



An  
Bord  
Pleanála

## Inspector's Report 06D.248888

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<b>Development</b>	Demolition of house and construction of a new house
<b>Location</b>	25 Stradbroke Lawn, Blackrock, County Dublin
<b>Planning Authority</b>	Dún Laoghaire-Rathdown County Dublin
<b>Planning Authority Reg. Ref.</b>	D17A/0002
<b>Applicant(s)</b>	Aidan & Kate Hsu
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Michael Gilmartin
<b>Observer(s)</b>	Dermot Hogan
<b>Date of Site Inspection</b>	25 <sup>th</sup> September, 2017
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

1.1 'Brookville', Stradbroom Lawn, Blackrock, County Dublin is a gable-fronted, two-storey detached house at a cul-de-sac end accessed from Stradbroom Road. It is bounded to the east by a detached two-storey house and to the west by a recently constructed detached dormer dwelling. The established dwelling has parking space and garden within its curtilage to the front and an extensive back garden, with the site area comprising 0.11 hectares.

## **2.0 Proposed Development**

- 2.1. The proposed development would consist of the demolition of 'Brookville', a five bedroom, two-storey detached dwelling with a stated floor area of 206.6 square metres and the construction of a five bedroom, two-storey over basement detached dwelling with a stated floor area of 558.5 square metres.
- 2.2. Details submitted with the application included letters from occupiers of two dwellings at No. 46 Newtownpark Avenue that adjoins the site stating written approval in principle is being made to the proposal. Unsolicited information submitted to the planning authority after the making of the application included title details and a shadow study.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 30<sup>th</sup> June, 2017, Dún Laoghaire-Rathdown County Council decided to grant permission for the development subject to 9 conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted development plan provisions, the objection received, and interdepartmental reports made. It was considered the applicant had not provided justification for a replacement house. It was considered that a substantial two-storey

house could be accommodated without negatively impacting on adjoining residential properties, having regard to the size of the site, and that the proposal would not seriously injure residential amenities of neighbouring properties by way of visual intrusion, overlooking or overshadowing. The development was seen to be in keeping with the existing character of the area. A request for further information was recommended.

### 3.2.2. Other Technical Reports

The Waste Enforcement Officer recommended the attachment of conditions.

The Drainage Engineer had no objection subject to conditions.

The Transportation Planning Engineer had no objection to the proposal subject to conditions.

3.2.3 A request for further information, issued on 28<sup>th</sup> February, 2017, sought justification for the replacement proposal, revised proposals on the location of the basement relative to the boundary with the adjoining No. 24, and a construction waste management plan. A response to this request was received by the planning authority on 7<sup>th</sup> June, 2017. It was submitted that the demolition of the existing dwelling and its replacement was based upon the energy performance, structural/detailing soundness, and the appropriateness of accommodation that currently exists.

3.2.3 Following this submission, the Planner considered the response satisfactorily addressed the request made and recommended that permission be granted.

### 3.3. **Third Party Observations**

An objection to the proposal was received from Michael Gilmartin. The grounds of appeal reflect the principal planning concerns raised.

## 4.0 **Planning History**

I have no record of any previous planning application or appeal relating to the proposed site.

## 5.0 Policy Context

### 5.1. Dún Laoghaire-Rathdown County Development Plan 2016-2022

#### Zoning

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

#### Demolition and Replacement Dwellings

The Plan states that the planning authority will assess single replacement dwellings within an urban area on a case by case basis and may only permit such developments where the existing dwelling is beyond repair due to structural defects. For all applications relating to replacement dwellings, a strong justification / rationale is required to be provided by the applicant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant resides at No. 24 Stradbroke Lawn, Blackrock. The grounds of the appeal may be synthesised as follows:

- The scale of the development at 559 sq m will be some 2.5 times the size of the largest house in Stradbroke Lawn and is totally out of context.
- The proposal involves the demolition of a house only built in 1979 and in sound structural order. It is well capable of being upgraded as has happened in other cases in Stradbroke Lawn.
- The development will be totally at odds with the topography and character of Stradbroke Lawn and will have a detrimental impact on the streetscape and on property values.
- The basement, larger than most houses in Stradbroke Lawn, will include a bedroom and attached facilities with its own separate entrance. It may morph into some additional long term accommodation.

- The provision of the separate entrance will have a very negative effect on the appellant's residential amenity. The enclosure was never meant to be used as an access point. The applicant's existing side entrance is well capable of accommodating all traffic.
- The basement is a serious risk in terms of possible subsidence and resulting damage to the appellant's gable given proximity.
- No. 1 Stradbrook Lawn does not provide any precedent as it is not in keeping with the streetscape.
- The proposal will be seriously out of line with the existing mix of properties. The proposal will have an overbearing impact on neighbouring houses by reason of its bulk and massing.
- Reference is made to a recent decision of Dún Laoghaire-Rathdown County Council (P.A. Ref. D17A/0428) as an appropriate precedent to refuse permission.

## 6.2. Applicant Response

The applicant's response to the grounds of the appeal may be synthesised as follows:

- The Council's decision is more than justified given the area of the site that is capable of accommodating a larger dwelling. In addition, the increase in floor area will be mostly out of sight. A large house is not in itself a basis for refusal, especially in an area characterised by large detached houses. The proposal's scale is acceptable given its design, siting and context.
- No one else in Stradbrook Lawns or adjoining areas objected.
- The further information response to the planning authority set out the poor energy efficiency and structural condition of the existing dwelling and how these issues would be addressed by demolition and rebuilding in an energy efficient manner. The rationale for demolition and rebuild is based on a comparison of the existing and proposed dwellings in respect of achievable energy performance, structural soundness and the appropriateness of the accommodation that currently exists. A proposal to invest in the existing

dwelling cannot match what can be achieved by a new build which meets all current Building Regulation requirements.

- No. 1 Stradbroke Lawn is a precedent for demolition and rebuild.
- The development would contribute positively to the streetscape, an area characterised by a range of house types and architectural styles, and would not impact on the appellant's property value.
- As the basement has been relocated away from the appellant's house, it will not be visible or have any impact on his property. The pedestrian entrance and stairwell is a fire escape and is required under the Fire Regulations. There is no basis for the concern that the basement would be a separate accommodation unit. The construction of the basement is not a planning issue, it is a construction issue and will be constructed in accordance with Building Regulations.
- The applicants propose to use their own side passage to provide a side entrance access to the basement and their rear garden.

### **6.3. Planning Authority Response**

The planning authority considers the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

### **6.4. Observations**

Dermot Hogan, No. 44 Newtownpark Avenue, supports the appellant's objection on the grounds that the proposed house is far too large and that the proposed basement will lead to potential flooding.

Michael Barnwell and others submit that upgrading and modernising of 'Brookville' is more in keeping with 'green' and 'embedded energy' policies outlined by Government, the particular needs of the applicants are not justification for the proposed basement, the proposed basement is an unwelcome precedent in the estate, and is an intrusion on neighbouring properties. Concern is also raised about construction impacts and inadequate details on surface water drainage.

## 6.5 Further Responses

In response to the observations, the applicants detailed consultation undertaken with adjoining neighbours. It was submitted that the observations were from individuals in Stradbroom Lawn who will not experience undue impacts arising from the development.

Dermot Hogan concurred with the other observation made.

## 7.0 Assessment

### 7.1. Introduction

7.1.1 I consider that the principal planning issues relating to the proposed development are the demolition of the existing house to allow for a replacement dwelling, the impact of the proposed development on established residential amenity, and the design and character of the proposed development relative to the streetscape.

### 7.2. The Proposed Demolition of 'Brookville'

7.2.1 It is my submission to the Board that this is the most significant planning issue of relevance to the appeal. The demolition of existing houses and their replacement are guided by the provisions set out in the current Dún Laoghaire-Rathdown County Development Plan under Section 8.2.3.4(xiv). The relevant provisions when considering the current proposal are as follows:

*"The Planning Authority will assess single replacement dwellings within an urban area on a case by case basis and may only permit such developments where the existing dwelling is beyond repair due to structural defects. For all applications relating to replacement dwellings, a strong justification / rationale shall be provided by the applicant."*

7.2.2 Having regard to the above, if the dwelling to be replaced by another single house is not beyond repair due to structural defects, one should not be considering the demolition of 'Brookville'. Retention and reuse of this house is required to be encouraged over its replacement. This provision is evidently wholly compatible with the principles of sustainable development, the protection of functional housing stock,

and the avoidance of unnecessary removal of structures compatible with an established residential area.

- 7.2.3 It is evident from the details contained in the appeal file that the planning authority did not address this issue in any meaningful manner. The applicant's submission of further information did not determine that 'Brookville' is beyond repair. Clearly, there is much opportunity to upgrade the existing house, which itself is in habitable condition, is occupied, shows no visible form of structural defect, and is not in any way a 'condemned' structure unfit for habitable purposes.
- 7.2.4 It is entirely unsustainable to be pursuing the demolition of a sound, habitable dwelling based upon improved energy rating. If this was accepted as a ground for facilitating demolition of sound, habitable dwellings, I would suggest to the Board that the adverse consequences for residential development and for potential conflicts with form, design, character and patterns of development would potentially be expansive, unsustainable and very damaging to the orderly development of residential properties.
- 7.2.5 It is important to identify what the reports issued to the planning authority by way of further information did conclude. Some observations include the following:
- The submitted "Existing Building Energy Rating Advisory Report" outlines recommended measures to raise the energy performance of the existing building. These comprise appropriate advice containing practical improvement measures that are readily achievable, such as improved insulation, improved glazing and maintenance. The findings of this report does not support the demolition of the existing sound, habitable structure.
  - The findings of the "Dwelling Energy Comparison Report" indicate that the percentage improvement in energy use by upgrading the existing dwelling can be between 77% and 88% while there can be a 78% to 86% carbon dioxide emissions improvement by the upgrade over the existing dwelling. It is obvious that increased improvements can be made with a new build but this does not avoid the issue of the unsustainability of demolishing an established sound, habitable structure that is already in place and the associated disruption arising from its demolition, the loss of materials, energy loss from demolition, poor use of resources, etc.



- The submitted “Building Survey Report” states: “*The property was noted to be in reasonable structural condition with no significant structural defects noted to the exterior walls or roofs.*” Throughout this report a range of remedial works and improvements are suggested to improve the condition of the habitable structure. The recommended upgrades, repairs and alterations are clearly standard improvements that may be made out of choice and are not in any way out of direct and immediate necessity brought on by a dwelling beyond repair.
- The issue of ‘appropriateness of accommodation’ which the applicants rely upon as part of their argument for the demolition is purely a subjective matter, i.e. determining what they desire on this plot at this time. Evidently, someone’s appropriateness of accommodation is not the appropriateness of accommodation of someone else. Particular needs and preferences clearly vary and should not be a determining factor that supports the demolition of a sound, habitable and, ultimately, sustainable structure.

7.2.6 Having regard to the above, the proposed demolition of ‘Brookville’ could not reasonably be viewed as being compliant with the provisions of the current Dún Laoghaire-Rathdown County Development Plan. The unnecessary demolition of this sound, habitable structure, which can readily be upgraded by fairly common improvement works, would be wholly unsustainable. The applicants’ pursuit of a new dwelling on this plot is misplaced and should not be encouraged in the interest of sustainable development.

7.2.7 Finally, the ‘precedent’ set by the development of No. 1 Stradbrook Lawn is not relevant in the context of the current Development Plan for this area and the duty to have due regard to the provisions of this current Plan which expressly do not allow for the development of this proposal, i.e. the demolition of a sound, habitable dwelling that is not beyond repair and which clearly is suited to upgrading and improvement works.

### 7.3 Impact on Residential Amenity

7.3.1 The existing dwelling ‘Brookville’ is stated to have been constructed in the late 1970s and there is no information to suggest that this dwelling causes detrimental impact

on established residential amenity. The proposed replacement house brings with it serious concerns for residential amenity for the neighbouring appellant. It is clear that the sheer scale of the structure and the construction of a large basement as part of the development causes most concern because of the proximity to the appellant's house.

7.3.2 The proposed development would result in the demolition of a house some 206.6 square metres in area and its replacement by a house some 558.5 square metres in area, more than two and a half times greater in area than the established house. This is a very substantial replacement dwelling. While I note the site has an area of 0.1121 hectares, it must also be acknowledged that the house is to be replaced in the immediate vicinity of the existing dwelling, that the footprint of the development is significantly increased over that which exists, and that the basement component is a very substantial part of the overall development. Having regard to the confined nature of the location for the proposed development and its proximity to the appellant's property, I consider that it is understandable that the appellant would seek to address impacts on his established property at the planning stage to ensure protection of his amenities and the structural integrity of his house.

7.3.3 In terms of direct impacts on the residential amenities of adjoining property, I note that the eastern gable of the proposed development would be sited further from the flank boundary with the appellant's property than that which exists. I further note that the building height over ground level would not be significantly altered. I note also that the building line would be altered only marginally and that the overall footprint of the building would not be out of character with property immediately to the west of the site. Further to this, the design of the proposed house is acknowledged and it could not be seen to be out of character with established properties in terms of form and finishes. The layout and provision of fenestration is such that there would be no issues arising from overlooking. Due to its siting relative to adjoining properties and to its compatible form and character with other established structures, it could not be seen to have any overbearing impact on adjoining properties and, being generally reflective of the siting of the existing house, it would not introduce any substantial or increased level of overshadowing of neighbouring properties.

7.3.4 The appellant raises specific concerns about the scale and use of the proposed basement and access thereto. The prohibition of the use of the basement as

separate living accommodation can reasonably be controlled by imposing a suitable condition with any grant of planning permission. I must acknowledge also that the design shows the basement wholly integrated internally with the remainder of the structure overhead. I note the unsolicited information provided to the planning authority which refers to ownership of all of the lands comprising the site and there are no demonstrable concerns in terms of impact on residential amenity by the provision of pedestrian access at this location. I further note that the applicants revised the basement plan at the further information stage of the application, increasing the distance of this component of the development from the appellant's property. It is anticipated that this element of the proposal would follow conventional construction practices and I conclude that there should be no particular concerns for the structural integrity of the appellant's property when applying such construction measures overseen by a Structural Engineer or other suitably competent person. Furthermore, there is no evidence to suggest that particular flooding concerns would arise in light of the understanding of development in the immediate vicinity to the west that provided for basement level development in new residential property.

7.3.5 In conclusion, I consider that the proposed new house would not result in any significant adverse impact on the established amenities of the appellant's property.

#### 7.4 Impact on the Streetscape

7.4.1 'Brookville' presents itself as a structure that is compatible in form, design and character with the range of house types that prevail within its environs. This once again calls into question the merits of its proposed demolition when considering the sustainability of a residential estate.

7.4.2 Considering the proposed replacement house, I have referred to the scale, height, form and character of the new structure above. The proposed above ground development could not reasonably be viewed as being out of character with the pattern of development when viewed from the public realm, given its compatible height, bulk, massing and design when viewed from the public roadway. I do not consider the proposed dwelling would have any significant adverse impact on the visual amenities of the area or cause any known detrimental impact on the streetscape.

## 8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reason and considerations.

## 9.0 Reasons and Considerations

1. 'Brookville' is an established two-storey, detached house that comprises a structurally sound, habitable dwelling in good condition. It is a requirement of the current Dún Laoghaire-Rathdown County Development Plan that the planning authority assesses single replacement dwellings within an urban area on a case by case basis, that such replacement dwellings may only be permitted where the existing dwelling is beyond repair due to structural defects, and that a strong justification / rationale be provided by the applicant for such demolition and replacement. Having regard to the sound, habitable condition of the established house, the potential to extend, alter and upgrade the existing house, if required, to provide improvements to the available accommodation, and to the applicants' submitted Existing Building Energy Rating Advisory Report, Dwelling Energy Comparison Report, and Building Survey Report, which confirm the reasonable structural condition of the existing dwelling and the limited extent of remedial works and improvements required to enhance the living condition of the established dwelling, it is considered that the proposed demolition of 'Brookville' would be contrary to the provisions of the Dún Laoghaire-Rathdown County Development, would result in the unnecessary loss of good quality housing stock, and would, thus, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

2<sup>nd</sup> October 2017