



An  
Bord  
Pleanála

## Inspector's Report PL06D.248457

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<b>Development</b>	Retention of existing works consisting of the alteration to roof design from that previously granted under reg.ref.D14A/0819 / PL06D.245159
<b>Location</b>	4, Green Road, Blackrock, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown
<b>Planning Authority Reg. Ref.</b>	D17A/0134
<b>Applicant(s)</b>	Nigel Clarke.
<b>Type of Application</b>	RETENION and PERMISSION
<b>Planning Authority Decision</b>	GRANT.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Rhona O'Byrne
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	10/08/17
<b>Inspector</b>	John Desmond

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## 1.0 Site Location and Description

- 1.1. The application site is located in an old suburban residential area c.500m southwest of Main Street, Blackrock, in Dun Laoghaire Rathdown. The area is characterised by a mix of largely two and single-storey dwellings, set out in terraces (older period dwellings) and semi-detached layouts (mid-20<sup>th</sup> C), but with some modern infill development (dwellinghouses and / or residential extensions).
- 1.2. The application site area is stated as 0.0135ha and the gross floor area of the existing dwelling as 181-sq.m. It contains a 2-storey over-basement dwellinghouse erected in a U-shape surrounding a courtyard to the front (west), with the dwellinghouse constructed along the site boundaries with neighbouring properties to the southwest, southeast and northeast and gable ends fronting onto the public road to the northwest. The dwelling is of contemporary design.
- 1.3. To the southwest the application site abuts the site of a 2-storey semi-detached dwelling dating, I estimate, from the late 19<sup>th</sup> century. To the southeast it abuts the rear garden of an earlier residential property fronting onto Sydney Avenue, which has a contemporary style extension to the side, fronting onto Green Road. To the northeast the site abuts the site of a recent residential development. There is a contemporary style residential development opposite the site also.

## 2.0 Proposed Development

- 2.1. The application is for **RETENTION** of existing works to date described as alteration to roof design from that which was previously granted under reg.ref.D14A/0819 / PL06D.245159, with associated works, and for **PERMISSION** to complete the works.

## 3.0 Planning Authority Decision

### 3.1. Decision

**GRANT** permission with four conditions. Condition no.3 stated '*This permission relates solely to the altered roof design with associated works*'.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

The Planning Officer (12/04/17) considered the proposed development not to seriously detract from the amenities of the area or of property in the vicinity and recommended permission be granted subject to four conditions consistent with the decision of the Planning Authority.

### 3.2.2. Other Technical Reports

Irish Water (17/03/17) – No objections subject to standard conditions.

Drainage Planning (16/03/17) – No objection subject to conditions attached to parent permission.

Transportation Planning (29/03/17) – No objection.

## 3.3. **Prescribed Bodies**

None.

## 3.4. **Third Party Observations**

A letter of observation (including photographs) was received from Rhona O'Byrne (24/02/17 and addendum received 06/03/17), owner of adjacent dwellinghouse, no.4 Green Road. The main points raised are generally repeated in the grounds of appeal, but for completeness they may be summarised as follows:

- Site notice not erected by 24/02/17 – application invalid.
- The roof erected is contrary to that permitted by the Board and is out of character.
- The roof design throws water against the wall of the observer's dwelling – consequential damage.
- Encroachment on observer's property by 95mm.
- Original downpipe and basket (iron) removed by the builder should be reinstated.

- Brickwork to observer's dwelling left exposed and unsealed when original dwelling demolished. This needs to be rectified before the build is completed.
- Damage caused to the observer's dwelling is currently subject to a civil action.
- The builder removed the roof on 23<sup>rd</sup> February, put up site notice on 24<sup>th</sup> and put on the new roof on 27/02/17, after the application was made, in breach of planning regulations.

## 4.0 Planning History

On site -

**PL06D.245159 / Reg.ref.D14A/0819:** Permission **GRANTED** by the Board (19/10/15), upholding the decision of the Planning Authority, for the demolition of existing house and sheds and erection of house with basement and all associated works. Condition no.3 required proposed southeast landing window to be fitted permanently with obscure / opaque glazing; and condition no.4 limited the height of the roadside boundary gate and pillar (2m and 2.1m respectively) and design of same, specified the finishes to Green Road and chimney. The standard surface water drainage Board condition was attached as condition no.2.

## 5.0 Policy Context

### 5.1. Development Plan

Zoning Objective – 'A' to protect and-or improve residential amenity.

S.8.2.3.4 Additional Accommodation in Existing Built-up Areas

(xiv) Demolition and Replacement Dwellings

### 5.2. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA Site Code 004024

South Dublin Bay SAC Site Code 000210

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main grounds of appeal may be summarised as follows:

- Encroachment or oversailing of appellant's property by the proposed development is not consented to and will not be consented due to the significant impacts resulting from same.
- The development removed the shared gutter and cast iron rainwater downpipe and iron hopperhead that existed between no.8 and now-demolished no.4. dwelling, without consent or agreement.
- The revised design which slope the roof towards the appellant's property without an effective parapet presents significant risk of water spilling into the gap between dwellings and the appellant's gable brick wall is already exhibiting dampness.
- The failure to restore the gutter between the two buildings means the appellant cannot access / maintain the hipped end of her roof without trespass onto the roof of no.4 and rainwater from no.8 now discharges directly to the gap between the two buildings exacerbating dampness.
- Significant damage (cracking) has occurred through no.8 resulting from 1 tonne excavator hitting the gable wall to no 8 during demolition.
- Permission should be withheld until the applicant supplies sufficient and compliant technical information to address the gutter issue.
- It has been demonstrated that the site notice was not erected in compliance with article 17 of the Regulations and the application is therefore invalid.

### 6.2. Applicant Response

None.

### 6.3. Planning Authority Response

None.

#### 6.4. **Observations**

None.

#### 6.5. **Further Responses**

None.

### 7.0 **Assessment**

The main issues arising under this appeal may be addressed under the following headings:

7.1 Impact on residential amenities

7.2 Other issues

7.3 Appropriate Assessment

7.1. Impact on residential amenities:

7.1.1. The principle of development of a replacement dwelling on this site was established under the previous Board decision PL06D.245159 / reg.ref.D14A/0819. The alteration to the roof slope is relatively minor and does not in of itself seriously injure the amenities of property in the area, or the streetscape context, and is consistent with the zoning objective for the area (objective A) *to protect and/or improve residential amenity.*

7.1.2. The main concern raised by the appellant concerns the impact of surface water runoff onto her property (no.8 Green Road), most particularly onto the unsealed gable wall of her dwelling which faces onto the development and which was exposed through the demolition of the original dwelling that had been attached to no.8. The issue arises from the slope of the subject revised roof being towards no.8, directing runoff thereto, and the design of the gutter and drains which also means the runoff from the roof to no.8 is directed into the gap between the two dwellings. The appellant submits that her gable wall is already exhibiting dampness.

7.1.3. The appellant submits that due to the applicant's failure to restore the original roof drainage, the appellant cannot access / maintain the hipped end of her roof without

trespass onto the roof of no.4. It is also alleged that significant damage (cracking) has occurred through no.8 resulting from 1 tonne excavator hitting its gable wall during demolition. Furthermore, the applicant submits that she does not consent to the encroachment or oversail of her property by the development.

- 7.1.4. These issues pertain to the detailed implementation of specific aspects of the development by the developer, comprising associated shared drainage system for surface water runoff between two neighbouring buildings and the sealing of the neighbouring after removal of a structure attached thereto, in addition to encroachment / oversailing of the neighbouring property, rather than the development per se. It would be expected that such issues would be resolved through the completion of the development. These are not issues that the Board can feasibly determine or adjudicate on, nor do they constitute grounds to refuse permission, but are more appropriately dealt with under civil law. In this regard, section 34(13) of the Planning and Development Act, 2000, as amended states:

*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*

7.2. Other issues:

- 7.2.1. The applicant submits that the application is invalid for the reason that the site notice was not erected in accordance with the requirements of Article 17 of the Planning and Development Regulations, 2001, as amended, but was erected on 24/02/17, seven days after the application was made.
- 7.2.2. It is a function of the Planning Authority, not the Board, to validate site notices and planning applications. The Planning Authority found the site notice in place on the day of inspection, 28/02/17, within the 5-week period (consistent with the advice of the Development Management Guidelines (2007)) and the application was deemed valid.

7.3. Appropriate Assessment:

- 7.3.1. Having regard to the small scale nature of the proposed development, comprising relatively minor alterations to a recently permitted dwellinghouse within a built up area, it is not considered that the proposed development would be likely to have a



significant effect, directly or indirectly, individually or in combination with other plans or projects on any European site. I consider no Appropriate Assessment issues to arise.

## 8.0 Recommendation

8.1. I recommend that permission be **GRANTED** subject to the conditions set out under section 10.0.

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development to be retained, comprising altered roof profile to the southern wing of a dwellinghouse, the proposed development to be retained and completed would not seriously injure the amenities of property in the vicinity and is consistent with the zoning objective 'A – to protect and/or improve residential amenity' and with proper planning and sustainable development of the area.

## 10.0 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.

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

2. (a) This decision to grant permission is in respect of the altered roof design to the southern wing of the dwelling only.

(b) The development shall otherwise be carried out in accordance with the terms and conditions of Planning Permission PL06D.245159 (reg.ref.D14A/0819).

Reason: In the interest of clarity.

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.

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John Desmond  
Senior Planning Inspector

11<sup>th</sup> August 2017