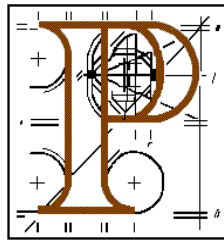


An Bord Pleanála



Inspector's Report

Development

Retention of an enclosed flat roof shelter/changing area with decking finish to roof, located in the lower terrace of the rear garden, on a portion of existing patio area at 8 Sorrento Terrace, Dalkey, County Dublin (Protected Structure).

Planning Application

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Authority Register Reference: D15A/0605

Applicant: Alternative Building Solutions

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Neil Jordan & Brenda Rawn

Type of Appeal: Third Party

Observer(s): An Taisce

Date of Site Inspection: 7th November, 2016

Inspector: Kevin Moore

1.0 APPLICATION DETAILS

1.1 There is a third party appeal by Neil Jordan and Brenda Rawn against a decision by Dun Laoghaire-Rathdown County Council to grant permission to Alternative Building Solutions for the retention of an enclosed flat roof shelter/changing area with decking finish to the roof, located in the lower terrace of the rear garden, on a portion of existing patio area at 8 Sorrento Terrace, Dalkey, County Dublin (Protected Structure).

1.2 The development for retention comprises the insertion of a shelter/changing area with decking provided overhead which ties in with the replacement / renewal of decking above. The shelter/changing area comprises an area of c. 11 square metres and is approximately 3 metres in height. The proposal is separate from the existing house and is located on the lower tier of the garden in an existing patio area. It is sited adjacent to the existing boundary with No. 7 Sorrento Terrace. The details submitted with the application include an overview of the proposal and the rationale for it, as well as a photographic record.

1.3 An initial objection to the proposal was received from Neil Jordan and Brenda Rawn on 19th May 2016. A supplementary submission was received by the planning authority on 17th June 2016. This included additional submissions on the considered impacts of the proposed development and a conservation report. The grounds of appeal reflect the principal planning concerns raised.

1.3 The reports received by the planning authority were as follows:

An Taisce submitted that the proposed extensions for which retention is being sought are injurious to the architectural composition and design of the terrace. It was further submitted that the extension is visible from Vico Road.

The Drainage Engineer considered there were no drainage issues relating to the application.

The Conservation Officer noted the original uniformity of Sorrento Terrace, in particular the rear/seafront elevation has been subject to change in the years subsequent to the Planning and Development Act. Planning history relating to the terrace is referred to. It was submitted that there are variations to design treatment to the seafront/garden elevations of the dwellings along Sorrento Terrace and that differences have been evident

going back to the later part of the 19th century. It is further noted that in recent times a two-storey extension has been constructed to the eastern elevation of No. 1 and a single-storey extension with balcony was previously permitted to the rear of No. 8 (P.A. Ref. D97B/0379). The Conservation Officer also acknowledged that garden terracing to the rear of Sorrento Terrace has been previously altered by permitted developments, particularly at Nos. 2 and 3. It was submitted that the proposal has a small site coverage, it is located at the eastern extreme of the garden, and that terracing is still evident on the remainder of the site. It is refuted that the rear of No. 8 now reads as a five-storey structure. It is considered that cladding of the exterior of the structure would mitigate any perceived visual impact. It is considered noteworthy that the planning authority and the Board have recently granted permission for similarly scaled garden structures at lower terrace level. It was considered that the impact of the proposed structure does not adversely impact the character of the protected structure. It was further considered that it is in accordance with development plan policy, being appropriately scaled, subsidiary to the main structure, and not having adverse effect on the protected structure in terms of scale, height, and massing. It was also concluded that the development is in accordance with the policy objectives for alterations and extensions as set out in the Vico Road ACA character appraisal. It was recommended that the visual impact of the structure should be mitigated by the application of a timber/wood to the external walls with the finish to be agreed with the planning authority. A grant of permission was recommended.

The Planner noted development plan provisions, recent planning history for Sorrento Terrace, third party submissions, and internal reports received. It was clarified that the application relates solely to the existing shelter/changing area. Having regard to the '0/0' zoning provision that applies to this location, it was submitted the proposal does not detract from the character of the area visually, it does not generate increased traffic volumes, and it complies with the objectives of the zoning provision. It was further considered that the proposal does not constitute an extension to the dwelling but rather is an 'independent structure'. Noting the provisions of the Development Plan as they relate to a 'detached habitable room', it was submitted that the proposal was set slightly away from the boundary with No. 7 and that it is lower, in terms of overall height, than the mutual boundary wall. The proposal was regarded as being modest in floor area and scale and it was submitted that sufficient usable

rear private open space remained. It was considered that the proposal did not have any overshadowing, overbearing or overlooking impacts on adjoining open space and it was concluded that the proposal complied with the Plan provisions relating to a 'detached habitable room'. The application was regarded as being valid. It was clarified that, if the roof of the conservatory is to be used in the future as a balcony or is railed off for use as a balcony, planning permission may be required but that no such use is being made or permission sought. It was considered that a Heritage Impact Assessment was not necessary. Noting the proposal is visible from Vico Road, it was considered that it did not block or interfere with views from Vico Road in such a manner that it affects the enjoyment of these views. It was acknowledged that in the case of Killiney Hill it is the prospect that is protected and it was concluded that this is not impacted on from the neighbouring private open space. Recommendations relating to cladding of the structure and limiting access to the roof of the shelter were made. A grant of permission was recommended.

- 1.4 On 13th July, 2016, Dún Laoghaire-Rathdown County Council decided to grant permission for the development subject to 3 no. conditions. Condition no. 2 limited access to the roof of the shelter for maintenance purposes only. Condition no. 3 required the elevations of the structure to be finished with a timber cladding.

2.0 SITE DETAILS

2.1 Site Inspection

I inspected the appeal site on 7th November, 2016.

2.2 Site Location and Description

No. 8 Sorrento Terrace is a protected structure, located at the western end of the terrace of eight houses that fronts onto the north-east end of Sorrento Road in Dalkey, County Dublin. The gardens of these properties slope southwards towards their boundaries that lead to a communal landscaped area and exposed rocky outcrop that forms the northern extent of Killiney Bay.

No. 8 presents itself as a two-storey house when viewed from Sorrento Road, but includes a semi-basement and light well along its frontage. It

reads as a part three-storey / part four-storey structure along its western elevation as the levels drop towards Killiney Bay. The house is four-storey in height to the rear (as with other houses in the terrace) and it includes a separate balcony to the west. The rear garden comprises a series of tiers falling from north to south.

2.3 **Dun Laoghaire County Development Plan 2016-2022**

Zoning

The site is zoned objective 'A' "to protect and/or improve residential amenity".

Within the zoned area in which the site is located, there is a specific objective (o/o) whereby no increase in the number of buildings is permissible here. Section 8.2.3.4(viii) refers. The Plan states that small scale, sensitive infill development may be considered in these areas on suitable sites where such development would not detract from the character of the area either visually or by generating traffic volumes that would cause potential congestion issues. Aspects such as site coverage and proximity to boundaries, impacts on drainage, loss of landscaping, the existing pattern of developments, density and excavation impacts are to be critically assessed in determining applications for residential development in the o/o zone.

Architectural Heritage

No. 8 Sorrento Terrace is listed in the schedule of the Record of Protected Structures (RPS Ref. 1600). The site is also located within the Vico Road Architectural Conservation Area.

Policies include:

Policy AR7 - To promote the retention of features of the County's coastal heritage where these contribute to the character of the area.

Policy AR8 - To protect the special character of places, areas, groups of structures or townscapes, which have been designated as Architectural Conservation Areas (ACAs).

The site of the proposed development is located adjacent to the coastline. The property and adjoining properties are located within an ACA.

2.4 Planning History

P.A. Ref. D15A/0605 – An Order of Certiorari was granted in respect of the initial decision of Dún Laoghaire-Rathdown County Council made on 16th November, 2016 (Case No. 2016 26 JR). The basis for the Order was on the infringement of the requirement of the planning authority, under Article 28 of the Planning and Development Regulations, to notify relevant prescribed bodies.

3.0 FIRST PARTY APPEAL

3.1 The appellants reside in the adjoining house in the terrace, No. 6/7. The grounds of the appeal may be synopsised as follows:

- * The application is invalid and should be dismissed. Reference is made to the Court Order relating to the application and to the procedures that followed.
- * The development interferes with the character of the landscape and view of Sorrento Terrace from Vico Road and Killiney Hill, which views are of special amenity value and are designated for protection.
- * The extension would infringe an existing building line to the rear of Sorrento Terrace and would result in ad hoc development within the coastal landscape to the rear of the protected structures of Sorrento Terrace.
- * The development would adversely affect the character of The Vico Road Architectural Conservation Area.
- * The development would result in the further extension of an unauthorised development and would adversely injure the amenities of residential property in the vicinity.
- * A grant of permission for retention would set an adverse precedent for retention of development that is unauthorised and which

materially affects the character of the protected structure and the Architectural Conservation Area.

The appeal contains the Heritage Impact Assessment forwarded to the planning authority.

4.0 PLANNING AUTHORITY'S RESPONSE TO APPEAL

4.1 The planning authority submits that many of the grounds of appeal were addressed in the Planner's report. It is acknowledged that the grounds of appeal relate to other elements on the site and not solely to the works the subject of the application. The planning authority does not agree that the historic character of the terrace would be destroyed by the development to be retained. It is repeated that a Historic Impact Assessment was not necessary and that, in relation to Killiney Hill, it is a prospect that is protected not views from the hill.

5.0 OBSERVATION

5.1 An Taisce submits the application site affects protected views designated in the Dún Laoghaire Rathdown County Development Plan and the works have significant visibility across a wide area. It is considered that the issue of determining the extent of development for which permission is being sought for retention needs to be addressed and resolved. The observer concurs with the grounds of appeal that the Council's decision has not been justified. In reference to the works to the conservatory, it is submitted that the new development is greater in scale and impact. It is concluded that the extension forms a visually incongruous intrusion into the composition of No. 8 as a protected structure and the terrace generally.

6.0 ASSESSMENT

6.1 Introduction

6.1.1 I will consider the relevant planning issues under the following headings:

- The Validity of the Application

- Impact on the Protected Structure,
- Impact on Residential Amenity,
- Impact on the Architectural Conservation Area, and
- Impact on Views and Prospects

6.2 The Validity of the Application

6.2.1 I note the decision of the High Court under Judicial Review Case No. 2016 26 JR. The Court granted an Order of Certiorari in respect of the decision of Dún Laoghaire-Rathdown County Council on the grounds that the planning authority failed to notify three prescribed bodies in accordance with Article 28 of the Planning and Development Regulations 2001, as amended. I further note the affidavit submitted to the Court by the appellants' agent and the extensive submissions made on behalf of the appellants relating to the nature and extent of the development. The content of the Court Order is very clear. There is no reference to other matters raised by the appellants relating to the nature and extent of development beyond the flat roof shelter area. Thus, I will not proceed to address development beyond that which comprises the proposal before the Board in this appeal, namely a flat roof shelter/changing area of c. 11 square metres.

6.3 Impact on the Protected Structure

6.3.1 No. 8 Sorrento Terrace is a protected structure listed in the schedule of the Record of Protected Structures (RPS Ref. 1600) in the current Dún Laoghaire-Rathdown County Development Plan. The house forms the western end of a significant terrace of properties adjoining Sorrento Point, each of which are protected structures. The house and its curtilage lie within the Vico Road Architectural Conservation Area, so designated in the Development Plan. The sensitivity of this location is reinforced by the zoning provision that applies here, namely within the residential zoning there is a specific objective (o/o) whereby no increase in the number of buildings is permissible here, with the exception of the potential for small scale, sensitive infill development, where such development would not detract from the character of the area. Thus, No. 8 Sorrento Terrace is

itself an important structure on architectural merit and is a dwelling that is acknowledged as being set within a particularly sensitive location from the perspective of architectural heritage.

- 6.3.2 The proposed development comprises a shelter/changing area with decking overhead that ties in with replacement / renewal of decking above. The shelter/changing area comprises an area of c. 11 square metres and it is approximately 3 metres in height. It may reasonably be determined to be a small structure based upon these dimensions. The shelter is sited on the lower tier of the garden to the rear of the house, effectively below and beyond an existing patio area. The area in which the structure is located lies adjacent to the existing flank boundary with No. 7 Sorrento Terrace.
- 6.3.3 In considering the location of the proposed development, it is first noted that the structure is separate from the dwelling. It does not form an extension to the house and is wholly independent of the house, without linkages or physical attachment thereto that would determine it to be a component of the overall house structure. The shelter may reasonably be considered a structure that is ancillary to the house, that has a purpose incidental to the enjoyment of the house, and which is not used for habitation. I acknowledge that there is decking overhead that ties in with other components of the patio to the rear of the house.
- 6.3.4 The shelter has been constructed on the lower tier of the existing garden, which minimises its potential to detract from the visibility of the rear elevation of the main house. Furthermore, this siting reinforces the ability to understand the structure as an independent building. It is clear that the appreciation of the rear elevation of No. 8, and indeed of the terrace itself, is not interfered with by the siting of the development. Thus, the development does not intrude on the physical integrity of No. 8 nor on the physical integrity of other adjoining protected structures.
- 6.3.5 Having regard to the above, I consider the shelter constitutes small scale, sensitive infill development that does not detract from the character of the No. 8 Sorrento Terrace. Therefore, it may reasonably be determined that the existing shelter does not have an adverse impact on the architectural integrity of the protected structure.
- 6.3.6 Further to the above, I note that the planning authority, in its decision, attached a condition requiring a timber cladding finish in place of the

painted render finish that exists at present. It is my submission that the existing structure is best treated in the manner heretofore, is more in keeping with the presentation of external walls of structures in the immediate vicinity, and the addition of a timber cladding would likely detract from the visual clarity of the distinct structure that exists at present. Such a finish, in my opinion, would not be compatible with the character of structures at this highly sensitive location.

6.3.7 Finally, I note the appellants submit that a Heritage Impact Assessment (HIA) was required to be submitted with the application in accordance with Policy AR2 of the County Development Plan. This policy requires all applications relating to protected structures to contain an appropriate level of documentation in accordance with Article 23(2) of the Planning and Development Regulations and Chapter 6 and Appendix B of the Architectural Heritage Guidelines. The planning authority determined that the nature and scale of the development did not merit the need for the submission of a specific HIA. The requirement for an Architectural Heritage Impact Statement is referred to in the Guidelines in the context of 'extensive or complex works with a potential to have a major impact on the architectural heritage' (Para. 6.4.15), with the outline of the type of information to be included in such an assessment being set out in Appendix B of the Guidelines. It is apparent that the application made was accompanied by a range of plans and other particulars adequate to determine the impact of the development, which does not comprise extensive or complex works with potential to have major impact on No. 8. I, thus, concur with the position of the planning authority that the application details are sufficient to enable a determination to be made. The appellants have facilitated this even more by the submissions of photographs and assessments. I consider that it may reasonably be determined that a Heritage Impact Assessment from the applicant is not, and was not, required and that the application details suffice to accord with the requirements of Policy AR2 of the Development Plan.

6.4 Impact on Residential Amenity

6.4.1 I again note that the shelter the subject of the application is located on the lower tier of the existing garden, with fenestration and access on the west and south elevations. There is an existing stone wall forming the party boundary between No. 7 and No. 8 and the shelter is located below the

upper section of this wall. The opportunity for overlooking and overshadowing of neighbouring property to the east does not arise. Furthermore, the siting on the lower level of the garden and the lack of visibility of the structure below the decking ensure there is no overbearing impact on neighbouring property.

6.4.2 I note the concerns raised by the appellants that relate to impacts on privacy arising from the functioning of the patio decking. The decking associated with the established patio has been continued to form the final covering over the shelter. There is a railing which prohibits access to the roof of the shelter and, thus, to this section of the decking. The roof of the shelter, therefore, does not form part of the functioning patio. I acknowledge that changes could readily be made to facilitate access and use of the roof as an extension to the patio. Prohibition of the use of this area, other than for maintenance purposes, could reasonably be applied by the insertion of an appropriate condition with the grant of planning permission, as has been done in the decision of the planning authority. This should address loss of privacy concerns that potentially could result from the use of the roof.

6.4.3 Finally, I note that Sorrento Terrace has a balcony along the south elevation of the complete terrace of houses and that this terrace is above garden level. The opportunity for overlooking of rear gardens is well established by this feature which is an integral part of the protected structures. The impacts arising are worthy of reference in the context of concerns raised.

6.5 Impact on the Vico Road Architectural Conservation Area

6.5.1 The proposed development is located within the Vico Road ACA. Policy AR12 of the County Development Plan seeks to protect the character and special interest of an area which has been designated as an ACA, to ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area, and to seek a high quality, sensitive design for any new development that is complementary and/or sympathetic to its context and scale, whilst simultaneously encouraging contemporary design. The Plan further states:

“While the purpose of ACA designation is to protect and enhance the special character of an area, it should not be viewed as a means of preventing new development but rather to help guide and manage change to ensure developments are sympathetic to the special character of the ACA.” (Section 6.1.4.1)

6.5.2 The Character Appraisal for this ACA includes the following:

“6.1 Guidance for New Development Works

New development should contribute to the visual enhancement and vibrancy of the area whilst respecting its existing physical character...

6.1.5 Extensions

Extensions should be designed to minimise their visibility from any public area in the ACA, they should be subsidiary to the main building, of an appropriate scale, and should follow the guidance for new infill buildings given above. This also applies to detached and permanent structures in gardens such as sheds, gazebos and habitable spaces. A contemporary high-quality design will be encouraged over pastiche in order to maintain the authenticity of the fabric of the buildings...

7.0 Policy Objectives

Alterations and Extensions

- *The Council will seek to encourage appropriately scaled extensions and alterations to properties within the ACA that are generally sensitive to the main structure and subsidiary (to the main structure), particularly in the case of Protected Structures and positioned generally to the rear or lesser elevation.”*

6.5.3 It is evident from the above that new development within this ACA is facilitated, with a distinctive emphasis placed on principles of respecting the physical character of the area, avoiding pastiche, and applying particular sensitivity to protected structures. These matters have been addressed in detail in the previous section of this assessment and require no further elaboration other than to reassert that the proposed development does not impart significant intrusion on No. 8 Sorrento Terrace or the remaining houses in this terrace. Thus, it may be concluded that the shelter does not visually damage the character of this location, thus resulting in the development not adversely impacting on the attributes that make up the ACA.

6.6 Impact on Protected Views and Prospects

6.6.1 It is noted that the County Development Plan and the Character Appraisal for the Vico Road ACA identify views and prospects to be protected. It is a policy of the Council (Policy LHB6), as set out in the Development Plan, to protect and encourage the enjoyment of views and prospects of special amenity value or special interest. The Plan states that, in the implementation of this policy, it is the intention of the Council to:

- Prevent development which would block, or otherwise interfere, with a View which is designated for protection.
- Preserve the Prospects listed in the Plan.

6.6.2 Table 4.1.1 of the Plan lists the Prospects to be preserved and this includes Killiney Hill from Vico Road, Station Road and the East Pier. The Views for protection are shown on Map 4 of the Plan and the applicable views in this instance relate to the seaward views from Vico Road, which also take in Sorrento Point.

6.6.3 I note that the appellants have raised significant concern about the visual impact of the development on protected views and prospects. In addressing the latter first, I note that the appellants allude to impacts on views relating to Killiney Hill. However, I acknowledge the planning authority's observation that it is the prospect that is protected here. Thus, it is the view of Killiney Hill, and not the view from Killiney Hill, that merits protection. Therefore, it is reasonable to conclude that the development does not impede protected views of Killiney Hill and thus does not interfere with any protected prospect.

6.6.4 With regard to impact on protected views, and the views from Vico Road in particular that form a significant feature of the appellants' concerns, I first note that the views are seaward views from Vico Road. I acknowledge that these views also encapsulate the coastal edge, coastal development and Dalkey Island. It would be remiss of me not to acknowledge the importance of Sorrento Terrace forming an integral and, indeed, essential component of the quality of views gained from Vico Road. In considering the impact of the development from the locations where these views are protected, one must reasonably have regard to a wide range of factors that include the distance of the viewpoint to the development the subject

of the appeal, the form, scale, height and bulk of this development, its siting, the context within which it is set, its distinctiveness or its attributes that allude to its ability to stand out as a feature within the protected views, etc.

6.6.5 In considering the impact on these views, I first must conclude that the shelter does not block any of the protected views. Secondly, the development constitutes a small ancillary structure sited on the lower level of a back garden and, due to its siting, small scale, form and limited bulk, it does not constitute a distinct or prominent feature in itself to which the eye is drawn when taking in the panoramic views that constitute the protected views on Vico Road. Thirdly, the development is understood as a feature/ancillary structure in the back garden of No. 8 in the manner in which other such developments are prevalent within the protected views, thus alluding once again to its indistinctiveness in context. Therefore, one can reasonably determine that the shelter does not interfere with any of the views designated for protection on Vico Road.

6.6.6 Having regard to the above, it is concluded that the shelter does not adversely impact on protected views and prospects in this area.

6.7 Appropriate Assessment

6.7.1 'Having regard to the nature and small scale of the proposed development and the nature of the receiving environment, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site'.

7.0 RECOMMENDATION

I recommend that permission is granted in accordance with the following:

Reasons and Considerations

Having regard to the nature and scale of the proposed development, to its siting on the lower tier of the established garden, to its independence from the existing protected structure of No. 8 Sorrento Terrace, and to the limited visibility of the structure within designated protected views in the vicinity, it is considered that the proposed development would not adversely affect the integrity of No. 8 Sorrento Terrace or other protected structures in the Terrace, would not result in adverse visual impact, undermine protected views in the vicinity or be out of character with development within the designated Vico Road Architectural Conservation Area, and would otherwise be in accordance with the proper planning and sustainable development of the area.

Conditions

1. Access to the roof of the shelter/changing room shall be for maintenance purposes only.

Reason: In the interest of residential amenity.

Kevin Moore

Senior Planning Inspector

November, 2016.