

# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** 06D.246666

**Development:** Permission sought for demolition of existing house and construction of 2 houses with all associated site works at 9 Old Quarry Road, Dalkey, Co. Dublin.

### Planning Application

Planning Authority: Dun Laoghaire- Rathdown County Council  
Planning Authority Reg. Ref.: D16A/0163  
Applicant: Michael Kevany  
Planning Authority Decision: Grant Permission

### Planning Appeal

Appellant(s) Garrett and Breda Byrne  
Type of Appeal: Third Party  
Observers: None  
Date of Site Inspection: 16<sup>th</sup> August 2016

**Inspector:** Emer Doyle

## **1.0 SITE LOCATION AND DESCRIPTION**

The appeal site is located within a mature residential area at No. 9 Old Quarry, Dalkey. The area is urban in character with a mix of low profile detached housing styles and is well serviced in terms of infrastructure etc.

The site is within a cul de sac development of an established housing estate. A detached bungalow of no architectural merit dating to the early 1970's is currently located on the site. The site is an infill site between detached dwellings at Nos. 8 and 10 Old Quarry. No. 3 Summerfield Close is located to the east of the site.

A set of photographs of the site and its environs taken during the course of the site inspection is attached.

## **2.0 DEVELOPMENT PROPOSED**

Permission is sought for the following:

- Demolition of existing bungalow and the construction of two detached dwellings.

## **3.0 RELEVANT PLANNING HISTORY**

**V/029/16**

Grant of Exemption Certificate – Part V

No recent history on site.

## **4.0 PLANNING AUTHORITY DECISION**

### **4.1 TECHNICAL REPORTS**

#### **Planning Report**

The planner's report noted that four submissions were received. It considered that the proposed development was in accordance with the quantitative standards set out in the Development Plan and that the proposed dwellings would not have a serious negative impact on the residential or visual amenities of the area.

### **Drainage planning**

No objection subject to conditions.

### **Transportation Section**

No objection subject to conditions.

### **Irish Water**

No objection.

### **Department of Arts, Heritage and the Gaeltacht**

Noted that the proposed development is adjacent to the zone of archaeological potential established around the town of Dalkey, Recorded Monument DU023-023 and recommended permission subject to conditions including archaeological monitoring.

## **4.2 Planning Authority Decision**

Dun Laoghaire Rathdown County Council issued a notification of decision to grant permission subject to 21 No. conditions. Condition No. 4 de-exempts otherwise exempted development. Condition No. 14 required archaeological monitoring. All other conditions are of a standard nature.

## **5.0 GROUNDS OF APPEAL**

A third party appeal against the Council's decision was submitted on behalf of Garrett and Breda Byrne. The grounds of appeal and main points raised in the submission can be summarised as follows:

- Support the decision to develop two houses on the site.
- Concern regarding overlooking into patio area and dwelling (bedrooms and living area) of No. 3 Summerfield Close.
- Overlooking can be addressed by 'tilting' the windows as in the drawing attached 'Sketch A'.
- It is requested that these concerns are addressed by the Board by way of conditions.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority Response**

The Planning Authority response considers that the grounds of appeal do not raise any matter, which in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

### **6.2 First Party Response**

A first party response has been submitted on behalf of the applicant which can be summarised as follows:

- The windows proposed would not result in direct overlooking of 3 Summerfield Close.
- The proposed window of each dwelling is situated 12m from the site boundary which is above the minimum garden depth.
- The windows do not directly oppose.
- The 2m fence proposed together with existing hedging will only benefit both properties.

### **6.3 Observations**

None.

## **7.0 POLICY CONTEXT**

The Dun Laoghaire Rathdown Development Plan 2016 - 2022 is the operative County Development Plan for the area.

### Zoning

The site is located within an area zoned as Objective A 'To protect or improve residential amenity.'

Section 8.2.3.4 (vii) of the Development Plan refers to infill sites.

There is a public walkway – 'The Metals' adjacent to the site.

Part of the site is within the zone of archaeological potential established around the town of Dalkey, Recorded Monument DU023-023.

## **ASSESSMENT**

Having examined the file and having visited the site I consider that the main issues in this case relate to:

1. Principle of Proposed Development
2. Impact on Residential Amenity

### **Principle of Proposed Development**

The subject site is located within lands zoned 'Objective A' of the operative County Development Plan, which seeks to protect and/or improve residential amenity and where residential development is permitted in principle subject to compliance with the relevant policies, standards and requirements set out in the plan. Accordingly the principle of the demolition of a bungalow of no great architectural merit and its replacement with two dwellings is acceptable at this location.

### **Impact on Residential Amenities**

The main concern raised in the appeal in relation to the impact on residential amenities relates to overlooking of an existing dwelling at No. 3 Summerfield Close. Plans of No. 3 Summerfield Close have been submitted with the appeal and the areas of concern relate to two bedrooms at first floor level and the living room and dining area at ground floor level together with the patio area. It is suggested by the appeal that the first floor bedroom windows of the proposed dwellings could be 'tilted' in accordance with Sketch A attached to the appeal in order to address this issue.

I note that there is a 12 metre distance between the first floor bedroom windows of the proposed dwellings and the site boundary. Having regard to the layout and design of both No. 3 Summerfield Close and the proposed dwellings, the existing mature hedge, and the proposed 2 metre high boundary fence, I am strongly of the view that there is no direct overlooking involved. The 22m distance referred to only relates to circumstances which first floor windows of habitable rooms directly face each other which is not applicable in this case.

The planner's report states the following: 'It is considered that the combination of rear garden depth, the notably higher ground level of Summerfield Close (to the rear/east), the boundary planting and the oblique and otherwise indirect potential views to the few, small sized, and it is considered non-principal windows of the houses to the rear mean that the proposal would not have a significant overlooking impact.'

It would appear that No. 3 Summerfield Close was constructed on a limited site and designed so that there would be no overlooking of existing houses at Old Quarry with 'fake dormers' in the side elevation. As such, I am satisfied that no direct overlooking will take place and I consider that the proposed development will not seriously detract from the residential amenities of the area. In my view, it is not necessary for the Board to attach a condition as suggested in the appeal in relation to tilting of the first floor windows. I am satisfied that the design is satisfactory and will not detract from the established character of this attractive mature residential area.

### **Appropriate Assessment**

Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

### **RECOMMENDATION**

Based on the above assessment, I recommend that permission be granted for the proposed development for the reasons and considerations set out below:

### **REASONS AND CONSIDERATIONS**

Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016- 2022, to the pattern of existing development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **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 out in accordance with the agreed particulars.

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

2. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

4. 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.

5. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigation) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matters shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

7. 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.

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Emer Doyle  
Inspector  
6<sup>th</sup> September 2016