

An
Bord
Pleanála


Board Direction
BD-017093-24
ABP-312070-21

The submissions on this file and the Inspector's reports were considered at Board meetings held on 05/05/2022, 04/09/2023 and 24/07/2024.

The Board decided to refuse permission for the following reasons and considerations.

Reasons and Considerations

1. Having regard to the extensive works, as originally proposed, to Dunleary House, a Protected Structure, including the extensive removal of original fabric internally and the removal of the roof form, the Board is of the view that the proposal essentially involves partial façade retention. It is also considered that the three-storey roof extension to the proposed Protected Structure would appear as a dominant and overbearing addition to the building, with subsequent negative impacts on the character and appearance of the structure, and would result in significant negative impacts on the visual amenity of the area. The Board is also of the view that the proposed works to Dunleary House would not constitute renovation and rehabilitation as required by Specific Local Objective 37 of the Dun Laoghaire-Rathdown Development Plan 2022-2028. Furthermore, the Board considered that the alternative design proposal presented by the applicant to the limited agenda Oral Hearing held on the 22nd June 2022, would continue to involve removal of elements of part of the Protected Structure (albeit to a lesser extent) and would continue to propose a design and form of new build at and immediately adjoining the Protected Structure which would overwhelm the existing structure, by reason of scale, form, mass, immediate proximity. The proposed development, even in its alternative design, would not adequately address the conservation issue raised by An Bord Pleanála under item 3 of the Oral Hearing agenda as set out in its correspondence dated 17th May 2022 to all parties. In this regard, it



is considered that the proposed development, both as originally proposed and as set out in the alternative design proposal, would be contrary to guidance set out in the Architectural Heritage Protection – Guidelines for Planning Authorities (2011) and would be inconsistent with Specific Local Objective 37 and Policy Objective HER8 of the Dun Laoghaire-Rathdown Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the form and layout of the proposed development, including the proportion of units without private amenity space, the proportion of single aspect units, and also including 25 units (referred to at paragraph 10.56.24 of the Inspector's report dated 24th March 2022) which are described as dual aspect, but which on full examination of the totality of the documentation submitted and noting also the relevant provisions of paragraph 12.3.5.1 of the Dun Laoghaire Rathdown Council Development Plan 2022-2028, are considered by the Board to constitute in effect single aspect units and to provide a poor form of aspect amenity in terms of actual layout, it is considered that the proposed development would result in a substandard form of development which would be seriously injurious to the residential amenity of prospective occupants. The proposed development would, therefore, 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 first off agreed with the recommendation of the Inspector, as set out in his first report, dated 24th March 2022, that the proposed development as originally lodged with An Bord Pleanála should be refused permission by reason of adverse impact on Dunleary House, in terms of direct intervention in the fabric of the building and the dominant and overbearing effect of the three storey roof extension. The Board further noted the issues raised by the Board as items for consideration at the limited agenda Oral Hearing held on the 22nd June 2022, specifically item 3, which states, *'The proposed works to the proposed Protected Structure involve the removal of substantial elements of the form, and the introduction of extensions that have the potential to overwhelm the existing structure. The applicant is requested to provide further elaboration or justification in respect of the removal of the roof of the proposed Protected Structure, and the appropriateness (in full or in part) of the proposed three additional floors above, in particular having regard to the Development Plan Policy and Architectural Heritage Guidelines.'*

However, upon full examination and consideration of all submissions made to the Oral Hearing, including the alternative design proposal proffered by the applicant, and the addendum report of the Inspector, dated 5th December 2022, the Board determined that this alternative design did not adequately address the issue set out above. Specifically, the Board did not share the opinion of the Inspector that the alternative proposal *'eliminates the overbearing nature of the originally submitted proposal'*. The judgement of the Board is that the alternative proposal continues to constitute a dominant and overbearing design form at and immediately adjoining the protected structure and continues to overwhelm it. This judgement is made on the totality of the documentation on file including the presented details as submitted to the Oral Hearing and is affirmed by a reading of the relevant provisions of the Dun Laoghaire Development Plan 2022-2028, including SLO 37 and policy objective HER8. In this regard the Board determined that the scale, mass, form and positioning of the proposed development, both in its original form and in other alternative design proposal, would be inconsistent with objective SLO 37 which refers to Dunleary House being retained in situ and refers to the positive contribution which the building makes to the character and appearance of the streetscape at this location. The Board determined that the proposed development, even in its

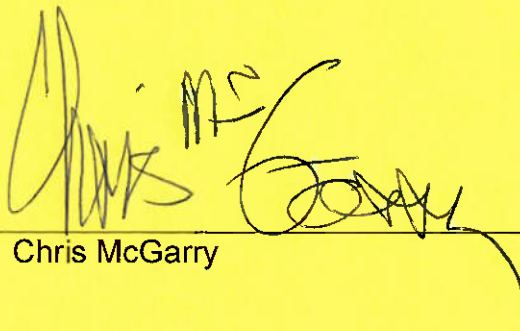
alternative design form, would overwhelm the protected structure in such a manner as to materially adversely affect the positive contribution the building makes to the streetscape at this location. Furthermore, the Board determined that the proposed development, including the alternative design proposal, by reason of design, form, mass and positioning, would be inconsistent with Policy objective HER8, specifically with regard to the refusing planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the protected structure. The Board also determined that the substantive issue underpinning reason number 1 for refusal, is in effect, scale, mass, form of design and intervention at and immediately in proximity to the protected structure. This issue is considered fully relevant as a reason for refusal, regardless of the statutory development plan in place at the time of the decision, noting that the relevant provisions of both the Dun Laoghaire Rathdown County Development Plans 2016-2022 and 2022-2028, could reasonably be applied to the reason for refusal and that the relevant provisions of the 2022-2028 Plan were ventilated at the Oral Hearing.

In relation to reason number 2 for refusal, the Board fully acknowledged the commentary of the Inspector on the issue of dual aspect, both at paragraph 10.6.24 of the first report dated 24th March 2022 and paragraphs 4.3.34 and 4.3.35 of the addendum report dated 5th December 2022. In overview, the Board noted the inspector's referencing of 25 units which he described as not '*standard*' dual aspect and his separate referencing of paragraph 12.3.5.1 of the Dun Laoghaire Rathdown County Development Plan 2022-2028. On the latter point, the Board considered the full wording of the development plan which states that '*a dual aspect apartment is designed with openable windows on two or more walls, allowing for views in more than just one direction.... The use of windows, indents or kinks on single external elevations, in apartment units which are otherwise single aspect apartments is not considered acceptable and/or sufficient to be considered dual aspect and these units will be assessed as single units*'.

The Board considered that the Inspector did not engage fully with this section of the development plan in conjunction with an assessment of the implications of this policy by reference to the form and layout of the relevant apartments as submitted. While

the Inspector considered that the 25 units were acceptable, he noted that they might not be considered as standard dual aspect units. The Board determined, subsequent to a substantive assessment of the relevant drawings and by reference to paragraph 12.3.5.1 of the development plan, that they should more readily be judged as in effect single aspect. In any case, the Board determined that this significant number of poor aspect units, when considered in addition to those fully acknowledged by the applicant as being single aspect, constitutes an overall substandard form of future residential amenity contrary to the proper planning and sustainable development of this site. This issue is compounded by a related concern as to the number of proposed units in the overall scheme without any private amenity space, such that the Board did not share the opinion of the Inspector regarding the overall quality of the proposed development.

Board Member



Chris McGarry

Date: 26/07/2024