in detail and the application was validated by the Council.
- The Council did not query whether the applicant is the owner of the property during the validation process.

- As set out in the submitted documents, the proposal includes for a gravity foul drainage system within the development in accordance with the Council's requirements and with 'Recommendations for Site Development Works' by the Dept. of the Environment and B.S.8005: Sewerage and B.S.8301: Building Drainage. The applicant acknowledges that it will be necessary to obtain the rights of permissions required to carry out the works, in the event of a grant of planning permission. The applicant is agreeable to the attachment of a condition in this regard.
- Issues raised in respect of buildability of the proposed development are civil matters to be resolved between the applicant and appellants.
- Consider that submissions made on this planning application were treated lightly by the Planning Authority

Planning Authority Response

None received.

Observations

None.

Further Responses

A further response was received from Appellant 1, Kieran & Suzanne Walsh. The points raised may be summarised as follows:

- Concern raised that the proposed development, by only retaining two existing walls, does not comply with the spirit of the Board's previous decision to refuse permission i.e. contrary to Policy Objective CA6 and the requirements of Section 12.3.9 of the DLR Development Plan.
- The existing foundations were deemed sufficient at the time of construction (1950s) to support a bungalow. New foundations may need to be laid for the proposed larger/extended structure, which would require the demolition of the two remaining walls which would, in effect, be total demolition.

8.0 Assessment

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

- Principle of development
- Demolition
- Impact on Adjoining residential amenity
- Visual amenity
- Other issues

8.1. Principle of development

- 8.1.1. The site is zoned 'Objective A' under the Dun Laoghaire-Rathdown County Development Plan 2022-2028, with the zoning objective "*To provide residential development and improve residential amenity while protecting the existing residential amenities*".
- 8.1.2. The proposed development relates to the alteration and extension of an existing dwelling and modification of the existing vehicular entrance. The Local Planning Authority Planner's Report stated that the proposed development was acceptable in principle, having regard to the zoning objective and subject to accordance with other relevant policies and objectives of the Development Plan.
- 8.1.3. Having regard to the zoning objective for the lands, I consider that the proposed development is acceptable in principle, subject to detailed considerations as set out in my assessment below.

8.2. Demolition

- 8.2.1. I note that the previous application (D23A/0819 & ABP-319835-24) on the site was refused by both the Local Planning Authority and the Board due to inadequate justification for the demolition of the existing dwelling to facilitate the construction of a

replacement dwelling, having regard to Policy Objective CA6 and Section 12.3.9 of the Development Plan. The Appellants maintain that the vast majority of the existing house would be demolished under the current proposal, save for two walls and, therefore, the proposed development remains contrary to Policy Objectives CA6 and PHP19 of the Development Plan 2022-2028. In my view, this is the substantive issue of concern in relation to this appeal case.

- 8.2.2. Objective CA6 of the Development Plan 2022-2028 requires the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible, recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction. Section 12.3.9 relates to dwellings specifically and states that the Planning Authority has a preference for, and will promote, the deep retro-fit of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant. Also of relevance to this proposal is Objective PHP19, which seeks to conserve and improve existing housing stock and densify existing built-up areas.
- 8.2.3. The Local Authority Planner's report notes that the extent of demolition accounts for c. 91sqm of the existing dwelling, including the shed to the rear. On this basis, the proposal was considered to constitute partial demolition of the existing dwelling and was therefore deemed to have overcome the previous reason for refusal.
- 8.2.4. From review of the submitted plans, I note that both side walls of the existing dwelling at ground level would be largely retained, save for the rear extension and some re-arrangement of window openings. A portion of the front and rear walls would also be retained, thus the footprint of the proposed house would be very similar to the original. Additionally, some internal walls would be retained. I note the figure in the application form of 101.8sqm of existing floor area to be retained, which equates to over half of the existing floor area (176.1sqm).
- 8.2.5. Submitted with the application is a Building Condition Report, prepared by CORA Consulting Engineers, based on an inspection of the property on 8th March 2024. This report notes:
- the existing attic structure should be removed, due to defects associated with the previous attic conversion;

- the existing attic stair should be replaced, which is determined to be deficient in terms of required regulations;
- there is evidence of rising damp and poor ventilation in the extensions;
- based on the proposed revised layouts, the existing structure noted can be retained and re-used as part of the alterations

8.2.6. The Development Plan, in a manner that accords with regional and national planning provisions as well as guidance, encourages under Section 4.3.1 the retention and deep retrofit of structurally sound, habitable dwellings in good condition as opposed to demolition.

8.2.7. Having regard to the information on file, I am satisfied that the proposed development would not be inconsistent with Policy Objective CA6 and Section 12.3.9 of the Development Plan, given that the majority of the existing structure would be retained and retrofitted, rather than replaced. Furthermore, I consider that the proposal would be in line with Policy Objective PHP19 which supports the improvement of existing housing stock.

8.3. Impact on adjoining residential amenity

8.3.1. The grounds of appeal raise concern with regard to the impact of the proposed development on neighbouring residential amenity, particularly in terms of potential overlooking and overshadowing, and also potential nuisances that would arise during the demolition and construction phases of the proposed development, if permitted.

8.3.2. In relation to overlooking, the Local Authority Planner's report raised no concern, subject to the imposition of a condition requiring that the proposed ensuite window on the northern (side) elevation has frosted/opaque glazing. The subject property backs onto tennis courts that are accessed from Glenalbyn Road, and are not sensitive to overlooking. The Appellants (occupiers of No. 21 Merville Avenue) specifically raise concern in respect of the back bedroom window at first floor level. I note that the existing dwelling at No. 19 Merville Avenue includes a large, centrally positioned dormer window at first floor level on the rear elevation, overlooking the rear garden. The proposed development would introduce 3no. windows (2no. serving habitable rooms) on the rear elevation at 1st floor level, c. 13.67m from the rear

garden boundary. These windows would be located closer to the side boundaries with neighbouring properties than existing, but their orientation would remain rear-facing, towards the tennis courts. While oblique views of neighbouring boundaries would be possible, I consider that the rear garden of No.21 would not be directly overlooked and that the level and type of overlooking is not materially different from the existing situation and the degree of overlooking which exists already between residential properties. In this regard, I note that the adjoining property at No. 17 Merville Avenue includes a similar level of glazing on the rear elevation at 1st floor level. Overall, I consider that the proposed rear-facing windows would not result in an unacceptable increase in overlooking of adjoining residential properties given that they would be rear-facing towards a non-residential use (tennis courts), replacing existing windows at first floor level and having regard to the urban context of the area, where a degree of overlooking between residential properties is already present.

- 8.3.3. The existing dwelling has a window on the northwest elevation at first floor level, serving an attic room, which is transparent glazed. The proposed window on this side would serve an en-suite bathroom. The adjoining property of No. 21 Merville Avenue to the northwest contains a first-floor side dormer extension with 2no. clear-glazed windows facing the appeal site. I therefore consider that there is established overlooking between the side elevations of both of these properties. I consider that a condition restricting the glazing to opaque permanently fitted glass for the northwestern elevation would satisfactorily address concerns with regard to overlooking towards No. 21.
- 8.3.4. In relation to the adjoining property to the southeast, there are no windows proposed in the side elevation of the extended dwelling at 1st floor level facing southeast and therefore no issue arises in terms of overlooking.
- 8.3.5. In terms of daylight, sunlight, and overshadowing impacts, I note that the Local Authority raised no concern in this regard. I have reviewed the shadow analysis diagrams included as part of the submitted Design Statement, which indicate a limited increased level of overshadowing of the rear garden of No. 21 during the morning in March and September, but a reduced level of overshadowing in the afternoon.

- 8.3.6. I am mindful that there is a degree of overshadowing existing between the dwellings in Merville Avenue, having regard to the pattern of development whereby the dwellings are set in a row and oriented northwest-southeast. I note that the proposed development locates the proposed two storey extension within the existing building footprint. While the proposed two storey element would extend beyond the main rear elevation of No.21, it would be similar in depth to the existing single storey extension on the southern side of that dwelling, thereby limiting the potential impact of overshadowing on the rear garden area. In addition, the proposed single storey rear extension would be set off the boundary with No. 21, in contrast to the existing rear extension which is positioned on the boundary.
- 8.3.7. Overall, having reviewed the submitted documentation and considering the existing building on site, the proposed changes to its height and massing and having regard to the existing urban context, in particular the pattern of development in the area and the relationship to neighbouring properties, I consider that the proposed development would not result in a material impact on neighbouring occupiers in terms of overshadowing.
- 8.3.8. The issue of overbearance was not raised explicitly in the grounds of appeal, though the Appellants did raise concern that the proposed development would be excessive. In terms of the relationship with the property to the northwest, No. 21, given the separation distance between the dwellings at first floor level, the presence of an existing first floor side dormer on that dwelling and the position of the proposed two storey extension keeping to the footprint of the existing dwelling, I consider that the proposed development would not result in a material impact in terms of overbearance on the occupiers of No.21.
- 8.3.9. The massing and scale of the existing dwelling would be increased adjacent to the boundary with No.17. This portion of the extended dwelling would include a gable end wall of greater height and depth, with 2no. dormer windows in both the front and rear roofslopes. The front building lines of the two dwellings are similar and I consider that the pitched roof profile with dormer windows would not result in an overbearing relationship to the front. To the rear, the scale and bulk of the subject dwelling at roof level would be increased. However, the extent to which that increased scale and bulk would extend beyond the rear building line of No.17 would be relatively modest and mitigated by the pitched roof form and dormer windows set

off the roof edge. I note also that there are no windows at first floor level in No.17 facing the appeal site and, as that property is situated to the southeast of the appeal site, there is no overshadowing impact arising. Consequently, I consider that the potential overbearing impact on the occupiers of No.17 would not be significant.

8.3.10. Finally, concerns are also raised by the Appellants with regard to potential nuisance arising during the construction process of the proposed development. I note that construction related impacts would be temporary in nature and that the application submission included a construction waste and management plan, including proposed measures in respect of traffic management, construction hours, materials delivery and storage, dust and noise management. The Local Authority's Environmental Enforcement Section raised no concerns in this regard and recommended that implementation of the submitted Construction Waste and Management Plan be required by condition. If the Commission is minded to grant permission for the development, I recommend that a similar condition is attached. A condition requiring the applicant to implement a Public Liaison Plan for the duration of the works was also recommended by Environmental Enforcement. Considering the modest scale of the proposed development, I consider that this would be a disproportionate requirement and have not, therefore, included a condition in this regard.

8.3.11. Having regard to the information on file, my site observations and my assessment above, I consider that the proposed development will not result in material impacts on adjoining residential amenity, subject to the conditions set out further below.

8.4. Visual amenity

8.4.1. The Appellants raise concern that the proposed development is excessive and would be inconsistent with the character of development in the area.

8.4.2. As noted above, the Local Authority Planner's report considered that the proposed design was acceptable, noting the varied architectural context in Merville Avenue. I also note that the proposed altered and extended dwelling is very similar in form and appearance to the previous proposal considered by the Local Authority (D23/0819) and the Board (ABP-319835-24). The reasons for refusal raised by Local Authority and the Board did not refer to the design or visual impact of the proposal. On review of the drawings considered under the previous application and the current appeal,

the key differences noted are the reduced separation width of the side passages on either side of the dwelling and the reduced use of brick on the front elevation of the dwelling. On the northern side of the dwelling, the side passage has reduced from 0.9m to 0.52m and on the southern side, the reduction is from .09m to 0.885m. I note that this is a function of the retention of the existing building footprint and consider that the difference is minor in the context of the proposed development and site.

- 8.4.3. With regard to the existing context, from my site observations I note that Merville Avenue contains a variety of building forms and styles, mostly detached, and including single storey, dormer and two storey dwellings. I note also that the extension and alteration of many properties on the street has added to that variety. The application site itself comprises an original bungalow which has been extended to the rear and at roof level through the addition of a rear dormer window extension. The bungalow adjacent to the south has also been extended, including front and rear dormer windows. The dwelling to the north is a dormer style semi-detached dwelling, which has been extended by the addition of a side dormer at first floor level. In this context, I consider that the proposed development, at two storeys in scale, will not appear out of character in terms of its scale, massing or form.
- 8.4.4. The proposed facing materials for the house are predominantly render, with brick feature elements around the front door and windows. I consider that this palette of materials would complement those already in existence locally.
- 8.4.5. Overall, whilst the alteration, extension and updating of the existing structure will result in a significant change to its appearance, I consider that it would not be out of character with the existing character of development in Merville Avenue.

8.5. Drainage

- 8.5.1. The Appellants raise concern in relation to potential impacts on existing private foul sewer and surface water pipes that run through the appeal site and the lack of legal entitlement for the applicant to interfere with same. They raise concern that the pipes could be damaged by the proposed construction works, which may in turn result in pollution of the 'Kilmacud Stream'. On review of EPA mapping of waterbodies, the nearest river waterbody to the site is Brewery Stream, located c. 380m to the east of the appeal site.

- 8.5.2. The Local Authority Drainage Report identifies that the applicant's land appears to be crossed by a private drain and they note that the applicant is responsible for acquiring any rights or permissions necessary to connect to/increase the discharge to/or build over etc any private drains not in their exclusive ownership. The first party response to the appeal acknowledges this responsibility upon the applicant.
- 8.5.3. In considering the above matters, the Commission in my view should have regard to section 34(13) of the Planning and Development Act 2000 (as amended) which states 'a person shall not be entitled solely by reason of a permission under section 37(g) to carry out any development'. This subsection makes it clear that the grant of permission does not relieve the applicant of the necessity of obtaining other permits or licences which statutes or regulations or common law may necessitate.
- 8.5.4. In relation to the drainage strategy for the extended dwelling, the documentation provided with the application indicates that it is proposed to provide a gravity foul drainage system within the development in accordance with the relevant requirements, as highlighted by the applicant in their response to the grounds of appeal. It also indicates that the foul and surface water drainage provision for the new dwelling will be separated and connected to an existing public drain on Merville Avenue in a manner that would accord with required best practice. I also note that they provide an extract from an Irish Water Map showing water infrastructure on Merville Avenue in the immediate vicinity of the site.
- 8.5.5. Surface water is proposed to be managed on site, including provision of a soakaway within the front lawn and the specification of permeable surfaces in finished areas. The Local Authority Drainage Report raises no objection to the proposed drainage design, subject to a condition requiring that the soakaway shall not have an overflow. I consider that the proposed drainage design is appropriate to the nature and scale of development proposed, subject to a condition requiring that the detailed design of the drainage system is agreed with the local planning authority prior to commencement of any development.

8.6. Other issues

Landownership/consent

- 8.6.1. The Appellants raise concerns that this application is invalid as they contend that the stated applicant is not the sole owner of No. 19 Merville Avenue and a letter of consent from the other owner to submit the application should have been included with the application. The Appellants have included land registry documents for the property which lists two owners, though the date of the land registry search is not stated. I note that the surname of the applicant on the application form and in the land registry documents is different, but that the Appellants have not raised this as an issue. Both parties listed on the land registry documents have the same surname and may therefore be from the same family. The planning application form indicates under Question 10 that the applicant is the owner of the subject property. This is also indicated in the public notices and other information submitted as part of this planning application. I note that the Planning Authority validated the application.
- 8.6.2. Article 22(2)(g) of the Planning and Development Regulations 2001 states that where the applicant for permission is not the legal owner of the land or structure concerned, the application shall be accompanied by the written consent of the owner to make the application. The courts have been clear that the intent of art. 22(2)(g) is to guard against frivolous and vexatious applications by persons with no interest in the lands and, accordingly, with no prospect of being able to carry out the proposed development. I note that the applicant is an owner of the site and I have no reason to believe that they do not have sufficient interest to carry out the development, if granted. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development. Consequently, I consider that it is open to the Commission to grant permission. I recommend that any grant should include an advisory note to the parties making express reference to section 34(13).

Construction-related issues

- 8.6.3. The Appellants also raise concerns with regard to the 'buildability' of the proposed development, specifically in terms of the proximity of the build to neighbouring boundaries and potential for nuisance or structural damage to occur to those properties.

8.6.4. On these matters, it is my opinion that any instances of encroachment, oversailing, damage to, or interference with any Third-Party property attributable to the proposed development would be a civil matter for resolution between the parties concerned. It is also not uncommon for works like the development proposed to be carried out in an established serviced suburban setting such as this. I note that the applicant has submitted a Construction and Demolition Waste Management Plan and that the Local Planning Authority attached a condition to their decision requiring the implementation of this Plan in the carrying out of the proposed works. In the event that the Commission is minded to grant permission, I recommend that a similarly worded condition is attached to the decision.

8.6.5. I also note the concerns raised by one of the Appellants that the issues raised in their observations to the Planning Authority were not fully considered when determining this application. On this particular concern I note that the appeal before the Commission is considered “de novo”. That is to say that the Commission considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.

Vehicular entrance

8.6.6. The vehicular entrance is proposed to be widened from 2.9m to 3.2m. I note that no objection was raised in this regard by the Planning Authority. The proposed new piers would be finished in brick and the boundary wall in render, to match the updated dwelling. I consider that the proposed modified entrance is acceptable.

Heat pump

8.6.7. The proposed site layout plan indicates the location for new heat pump to serve the dwelling, positioned on the eastern side of the proposed new outbuilding in the rear garden of the site and enclosed on three sides. I note the inclusion of a condition in the Local Authority’s decision requiring that the final location and design of any services, including head pumps, avoid generating impacts on amenity in terms of noise. Having regard to the separation distance between the heat pump position and

the nearest adjoining residential occupiers, and the partial enclosure of the unit, I consider that it is unlikely to give rise to material impacts on neighbouring residential amenity. I do not therefore consider that a condition is required in this regard.

Development Contributions

- 8.6.8. Under the Dún Laoghaire-Rathdown County Council Development Contribution Scheme, 2023-2028 the proposed development would be liable to pay a development contribution based on the increased floor area proposed. It is therefore recommended that, should the Commission be minded to grant permission, that a suitably worded condition be attached requiring the payment of a Section 48 development contribution.

9.0 AA Screening

- 9.1. Having regard to the modest nature and scale of the proposed development, which relates to the alteration and extension of a single detached dwellinghouse, its location in an urban area, its connection to existing services and absence of connectivity to European sites, 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.

10.0 Water Framework Directive Screening

- 10.1. Having regard to the modest nature and scale of the proposed development, it is concluded on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

- 11.1. I recommend permission be GRANTED subject to conditions.

12.0 Reasons and Considerations

Having regard to the existing dwelling on site, the character of the area and the design, layout and appearance of the proposed extensions and alterations to the existing dwelling, it is considered that, subject to compliance with the conditions below, the proposed development would be compatible with the relevant Zoning 'Objective A', which seeks "*To provide residential development and improve residential amenity while protecting the existing residential amenities*", would not seriously injure the residential amenity of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the objectives of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 and with the proper planning and sustainable development of the area.

13.0 Conditions

1. 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.

Reason: In the interest of clarity.

2. The glazing to the en-suite window on the northwest elevation at first floor level shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

Reason: In the interest of residential amenity.

3. Details of the materials, colours, and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Drainage arrangements, including the attenuation and disposal of surface water which shall also provide for appropriate Sustainable Urban Drainage Systems (SuDS), shall comply with the requirements of the planning authority for such works. Prior to the commencement of development, the developer shall submit final details for drainage arrangements for the written agreement of the planning authority.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

5. The access arrangements, including any works to the adjoining public carriageway and footpath, shall comply with the requirements of the planning authority for such works. Prior to the commencement of development, the developer shall submit final details of these works for the written agreement of the planning authority.

Reason: In the interest of traffic safety.

6. The development shall be carried out in accordance with the submitted Construction Waste and Demolition Management Plan February 2025, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of orderly development and the proper planning and sustainable development of the area.

7. All necessary measures shall be taken by the developer/contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended.

The contribution shall be paid prior to commencement of development or in such phased payments as the 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.

Advisory Note:

It is advised that Section 34(13) of Planning and Development Act, 2000 (as amended) states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.

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.

Suzanne White
Planning Inspector

26th August 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322581-25
Proposed Development Summary	Remodelling and extension to house with associated works.
Development Address	19 Merville Avenue, Stillorgan, Dublin, A94WP78
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, no further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: Suzanne White **Date:** 26/08/2025