



An
Bord
Pleanála

Inspector's Report PL06D.249330

Development	Demolition of conservatory to existing ground floor apartment; change of use of existing dental surgery to residential use; change of use of existing garage to dental surgery with a proposed new first floor and provision of 3 no. car parking spaces with access off laneway.
Location	30 Sandycove Road, Sandycove, Dun Laoghaire
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0630
Applicant(s)	Dr. B. and Dr. E. Bastible
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Dr. B. and Dr. E. Bastible
Observer(s)	No observers
Date of Site Inspection	14 th December 2017
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site is located at no. 30 Sandycove Road. It comprises a part 2 storey part 3 storey end of terrace building. There is an existing single storey extension and conservatory to the rear. There is a long narrow rear garden which currently accommodates two shed structures.
- 1.2. There is an existing laneway which runs parallel to the site along its western boundary which accesses onto Sandycove Road. The laneway entrance is narrow, approximately 3 metres in width. It provides vehicular access to the existing garage to the rear of no. 30, as well as to a number of other properties, including Buckley's Auctioneers. At the southern end of the laneway is the Sandycove Tennis and Squash Club.
- 1.3. The property currently accommodates a retail unit at ground floor with frontage to Sandycove Road. To the rear of the retail unit is a 2 bedroom apartment with a floor area of c. 80 sq. metres. At first floor level there is a 1 bedroom apartment with an area of c. 100 sq. metres and a dentist surgery with an area of c. 28.8 sq. metres. At second floor there is a further 1 bedroom apartment with an area of c. 34.6 sq. metres.
- 1.4. Development in the vicinity comprises residential properties. To the east and west are two storey dwellings. Parking is restricted on the southern side of Sandycove Road due to the presence of double yellow lines. On street parking is available on the northern side of the street.

2.0 Proposed Development

- 2.1. The proposed development comprises the following constituent elements:
 - Demolition of existing conservatory with a floor area of 25.8 sq. metres located to the rear of existing 2 bedroom ground floor apartment.
 - Change of use of existing dental surgery at first floor level with a floor area of 28.8 sq. metres to residential use and incorporating same into existing two bedroom first floor apartment. This will increase the area of this apartment from 100 sq. metres to 131 sq. metres.

- Change of use of existing garage/store at the rear of the site with a floor area of 39 sq. metres to dental surgery and construction of a new first floor extension above resulting in a dental surgery with a total floor area of 74.56 sq. metres. The new dental surgery will have an overall height of 5.5 metres, with a velux roof light to the south.
- Provision of 3 no. car parking spaces with access off existing laneway.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Refused permission for 1 reason:

“Having regard to the restricted and substandard nature of the existing vehicular access laneway onto Sandycove Road and the substandard visibility available for pedestrians of traffic existing onto Sandycove Road, it is considered that the proposed development would lead to significant intensification of use of the laneway and would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. It is also considered that the proposed development would set an undesirable precedent for similar type developments on nearby property and lead to further intensification of use of this substandard laneway. The proposed development would therefore be seriously injurious to public safety at this location by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Report (06.09.2017)

- The change of use of the existing dental surgery at first floor level to residential use is considered acceptable.
- With regard to the change of use of the existing garage/store at the rear of the site to dental surgery, it is not considered that the development would unduly detract from amenities.

- With regard to the proposed dental use at this location, it is considered that subject to restrictions on hours of operation, the use would not adversely impact on residential amenities.
- Given that the dental use on site is to more than double in size from the existing 28.8 sq. m. to 74.5 sq. m. with dedicated off street car parking proposed, it is considered that the proposed development would comprise a significant intensification of use of a substandard laneway.

3.2.2. Other Technical Reports

Drainage Planning (30.08.2017): No objection subject to condition.

Transportation Planning (23.08.2017): Recommends refusal on the basis that 1. The development would endanger public safety as a result of the substandard nature of the existing laneway and 2. The proposed development, by itself, or by the precedent that the grant of permission for it would allow for further future development and intensification use of a restricted laneway access onto Sandycove Road.

3.3. Prescribed Bodies

Irish Water (30.08.2017): No objection.

3.4. Third Party Observations

3.4.1 Two third party observations made. Key issues raised include:

- The additional first floor to the rear increases the bulk and massing of the existing garage to a 2 storey building. The extension and additional fenestration proposed will result in overlooking and overshadowing of adjacent properties to the east.
- The development will impact on the existing right of way onto the laneway.
- The proposed dentist surgery would result in an increase in noise, particularly from the additional parking proposed.
- The provision of 3 no. car parking spaces would endanger public safety by reason of a traffic hazard.

- The development of the existing rear private amenity space of 82 sq. metres to provide for 3 commercial parking spaces is inconsistent with the zoning objective. It will have a negative impact on the residential property to the east as it will remove the secure, private amenity space that currently adjoins this boundary. It will create a security and privacy risk. The existing garden should be retained.
- The amended residential unit will be provided with substandard and deficient amenity and service area.
- The development, including the removal of existing boundary wall to facilitate parking will have a negative impact on the character of the traditional laneway.
- The development will result in the over intensification of commercial use at the subject property.

4.0 Planning History

Planning Authority Reference D03A/0329

- 4.1 Permission granted for 2 off street car parking spaces to the rear of no. 30 with vehicular access onto side laneway leading to Sandycove Road.

Planning Authority Reference D16A/0780/Appeal Reference PL06D.247858

- 4.2 Permission was refused by the Board in April 2017 for a site located to the rear of 22-26 Sandycove Road. Access to the dwelling was from the laneway adjacent to the subject appeal site. Reasons for refusal related to the scale and height of the dwelling and impact on residential amenities. The second reason for refusal stated:

“Having regard to the restricted width and substandard nature of the existing vehicular access laneway onto Sandycove Road, which is the sole means of access to the subject site, and to the substandard visibility available for pedestrians of traffic exiting onto Sandycove Road from this laneway, it is considered that the proposed development would endanger public safety by reason of traffic hazard and would lead to intensification of this substandard laneway. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the 2016-2022 Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned objective A: *To Protect and/or Improve Residential Amenity.*

5.1.2 **Section 8.2.3.47: Additional Accommodation in Existing Built Up Areas (vi) Backland Development:** Whilst this section primarily relates to new residential backland development, it notes that adequate vehicular access of a lane width of 3.7 metres must be provided (3.1 m at pinch points) to allow easy access of vehicles such as fire tenders or refuse vehicles.

5.1.3 **Section 8.2.12.2: Medical Surgeries/Centres for Medical Practitioners:** It is stated:

“The Planning Authority will consider on their own merits, any applications for the establishment of small-scale medical practices, or the extension/ refurbishment of existing small-scale medical practices, in residential areas. Applications should involve professional medical (commercial) activities carried out by the resident of the building or, the premises should incorporate an otherwise occupied living unit. The living accommodation should comprise a minimum of circa 45% of the overall building floor area.

The operation of these premises shall not have negative impacts on the residential amenities of the surrounding area. Parking and access arrangements shall be as per the Transportation Section’s requirements, while parking areas shall not dominate the front curtilage of the property in contrast to adjoining dwellings, and shall be similarly landscaped. Medical practices in residential areas should normally be additions to the existing residential use of a dwelling and be subordinate to it in most cases.”

5.2. Natural Heritage Designations

5.2.1 The South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC is to the north west and Dalkey Island SPA to the south east. The Rockabill to Dalkey

Island SAC is to the east. All of these Natura 2000 sites are within 2 km of the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

- Reference made to the planning history of the site and the fact that 2 no. car parking spaces were previously approved on the subject site under Reg. Ref. 03A/0329. The width and standard of the laneway has been improved since this development was permitted.
- There will be no intensification of use as the building will remain in residential and dental surgery use. Whilst there will be an increase in the area of the surgery, there is no increase in the number of personnel working there.
- The floor area of the existing dentist surgery is inadequate and does not meet modern requirements. The proposed development is necessary to improve the existing facility and comply with relevant Health and Safety requirements. It will also facilitate disabled access.
- The proposed off street car parking is in lieu of what currently exists as there is one on site space in the existing garage and two further informal spaces at the end of the laneway. The development will improve parking on the laneway.
- Having regard to concerns regarding the construction phase of the development, it is considered that impacts can be appropriately managed by the implementation of a construction management plan. The laneway has previously be used as a construction access to the adjacent Tennis Club.
- The operational traffic associated with the development is likely to minimal and the premises can be serviced from Sandycove Road.
- The development will improve the aesthetic appearance of the laneway.
- A response to the issues raised in the third party observations at application stage is also provided. It is stated that the development will provide for the upgrade and enlargement of an existing residential apartment which is in accordance with the zoning objective.

- The area of amenity space serving the ground floor apartment is 36 sq. metres which is in excess of the Development Plan standard. The removal of the boundary wall to create the access to the parking area will not result in a security risk or loss of privacy as the adjacent property has its own secure boundary wall.
- The existing garage has a two storey height at the ridge point. The existing right of way is retained. There will be no increase in the bulk or massing of the building. No overlooking will occur as windows are sited above eye level. Due to the orientation of the development, no loss of light will occur.

6.2. Planning Authority Response

- The existing dental surgery is indicated at 28.8 sq. m. and includes one surgery and one waiting room. There is presently no on-site parking provision. The proposed new dental surgery is indicated at 74.5 sq. m. and includes a waiting room plus two surgery rooms as well as a nursery room and an accounts room. There is also parking spaces for two cars now proposed on site. This is considered to comprise a significant intensification of use on what the Council's Transportation Section considers to be a substandard laneway in terms of width and visibility lines at its junction with Sandycove Road. It is considered that the development would result in traffic congestion/traffic hazard at this location and would set a precedent for further development on other sites with access onto this lane.

6.3. Observations

- No observations.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development.

- Access and Parking.
- Impact on Residential Amenity.
- Appropriate Assessment.

7.2. Principle of Development

- 7.2.1 The proposed development comprises a number of elements. Within the existing dwelling house, it is proposed to change the use of the existing dentist surgery currently located at first floor level to residential use and to incorporate this space into the existing apartment. This will result in the creation of an enlarged residential apartment with a floor area of c. 131 sq. metres. I have no objection to the principle of this change of use. It will improve the amenity of the existing apartment and restore residential use as the primary function of the existing dwelling.
- 7.2.2 The second element of the development comprises the change of use of the existing garage/store to a dentist surgery and a first floor extension to create a surgery with an overall area of c. 75 sq. metres. Given the established dentist use at this location, I consider the proposed change of use and extension to be reasonable. The existing surgery within the dwelling has a very small area of c. 28 sq. metres and I note the applicants submissions that an enlarged practice is required in order to comply with various health and safety regulatory requirements.
- 7.2.3 It is noted that the Planning Authority will consider on their own merits, any applications for the extension and refurbishment of small scale medical practices under section 8.2.12.2 of the County Plan. The Planning Authority Planner's Report stated that the proposed dental use would not adversely impact on residential amenities at this location. The scale of the facility is relatively limited and will be subordinate to the main residential use of the dwelling.
- 7.2.4 I am satisfied, therefore, having regard to the fact that a dentist surgery has been insitu at this location for a number of years and that the scale of the proposed facility is relatively modest, that the development is unlikely to have any material adverse impacts on the amenities of the area and is acceptable in principle. I do not consider the development to constitute a significant intensification of use and note that only 2 no. surgery rooms are proposed.

7.3 Access and Parking

- 7.3.1 The development also provides for the demolition of part of the rear garden wall that fronts onto the laneway and creation of an access into the rear garden where 3 new car parking spaces are proposed. The new dental surgery will be accessed from this new parking courtyard. It is contended by the applicant that there will be no material change in car parking provision as the existing garage on the site currently accommodates 1 no. car parking space, and a further 2 no. informal spaces are located at the end of the laneway.
- 7.3.2 The provision of these additional car parking spaces raises two issues. Firstly the loss of rear amenity space serving the existing dwelling and secondly potential traffic impacts.
- 7.3.3 Concerns were raised by third parties during the application stage that the additional car parking would result in the loss of some of the rear garden associated with no. 30. It is stated by the applicant, that the remaining area of private open space to the rear of the property will be 36.3 sq. metres which is more than sufficient to serve the existing ground floor apartment. It is noted that the remaining apartments at first and second floor currently have no access to the rear amenity space, and the proposed development will not alter the status quo.
- 7.3.4 It is also detailed by the applicant that the principle of two additional spaces to the rear of the property was previously established by the decision of Dun Laoghaire Rathdown County Council to permit 2 additional spaces under planning application reference D03A/0329. Whilst this historic permission is noted, regard should also be had to the more recent decision by the Board to refuse permission for a development on an adjoining site which accessed onto the subject laneway on the basis that the laneway was considered substandard and that the development would result in a traffic hazard.
- 7.3.5 With regard to the loss of the rear garden area and its replacement with the new parking area, I would have concerns regarding this proposal from a residential amenity perspective. Notwithstanding the fact that a 2 bed apartment only requires 7 sq. metres of private open space under the current quantitative standards set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, it is noted that this is an existing dwelling that at some time

has been subdivided into multiple residential units and the rear garden forms an integral part of the curtilage of the structure. The erosion of the private open space area and paving over of the rear garden for an additional 3 car parking spaces would have a negative impact on the amenity, setting and character of the property and would set an undesirable precedent.

7.3.6 Permission was refused by the Planning Authority on the basis that the development would result in a significant intensification of use of the laneway and that having regard to the substandard width of the laneway that this would endanger public safety by reason of a traffic hazard. It is evident that the subject laneway is substandard due to the width of the entrance onto Sandycove Road and narrow alignment. Whilst it argued by the applicant that 2 spaces exist at the end of the laneway, these are not formalised and have no legal status. The development however, does accommodate an existing garage and it is evident that this can accommodate 1 no. car parking space.

7.3.7 Having regard to the impact of 3 no spaces on the rear amenity area of no. 30 and the potential intensification of traffic movements associated with 3 no. car parking spaces, it is considered that such a proposal would be contrary to the proper planning and sustainable development of the area. However, as the development already accommodates 1 no. car parking space, it is not considered unreasonable that 1 space should be facilitated in the development. I am satisfied that 1 replacement car parking space can be accommodated without causing an adverse traffic impact or an inappropriate intensification of use.

7.3.8 In this regard, I would recommend the imposition of a condition requiring a revised layout plan to be submitted for the agreement of the planning authority to provide for the omission of 2 no. car parking spaces and their replacement with an enlarged rear amenity area. I am satisfied that such a condition would ensure the protection of the existing residential amenities of the subject property and adjacent residences whilst ensuring that the existing level of parking within the site is retained.

7.3.9 With regard to impacts during the construction phase, there is potential for the development to cause obstruction and congestion. It is considered however, that such impacts are likely to be short term and can be managed through the

implementation of a construction management and traffic plan. This can be addressed by condition.

7.3.10 With regard to operational traffic, it is noted that the site already accommodates a dentist practice. Whilst the proposal will enlarge the facility, it remains at a modest level with 2 surgery rooms. Patient parking can be facilitated through the on street spaces on Sandycove Road. Servicing to a facility of this scale is likely to be minimal and again can be facilitated from Sandycove Road.

7.4 Impact on Residential Amenity

7.4.1 Concerns were raised during the planning application by adjoining residents regarding the impact of the development. It is considered that potential concerns regarding noise intrusion, loss of privacy and security can be addressed by the imposition of the condition noted above which would require a significant reduction in the proposed car parking area to 1 no. space.

7.4.2 In terms of potential overshadowing and overlooking, it is noted that the existing shed has a height of c. 5.6 metres. The proposed surgery structure will have a height of 5.1 metres, and whilst the roof profile will be altered, it is not considered that there will be a material difference in terms of the scale and bulk of the building. In terms of fenestration, there are no windows on the eastern elevation of the building, with the exception of a roof light which serves a bathroom. The northern elevation comprises extensive glazing. Opaque glazing however, is proposed up to 1.8 metres above floor level. I am satisfied, therefore, that the development will not cause undue overshadowing or overlooking and that the development will have no material adverse impacts on the residential amenities of the area.

7.4.3 It is also noted that the proposed dentist surgery will replace a shed/garage structure. It will provide for enhance surveillance of the laneway through additional activity and improve the visual amenities of the area.

7.5 Appropriate Assessment

7.5.1 Having regard to the nature and scale of the proposed development, relating to the change of use and extension to an existing house within an established urban area, and the distance to the nearest European site, 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

- 8.1. It is recommended that permission be granted subject to conditions for the reasons and consideration set out below.

9.0 Reasons and Considerations

- 9.1 Having regard to the established uses on the site and the design and scale of the proposed dental surgery, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would be in accordance with the 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. 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 proposed development shall be amended as follows:
 - (a) The proposed car parking layout should be revised to provide a maximum of 1 no car parking space. 2 no. car parking spaces are to be omitted.
 - (b) The remaining space to be incorporated into the rear amenity space serving no. 30 Sandycove Road.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed building to the rear shall be restricted to dental surgery (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of residential amenity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing a landscape plan for the rear amenity and car parking area serving no. 30 Sandycove Road indicating–

(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species.

(ii) Hard landscaping works, specifying surfacing materials and finished levels.

(iii) Details of boundary treatment to adjacent laneway.

(b) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed dental surgery shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

6. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 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 adjoining property in the vicinity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
This plan shall provide details of intended construction practice for the development, including hours of working; noise management measures; off-site disposal of construction/demolition waste; details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

Reason: In the interests of public safety and residential amenity.

8. 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

9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

10. 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.

Erika Casey

Senior Planning Inspector

19th December 2017