



An  
Bord  
Pleanála

## Inspector's Report PL.06D.247706

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<b>Development</b>	House and associated site works.
<b>Location</b>	10A Pembroke Cottages, Booterstown, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire- Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D16A/0690.
<b>Applicant</b>	Maurice Treacy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party Vs Grant
<b>Appellants</b>	Thomas & Lorraine Leonard.
<b>Observers</b>	1. An Taisce. 2. Peter Harris & Others.
<b>Date of Site Inspection</b>	28 <sup>th</sup> February 2017.
<b>Inspector</b>	Dáire McDevitt.

## **1.0 Site Location and Description**

- 1.1 This site is located within the Pembroke Cottages Architectural Conservation Area (ACA) to the west of Booterstown Avenue, north of Rosemount Terrace and to the south of The Church of Assumption and the Convent of Mercy in Booterstown, Co. Dublin.
- 1.2 Pembroke Cottages consists of 14 Victorian cottages (Protected Structures) built c.1870s fronting onto a small loop road. The Cottages are visually attractive with a high degree of symmetry and harmony when addressing the road. Works and alterations to the cottages to date have not materially impacted on the front facades or the general appearance and character of the area with extensions in the main to the rear of the houses.
- 1.3 The application site is bounded to the south by No. 10 Pembroke Cottages, to the east and north by the appellant's house and garden, No. 11 Pembroke Cottages which has a substantial rear dormer extension with first floor dormer windows facing the application site. The rear (west) of the site is bounded by a public carpark associated with The Church of Assumption and the Convent of Mercy. Access to the application site is directly off Pembroke Cottages where garage doors form the roadside boundary.
- 1.4 The site, with a stated area of c. 95 sq.m, is rectangular in shape and at present has a c.79.7sq.m structure on site. The structure on site (garage/shed) is not on the Record of Protected Structures. The southern section of the structure has a flat roof that appears to be a later addition. The pitched roof to the northern section has been re-tiled at some stage. The granite boundary walls, which also form part of the structure, have been altered to increase their height with the insertion of a number of lead windows. The different building materials used to carry out alterations to the structure are clearly visible (internal and external to the structure). The structure at present is vacant and in need of significant repair.
- 1.5 Maps, aerial images and photographs are in the file pouch.

## 2.0 Proposed Development:

The proposed development comprises of the following:

- Demolition of existing single storey garage (flat roof and pitched roof) (stated gfa of c. 79.7 sq.m).
- Construction of contemporary style two storey dwelling with selected brick finish. (stated gfa of 87.6 sq.m).
- New connections to water main and public sewer.

on a site with a stated area of c. 95 sq.m.

The following documentation is included in the application:

### ***Architects Report.***

This included:

- Details of pre-planning discussions.
- Outline of the design rationale.
- Palette of materials to be used.
- Contextual montages of the proposal.
- Example of similar development at Alma Road carried out by the Architects.

### ***Infrastructure Services Report***

This included:

- Reference to the site area as c.111sq.m and the proposed development as 95 sq.m.
- Details of new connections to water mains and public sewer.
- Proposals for surface water disposal. There is no existing surface water system in Pembroke Cottages. Two water butts are proposed and to discharge to the existing combined system at Pembroke Cottages.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant subject to 12 standard conditions.

These included condition No. 2 which refers to materials and finishes to be agreed prior to the commencement of development.

## **3.2. Planning Authority Reports**

### **3.2.1 Planning Report (14<sup>th</sup> November 2016)**

The Planner's Report forms the basis for the Planning Authority's decision. The main issues are summarised as follows:

- The proposal is considered an attractive and innovative design approach for this confined corner site. An appropriate infill development which would improve the visual amenity of the area.
- The proposal is set back from the boundaries to protect the amenities of adjoining properties. Overlooking and overshadowing are not considered an issue.
- The proposal, with below the minimum County Development Plan requirements for private open space, is considered acceptable having regard to the confined nature of the site, the attractive infill design proposed and the context of the area.
- The Report concluded that the development will not impact on the character or setting of the ACA, the adjoining Protected Structure or the Streetscape and is, therefore, considered acceptable.

### **3.2.2 Other Technical Reports**

#### **Conservation Division (7<sup>th</sup> October 2016).**

The main issues are summarised as follows:

- The contemporary design is welcomed and seen as a clearly legible later insertion within the context of the ACA.
- The design, materiality and scale of the building is considered appropriate, bearing little impact on the adjacent Protected Structures

and the insertion of the proposed building will enhance the built character of the ACA.

- Reservations regarding the proposed use of brick to the front/east elevation. The brickwork of the cottages is an integral feature of the design and appearance of the Protected Structures and the use of a different, yet sympathetic material next to the Protected Structure will allow these buildings to remain the prominent feature of the streetscape. A condition should be attached regarding finishes and materials.

**Transportation Planning (24<sup>th</sup> October 2016).** No Objection.

**Drainage Section (25<sup>th</sup> October 2016).** No Objection.

### **3.3 Third Party Observations**

3.3.1 One submission received from the current appellant (Thomas & Lorraine Leonard, No. 11 Pembroke Cottages, Booterstown, Co. Dublin). The issues raised in the submission are largely in line with the grounds of appeal and shall be dealt with in more detail in the relevant section of this Report.

Other points of concern raised are summarised as follows:

- Change of use from garage to residential will change the perceived visual nature of the area.
- Works are proposed to a party wall without the relevant consents.
- Light pollution to the rear garden of No. 11 from the first floor landing window.
- New footpath would change the historic layout of the cottages.
- Access to the car parking space is directly outside the hall door of No. 11 and would present a danger to pedestrians and animals.
- Overdevelopment of the site.
- Overshadowing of No. 11 Pembroke Cottages.

## 4.0 Planning History

### Application Site:

**Planning Authority Reference No. 658/88 (An Bord Pleanála Reference PL.57/5/81071).** Permission refused in 1990 for a 2 storey house on the grounds of inappropriate design and scale which would detract from the character and architectural integrity of Pembroke Cottages.

### Pembroke Cottages:

**Planning Authority Reference 10308 (Section 5 Referral). No. 11 Pembroke Cottages.** Exemption certificate in 2008 pertaining to internal alterations, bathroom extension and velux roof lights.

**Planning Authority Reference No. D15A/0749 (An Bord Pleanála Reference PL.06D.246202). No. 6 Pembroke Cottages.** Permission refused in June 2016 for the demolition of rear extension and outbuilding and permission for extension and renovation works to the existing cottage for reasons relating to architectural conservation and inappropriate design.

**Planning Authority Reference No. D16A/0633. No. 2 Pembroke Cottages.** Permission for retention granted in November 2016 for a single storey flat roof rear extension.

**Planning Authority Reference No. D15A/0253. No. 15 Pembroke Cottages.** Permission granted in June 2015 for demolition of a single storey extension and shed to be replaced with a new two storey flat roof extension to the rear. Proposed Change of Use of ground floor (residential to commercial) with a two bed first floor residential unit.

## 5.0 Policy Context

### 5.1 Dun Laoghaire-Rathdown County Development Plan 2016-2022

- Land Use Zoning Objective 'A' *To protect or improve residential amenity.*
- The site is located within the Pembroke Cottages Architectural Conservation Area.
- The site adjoins, but is not located within, an area of archaeological interest.

## **Built Heritage**

**Section 6.1.4 Architectural Conservation Areas (ACA)** refers to development within Architectural Conservation Areas. **Policy AR12** refers to the criteria for appropriate development within the ACA, and that proposals shall be considered in relation to a range of criteria, including seeking a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.

**Section 8.2.11.3 (i)** refers to new development within Architectural Conservation Areas which should take account of their context without imitating earlier styles and where appropriate, contemporary design is encouraged that is complementary and sympathetic to the surrounding context and scale.

**Section 6.1.3 Architectural Heritage** refers to the architectural heritage of the County and includes policies pertaining to the Record of Protected Structures and their care and appropriate development.

**Section 8.2.11.2** refers to the development management standards for Protected Structures.

**Appendix 4** includes the Record of Protected Structures & Architectural Conservation Areas. The Record of Protected Structures does not define the curtilage for the Protected Structures at Pembroke Cottages

All 14 Pembroke Cottages are included in the Record of Protected Structure and subject to the appropriate policies as set out in Section 6.1.3 and Section 8.2.11.2 of the Plan.

The structures of most relevance in this instance are those immediately adjoining the application site:

- No. 10 Pembroke Cottages (RPS No. 67).
- No. 11 Pembroke Cottages (RPS No. 61).

**General Development Management Standards:**

**Section 8.2.3.4(vii)** refers to infill sites. Such proposals shall be considered in relation to a range of criteria including respecting the massing and height of existing residential units.

**Section 8.2.8.4 (i)** sets out the private open space requirements for private houses. A figure of 48 sq.m of may be acceptable for a 2 bed house in cases where good quality open space is provided. Narrow strips of space along the side of dwellings shall not be included in the calculation. There is provision for a relaxation of the standard where an innovative design response is provided on site.

**Section 8.2.8.4 (ii)** refers to separation distances and the standard garden depth of 11 metres and in certain circumstance 7 m depths may be acceptable for single storey dwellings.

**5.2 Architectural Heritage Protection Guidelines 2011 (DAHG)**

**Section 3.10** refers to guidance and general criteria for assessing proposals within Architectural Conservation Areas. This sets out that generally it is preferable to minimise the visual impact of the proposed structure on its setting. The greater the degree of uniformity in the setting the greater the presumption in favour of harmonious design. However, replacement in replica should only be contemplated if necessary, for example, to restore the character of a unified terrace and should be appropriately detailed. Where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. The scale of the new structures should be appropriate to the general scale of the area and not its biggest building.



**Section 13.1.1** refers to guidance and definitions for determining the curtilage of a Protected Structure. The notion of curtilage is not defined in law, but for the purposes of these Guidelines curtilage is taken as meaning the parcel of land immediately associated with that structure and which is (or was) in use for the purpose of the structure.

**Section 13.1.2** notes that the curtilage of a Protected Structure may coincide with the land owned together with it but this is not necessary and the Planning Authority should ensure in such cases that the relevant landowners are aware of the status of their structure.

**Section 13.1.5** refers to the following three considerations when determining curtilage:

1. a functional connection between the structures;
2. an historical relationship between the main structure and the structure;
3. and the ownership past and present of the structures.

**Section 13.2.1** refers to guidance and definitions for determining the attendant grounds of a Protected Structure. These are lands outside the curtilage of the structure but which are associated with the structure and are intrinsic to its function, setting and/or appreciation.

### **5.3 Natural Heritage Designations**

None of relevance.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

Third Party appeal by Thomas & Lorraine Leonard, No. 11 Pembroke Cottages, Booterstown, Co. Dublin, property adjoining the application site to the east with its rear garden to the north of the subject site. The grounds of appeal are summarised as follows:

### **Planning History.**

- A two storey house was refused planning permission on the site in 1988.

### **Curtilage of a Protected Structure**

- No. 11 Pembroke Cottages was the overseer's cottage and the structures to be demolished as part of the current application were the works depot, all of which formed part of the original curtilage of No. 11. Therefore, the proposal is within the curtilage of a Protected Structure and should be referenced and assessed accordingly.

### **Design**

- The design is excessive in scale, bulk and height and detracts from the character of the Architectural Conservation Area.

### **Overdevelopment & Residential Amenity**

- The overdevelopment of the site results in inadequate open space provision.
- The inverted residential configuration will result in excessive noise and odours from the property which would have a negative impact on the amenities of No. 11.
- Proposal would be detrimental to the residential amenities of adjoining properties by means of overshadowing and overbearing design.
- Subterranean area proposed which is not shown on the plans submitted.

## **6.2 Applicants Response**

The applicant has submitted a detailed response which is mainly in the form of a rebuttal. However, the following points of note were made:

### **Curtilage of Protected Structure**

- The site is not within the curtilage of No. 11 Pembroke Cottages. This is defined as a house in the Record of Protected Structures and therefore only the house is protected.

### **Planning History**

- It was only after the Planning Authority issued its decision that the applicant became aware of an application lodged in 1988 with Dun Laoghaire Corporation that was refused permission. The file was referenced in the Area Planner's Report for this application, therefore, the Planning Authority was aware of the full Planning history at the time of the assessment.
- The house refused permission in 1988 bore no resemblance in design to the current proposal and should not be regarded as a 'very similar development' as referenced by the appellant. Elevations of the 1988 house included in the appeal documentation.

### **Overdevelopment & Residential Amenity**

- The contextual sketch submitted with the appeal is misleading and inaccurate and a more accurate sketch has been submitted by the applicant.
- Many of the existing cottages have limited private open space. Aerial images submitted show the diversity of open spaces due to a number of the Pembroke Cottages being extended over the years.
- There is no subterranean area proposed or shown on the plans submitted.

### **6.3 Planning Authority Response**

The Planning Authority has reiterated points made in the Planner's report and as reflected in its decision.

### **6.4 Observations**

Two Observations have been received.

#### **6.4.1 The Observation by **An Taisce** is summarised as follows:**

- Noted the concerns raised by the appellants in relation to the scale, height, flat roof profile, design and amenity impact of the proposal.

- Similar development was refused by An Bord Pleanála in 1988 (Planning Authority Reference 658/88).
- Concur with the concerns raised in the appeal that the proposal does not address the relevant provision of the DAHG *Architectural Heritage Protection Guidelines for Local Authorities* and would have an adverse impact on the Protected Structures and Architectural Conservation Area.

6.4.2 The main issues raised in the Observation by **Peter Harris & Others (Residents of No. 2, 3, 4, 5 & 14 Pembroke Cottages, Booterstown, Co. Dublin)** are summarised as follows:

- The proposal will directly impact on the unique character and appearance of the 14 cottages and destroy the visual integrity of the street.
- The design and bulk of the proposed house would overshadow adjoining properties and be visually intrusive.
- The design, bulk and scale is out of context with the surrounding cottages and is a complete overdevelopment of the site.
- The new footpath outside the site will change the historic layout of the cottages.
- Previous refusal by An Bord Pleanála for a house on the site.

## 6.5 Prescribed Bodies

The Appeal was referred to the Development Applications Unit (DAHRRG). No response received.

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Architectural Heritage.

- Design.
- Residential Amenities.
- Appropriate Assessment.

## **7.1 Architectural Heritage**

7.1.1 It has been put forward by the appellant that the application site is within the curtilage of a Protected Structure (No. 11 Pembroke Cottages, RPS Ref. No. 61). No. 11 is one of 14 cottages that are collectively known as Pembroke Cottages, all of which are included in the Record of Protected Structures. I note historical maps show that the original plot of land associated with No. 11 Pembroke Cottages included the application site which had a number of structures on site at the time.

7.1.2 While I concur with the appellant that the site may have been originally part of a larger plot associated with No. 11 Pembroke Cottages, the structures which are the subject of the current application do not appear to correspond with the footprint of those shown on the historical 25-inch map (1888-1913) or the later Cassini 6-inch map (c.1940s). The OS Discovery Series (c.1992) shows the structure which is the subject of this application and the site associated with No. 11 which appears to wrap around this structure. I would draw the Boards attention to the fact that a structure occupies the majority of the application site and external walls of the structure form the site boundaries which correspond with the footprint of the structure on the OS Discovery Series map. The Architectural Protection Guidelines make reference to instances where structures can fall within the curtilage of a Protected Structure but remain in separate ownership. In these cases, Planning Authorities are advised to ensure that all relevant owners and occupiers are notified of the protected status of their structure. The structure which is the subject of this application is not included in the Record of Protected Structures in the current Development Plan and there is no evidence that the applicant has been informed that the structure

on site is considered to be within the curtilage of No. 11 Pembroke Cottages. It is my considered opinion that the site does not fall within the curtilage of a Protected Structure.

**7.1.3** Attendant Grounds is defined in the Planning and Development Act 2000 (as amended) in relation to a structure to include land lying outside the curtilage of the structure. Having reviewed the Architectural Heritage Protection Guidelines and the definition as set out in the Act, I am of the opinion that the application site does not fall within the attendant grounds of a Protected Structure (No. 11 Pembroke Cottages) as the site and structures are not intrinsic to its function, setting or appreciation.

7.1.4 The existing structure (garage/shed) is however located within the Pembroke Cottages Architectural Conservation Area as identified in the current County Development Plan, therefore the relevant policies for ACAs shall apply as set out in the following Section of this Report.

## **7.2 Design**

7.2.1 Policy AR12 and Section 8.2.11.3 of the Development Plan outline that all development within an ACA should be site specific and take account of their context without imitating earlier styles. New developments should be 'of their time' and to the highest standards of design and where appropriate contemporary design is encouraged.

7.2.2 The Architectural Protection Guidelines in general advocate minimising the visual impact of a new structure on its setting and the greater the degree of uniformity in the setting the greater the presumption in favour of harmonious design. Where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged as appropriate.

7.2.3 The application site is located in Pembroke Cottages ACA, the character of which is derived in the main from the symmetry and harmonious design of the

houses and its uniform streetscape. Alterations carried out to date to many of the existing Cottages have mostly been in the form of internal alterations and rear extensions with the front facades remaining largely unchanged and in keeping with the original design. The applicant has attempted to address the sensitivities and constraints of the site through the use of a contemporary design solution. However, in this instance, I am not satisfied that the proposal is an appropriate design intervention at this location as it does not adequately address the sensitivities of the Architectural Conservation Area. In my opinion the contemporary design proposed would jar with the character of the existing built environment and detract from the architectural grain of the area.

- 7.2.4 Section 8.2.3.4 (vii) of the Development Plan refers to infill sites and a range of criteria that applies to their development, including respecting the massing and height of existing residential units. Notwithstanding a rear dormer extension to No. 11 Pembroke Cottages which adjoins the application site, the predominant built form in the ACA reflects the single storey cottages and, in my view, the massing of the proposed development does not respect the predominant pattern of development in this sensitive area.
- 7.2.5 The first floor element of the proposed house is set back in line with the building line established by No. 11 Pembroke Cottages to the east. A pitched roof (metal cladding and brick parapet) is proposed to the section of the roof along the eastern boundary to assist the transition between the proposed house and No. 11 Pembroke Cottages. A terraced area projects beyond the building line of No. 11. The use of vertical timber fins, while creating a sense of transparency, would form a discordant feature on the streetscape at this location which would detract from the architectural uniformity of the ACA.-
- 7.2.6 The site is sensitive due to its location within Pembroke Cottages Architectural Conservation Area, adjoining No. 10 and No. 11 Pembroke Cottages, both of which are on the Record of Protected Structures. It is considered that the proposed development in terms of design, scale and mass would detract from the architectural composition of the existing cottages and would form a discordant feature on the streetscape and would disrupt the symmetry and harmony of the built environment which is an integral feature of the ACA.

Furthermore, the scale and mass of the proposal is considered overbearing and would have a significant negative impact on the character of the adjoining Protected Structures and the ACA. In this regard the proposed development would contravene policy AR12 and Section 8.2.11.3 of the Development Plan. The proposal would, therefore, seriously injure the character of the area and be contrary to the proper planning and sustainable development of the area.

### **7.3 Residential Amenity**



- 7.3.1 The appellant has highlighted that the quantity of private open space proposed is significantly below the minimum standard of 48 sq.m set out in Section 8.2.8.4 of the Development Plan which would result in the over development of the site.
- 7.3.2 The current proposal includes two ground level courtyards (3.8 sq.m and 7 sq.m respectively) and a first floor terrace above the garage (c. 11.4 sq.m) to cater for a 2 bedroom house. The courtyards are, in my view, incidental rather than functional spaces with the main private outdoor amenity area in the form of a 11 sq.m terrace at first floor level. Section 8.2.8.4 (i) refers to the provision for a relaxation of the standard where an innovative design response is provided on site. I am of the opinion that this policy refers to cases where, for example, there is a marginal shortfall in the required provision and the development is served by good quality private open space. The adopted policy position would, in my view, not include the current scenario where the shortfall in private open space is in excess of 50% of the minimum requirement set out in the Development Plan. I would contend that the provision for the relaxation of the standards in private open space provision as set out in Section 8.2.8.4 (i) was not intended to include the circumstances presented in the current application. The quality, quantity and location of private open space proposed is substandard and would constitute overdevelopment of this confined site which would be detrimental to the residential amenities of future occupiers and set an undesirable precedent.
- 7.3.4 The appellant has raised concerns that the proposed development would be overbearing and have a detrimental impact on the residential amenities of No. 11 Pembroke Cottages. I concur with the appellant that the proposal, due to the restrictive nature of the site and the limited set back from the boundaries, would be overbearing and have a negative impact on the residential amenities of adjoining properties.
- 7.3.5 A terrace is proposed at first floor level over the garage using angled vertical timber fins to screen this terrace from the adjacent house to the south, No. 10 Pembroke Cottages, and to protect the residential amenities of future

occupants of No. 10A. The use of angled vertical fins is an effective design solution to address overlooking on restricted sites in urban areas. In this instance my concerns relate to the visual impact of the timber fins on this sensitive streetscape rather than their effectiveness as a tool to address overlooking.

7.3.6 The appellant has raised concerns regarding light pollution from the first floor landing window due to its proximity to the shared boundary with the private amenity space of No. 11 Pembroke Cottages. In my view the use of fixed opaque glazing to the first floor window and the fact that this window serves circulation space within the house would not unreasonably detract from the amenities of No. 11 Pembroke Cottages.

#### **7.4 Other Issues**

7.4.1 The issue of odour and noise nuisance due to the proposed inverted living layout has been raised by the appellant. The use of alternative layouts are commonplace and the concept behind inverted living layouts is to create suitable living environments by adapting to particular site constraints. In addition, all new buildings are required to comply with the Building Regulations and the relevant standards set out in same would address these issues.

7.4.2 Concerns have also been raised by the appellant in relation to the onsite garage and vehicular access to the site and traffic safety. I note the existing garage has a vehicular access in a similar position. Traffic movements associated with a house are modest and would not create a traffic hazard at this location. The site fronts onto a section of the road which at present is used unofficially for parking. The reuse of the access point would address this issue. No traffic concerns were raised at assessment stage by the Council's Transportation section.

## **7.5 Appropriate Assessment**

7.5.1 Having regard to the nature of the proposed development and the location of the site in a fully serviced built up suburban area, 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.

## **8.0 Recommendation**

9.0 I recommend therefore that planning permission be refused for the reasons and considerations set out below

## **10.0 Reasons and Considerations**

1. The site is sensitive due to its location within Pembroke Cottages Architectural Conservation Area, adjoining No. 10 and No. 11 Pembroke Cottages, both of which are on the Record of Protected Structures. It is considered that the proposed development in terms of design, scale and mass would detract from the architectural composition of the existing cottages and would form a discordant feature on the streetscape and would disrupt the symmetry and harmony of the built environment which is an integral feature of the Architectural Conservation Area. Furthermore, the scale and mass of the proposal is considered overbearing and would have a significant negative impact on the character of the adjoining Protected Structures and the Architectural Conservation Area. In this regard the proposed development would contravene policy AR12 and Section 8.2.11.3 of the Development Plan. The proposal would, therefore, seriously injure the character of the area and be contrary to the proper planning and sustainable development of the area.

It is the Policy of the Planning Authority as set out in the County

2. Development Plan 2016-2022 that residential development is provided with adequate private open space in the interest of residential amenity. The proposed development is deficient in the quantum, location and quality of private open space. The proposed development would therefore not be in accordance with the Development Plan Section 8.2.8.4 (i) Private Open Space Quality, and would seriously injure the residential amenity of future residents and the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

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Dáire McDevitt  
Planning Inspector

22nd March 2017