



An  
Bord  
Pleanála

## Inspector's Report PL.06D.248458

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<b>Development</b>	Demolition of an existing house and garden store and construction of a new house with all associated site works.
<b>Location</b>	Blooms Lodge, Sandycove Close, Sandycove, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire- Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D17A/0128
<b>Applicant</b>	Peter and Liz Miller.
<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>	Anne Enright & Martin Murphy.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	25 <sup>th</sup> July 2017.
<b>Inspector</b>	Dáire McDevitt.

## **1.0 Site Location and Description**

1.1 The appeal site is located in Dun Laoghaire, on the southern side of Sandycove Close, a narrow mews laneway off Sandycove Avenue West. The lane runs along the rear of the Victorian Terraces of Sandycove Road and Sandycove Avenue West. It is characterised by mews developments of varying styles, scales and heights, ranging from single storey garages to larger contemporary style two storey houses. There is a contemporary style dwelling at the junction of Sandycove Close with Sandycove Avenue West facing onto Sandycove Avenue West.

1.2 The existing house on site, Blooms Lodge, is a two storey house with a slated mansard roof facing onto the lane. No.36 Sandycove Close, attached to Blooms Lodge to the east, is a contemporary style replacement house under construction. No. 28, to the west, is a two storey house with first floor windows facing No. 1 Sandycove Avenue West (the appellant's house) which is located to the north of the lane with its rear and side boundary walls running along the laneway. The rear (southern) boundary of the site is a stone wall which bounds No. 37 Sandycove Road. There are no footpaths along Sandycove Close which is used by residents for parking. Blooms Lodge has vehicular access off this lane and onsite parking. The site has a stated area of c184sq.m.

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 an existing house with a gfa of c. 123sq.m and a c.10sq.m store.
- Construction of new contemporary style flat roofed two storey mews house (gfa of c. 166 sq.m) with a garage along the western section of the northern elevation accessed off Sandycove Close with the first floor level of the house extending over it.

- Proposed finishes and materials: white colour render finish to walls, zinc capping along the ridge to match window frames.

### **3.0 Planning Authority Decision**

Grant permission subject to 10 standard conditions. These included condition No. 2 *'The glazing within the south facing bedroom 1 and landing first floor window shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable'*.

### **3.1 Planning Authority Reports**

#### **3.2.1 Planning Report.**

The Planner's Report forms the basis for the Planning Authority's decision. It includes:

- Sandycove Architectural Conservation Area is located to the north of the site.
- It is noted that although collectively the main terrace of Sandycove Road is on the Record of Protected Structures, the rear mews structures have been redeveloped and/or modified significantly enough to result in any redevelopment proposals being of a 'neutral' impact upon the protected structures themselves and their associated curtilages
- First floor windows are angled, of obscured glass or at a high level and overlooking is not considered an issue.

#### **3.2.2 Other Technical Reports**

**Conservation Division.** The site is located within the Sandycove ACA. The Report concluded that the loss of the existing building would not erode the built character and architectural interest of the ACA. It is not considered to be of any architectural significance. The mews proposed to be constructed will benefit and enhance the ACA by ways of its contemporary architectural design which would add visual interest along the lane. The scale, height, massing of the

proposal is acceptable and the Conservation Division has no objection to the proposal.

**Transportation Planning.** No objection.

**Drainage Section.** No Objection.

### **3.3 Third Party Observations**

Four submissions were received by the Planning Authority. These included one by the current appellants and the issues raised are largely in line with the grounds of appeal and are dealt with in more detail in the relevant section of this Report. The submissions can be summarised as follows:

- The proposal would be visually obtrusive and would detract from the character and setting of adjoining Protected Structure and the ACA.
- The proposal would detract from the residential amenities of adjoining properties by reason of overlooking, overbearing appearance and overshadowing.
- Issue of non-compliance with planning permission on adjoining sites.
- No objection in principle, subject to the height of the single storey element to the rear being reduced by 1 metre and overall height of the remainder of the dwelling to be a maximum of 6.5 metres above the existing floor level.

- Impact of the first floor overhang on traffic movements and safety.
- Request a traffic management plan for the construction phase if permission is granted.
- The proposed house would be constructed right up to the boundary walls without the consent of adjoining landowners to access their site to facilitate construction works.

## 4.0 Planning History

There is no recent planning history for the site.

**An Bord Pleanála Ref. 92/122** refers to the parent permission for Blooms Lodge (file in archive).

**PA Reg. Ref. 98A/0536. ABP Ref. PL.06D.108361** refers to the permission for retention of the windows to the mansard roof (file in archive).

### **No. 36 Sandycove Close (currently under construction)**

**P.A Reg. Ref. D10A/0522. ABP Ref. PL.06D.238071.** Permission granted for the demolition of a single storey mews house and construction of a two storey contemporary style house.

### **No. 34 Sandycove Close**

**P.A. Reg. Ref. D13A/0529. ABP Ref. PL. 06D.242859.** Permission granted for revisions to design to previously permitted house under PL.06D.233134.

**P.A. Reg. Ref. D08A/1169. ABP Ref. PL. 06D.233134.** Permission granted for the demolition of a single storey garage and construction of a two storey dwelling.

## 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.*
- Sandycove Close bounds but is not located within the Sandycove Architectural Conservation Area.

**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 Sandycove Road.

Most of the houses along Sandyford Road and Sandyford Avenue West 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. 37 Sandycove Road (RPS No. 1277) in particular and the appellant's House, No. 1 Sandycove Avenue West (RPS No.1224).

### **Built Heritage**

**Section 8.2.11.2 (iii)** refers to development management standards for development within proximity to a Protected Structure and the requirement to protect its setting and amenity.

### **General Development Management Standards:**

**Section 8.2.3.4 (x)** refers to general development management standards for mews lane developments. This includes garden depth to be retained by the main house in the case of new development, mews developments should be subsidiary, etc

**Section 8.2.8.4 (i)** sets out the private open space requirements for new private houses. A figure of 48sq.m is acceptable for a 2 bed house in cases where good quality open space is provided.

**Section 8.2.8.4 (ii)** refers to separation distances between first floor opposing windows and the standard garden depth of 11 metres.

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

**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.

## **5.3 Natural Heritage Designations**

None of relevance.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

A third party appeal has been lodged by Anne Enright and Martin Murphy, No. 1 Sandycove Avenue West, Sandycove, Co. Dublin, a Protected Structure which bounds the northern side of the lane. The grounds of appeal can be summarised as follows:

- The development description is inadequate and misleading, there is no reference to the site being within the curtilage of No. 37 Sandycove Road, a Protected Structure.
- Planning History and undesirable precedent on adjoining sites. The permission for the mews house was 92/122 but there is no record of planning permission for the conservatory which does not comply with requirement for exempted development.
- Incorrect site area stated.
- Overlooking and overshadowing of neighbouring properties.
- Insufficient legal interest to complete the development as no access is permitted to adjoining properties to facilitate external works to the house.
- The Proposal would be visually obtrusive due to the context of the site and the inappropriate design, scale, height, massing, bulk and building line which would adversely affect the character of the adjoining protected structures, in particular No. 37 Sandycove Road and No. 1 Sandycove Avenue West and streetscape character of the adjacent ACA and would seriously injure the amenities of neighbouring residential properties.
- It would constitute a material contravention of the Development Plan.

## **6.2 Planning Authority Response**

The Board is referred to the previous Planner's Report as it is considered that the grounds of appeal do not raise any new matters which would justify a change of attitude towards the proposed development.

## **6.3 Applicants Response**

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

- The site is not located within the curtilage of a protected structure and it is not located within Sandycove Architectural Conservation Area.



- Proposal complies with the Development Plan and is of high architectural quality.
- The site is not visually prominent and would not have a detrimental impact on the adjoining ACA.
- The development is set back c.19m from the property to the rear, No. 37 Sandycove Road.
- The proposal would be set back c. 0.2m from the site boundaries which facilitates access for construction works.
- Photomontages included.
- The house to be demolished is of no architectural merit.
- The separation distances are acceptable as the structure is a replacement house and the use of high level, obscured or angled windows to address any outstanding issues.
- Proposal is for a 2 bed house with adequate open space and parking.
- Overshadowing is not an issue.

#### **6.4 Third Party Response to Applicants Response**

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

- The site is within the curtilage of a protected structure; therefore, the development description is invalid.
- No conservation report or heritage impact assessment has been carried out.
- Reiterate that the conservatory is unauthorised, therefore should not be included in the calculations for the existing floor area.
- The principle of a mews development being subsidiary to the main structure is ignored and does not comply with the requirements for mews as set out in the Development Plan. The scale and mass of the proposal

would be out of character with the other mews development along the lane.

- The 0.2m set back from the boundaries is insufficient to facilitate works to the structure and will result in substandard unfinished development which would detract from the character of the ACA.
- The methodology and quality of the photomontages submitted is questioned.
- The applicant's response regarding the design of the house is a personal opinion and has not addressed the issues raised in the appeal.
- The proposed development does not comply with the policies as set out in the Development Plan relating to ACAs.
- Insufficient private open space is provided.
- Overlooking and overshadowing of adjoining properties.
- The proposal by virtue of its proximity, excessive scale, height, massing, form and bulk, splayed and angled windows and elevations, would adversely impact on the character of protected structures and the curtilage and setting of such protected structures. It would materially contravene the development plan policies and objectives for conservation and heritage and would be contrary to the proper planning and sustainable development of the area.

## **6.5 Observations**

None.

## **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 & Design.**

7.1.1 It has been put forward by the appellant that the site is within the curtilage of a Protected Structure (No. 37 Sandycove Road, RPS Ref. No. 1277) which is part of a Victorian terrace, 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. 37 Sandycove Road included the application site and a structure along the lane. The proposed development does not include works to the boundary wall with No. 37 Sandycove Road which appears to be a later addition.

7.1.3 The Architectural Heritage Guidelines in Section 13.1.5 refers to the three considerations when determining curtilage as.

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

7.1.4 While I concur with the appellant that the site appears to have been originally part of a larger plot associated with No. 37 Sandycove Road, the application site is now physically separated from it and there are no intrinsic links between the site and this property which are in separate ownership. The location of a dwelling within what may be the former curtilage of a Protected Structure is established. In my view the siting of a replacement house within the site will not detract from the character and setting of the No. 37 or the adjoining protected structures. No works are proposed to a Protected Structure. Therefore there is no requirement for revised public notices.

7.1.3 Under PL. 06D.238071 and PL.06D.242859, the issue of the mews houses and curtilage of the original houses along Sandycove Road did not arise. These decisions by the Board did not reference the curtilage of houses along Sandycove Road.

- 7.1.4 The issue of design has also been raised by the appellants in the grounds of appeal. The proposal is considered to be visually incongruous and unacceptable in terms of design, scale, height, massing and materials which would detract from the character of the Architectural Conservation Area (ACA) and contravene the Development Plan policies for development within ACAs. I note that the site is not located within the Sandycove ACA as identified in the Development Plan, therefore, the relevant policies for ACAs do not apply.
- 7.1.7 The applicants have attempted to address the sensitivities and constraints of the site through the use of a contemporary design solution. There is a clear distinction between the Victorian terraces along Sandycove Road and Sandycove Avenue West and the newer mews developments along Sandycove Close. When viewed from the junction of Sandycove Close with Sandycove Avenue West the existing house, Blooms Lodge, is only partially visible and is integrated with the existing pattern of development in the area. It is my view that the visual impact of the new house on site will not be significantly different to the existing. I am satisfied that the proposed replacement house would not have a detrimental impact on the character of the streetscape along Sandycove Avenue West or have a negative impact on the overall setting of the adjoining Protected Structures.
- 7.1.8 I consider that the proposed replacement dwelling would be of an appropriate design idiom and scale, replacing an existing dwelling of little architectural merit on an urban site, and would enhance rather than detract from the amenities of the area. I am satisfied that the overall scale, massing, form, height and design of the dwelling is satisfactory in terms of protecting the character, setting and amenities of the adjoining Protected Structures, No. 1 Sandycove Avenue West and No. 37 Sandycove Road in particular. I am satisfied that the proposal complies with policy Section 8.2.11.2 (iii) of the Development Plan.

## **7.2 Residential Amenity**

- 7.2.1 The appellants have also raised concerns that the proposal would detract from the residential amenities of adjoining properties by reason of overlooking, loss of privacy and overshadowing in particular in relation to No. 1 Sandycove Avenue West and No. 37 Sandycove Road. Section 8.2.3.4 (x) of the Development Plan sets out the criteria for mews developments, including, separation distances between the existing (main) house and the mews house. The principle of a mews house is established on site. Section 8.2.8.4 (ii) also refers to the usual requirements for a minimum separation distances of 22 metres between opposing first floor windows.
- 7.2.2 The proposed southern elevation (rear) faces the rear of No. 37 Sandycove Road. I am satisfied overlooking from the first floor windows is not an issue as these are proposed to be angled, high level or of obscured glazing. There is an existing window, serving a bedroom, on the northern elevation at first floor level to Bloom Lodge facing the lane and a second one on the gable. I am satisfied that the windows proposed to the northern elevation of the replacement house do not give rise to new issues of overlooking and the use of obscured glazing to the angled window serving an en-suite can be dealt with by condition if the Board is of a mind to grant permission. I am also satisfied that direct overlooking of the private amenity space of No. 1 Sandycove Avenue West or No. 37 Sandycove Road is not a significant issue due to the nature of the windows proposed, the layout of the properties and their relationship to each other
- 7.2.4 The proposed replacement house would result in a minimal increase in ridge height which will not significantly impact on the degree of overshadowing currently experienced by adjoining properties and therefore will not have any additional negative impact on the residential amenities of same.
- 7.2.5 Having inspected the appeal site, No. 37 Sandycove Road, No. 1 Sandycove Avenue West and the surrounding area and having regard to the character and

pattern of development in the area, I consider that the development is acceptable in the context of the amenities of adjoining properties. The overall design and scale of the proposed replacement house has adequate regard to the existing pattern of development in the area and the residential amenities of existing dwellings, and, as such, would not result in an overbearing impact, overlooking, overshadowing or an unacceptable loss of privacy. The proposed development would not detract from the residential amenities of nearby properties.

7.2.6 The Proposal complies with the standards for private open space as set out in Section 8.2.8.4 of the Development Plan.

7.2.7 The appellants raised concerns that the site area submitted with the application is inaccurate and therefore the scale of the proposal on the site was not accurately assessed. In my opinion the drawings and dimensions which accompany the application appear to be substantially accurate and are considered acceptable.

### **7.3 Appropriate Assessment**

7.3.1 Having regard to nature and small scale of the development and the location of the site in a fully serviced built up 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

I recommend therefore that planning permission be granted subject to the conditions as set out below.

## 9.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed replacement dwelling and the provision of the Dun Laoghaire Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed dwelling would integrate in a satisfactory manner with the existing built development in the area, would not detract from the character or setting of nearby Protected Structures and would adequately protect the residential amenity of adjacent property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10. 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 in accordance with the agreed particulars.

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

2. The windows on the northern elevation at first floor level serving an ensuite shall be glazed with fixed pane obscure glass.

**Reason:** In the interest of residential amenity.

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of protecting the character of the area.

4. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling house without a prior grant of planning permission.

**Reason:** In the interest of residential amenity.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

6. Water supply and drainage arrangements, including the attenuation and 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.

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.



8. 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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Dáire McDevitt  
Planning Inspector

16th August 2017

