



An  
Bord  
Pleanála

## Inspector's Report 06D.249383

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<b>Development</b>	Demolition of a bungalow and construction of a new house
<b>Location</b>	Sandycove East Lane, Sandycove, County Dublin
<b>Planning Authority</b>	Dún Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D17A/0539
<b>Applicant(s)</b>	Pascal Boret & Catherine Keogh
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	William & Jeanne Delaney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> January, 2018
<b>Inspector</b>	Kevin Moore

## 1.0 Site Location and Description

- 1.1. The site of the proposed development is located in Sandycove Avenue East, Sandycove, County Dublin. There is a single-storey dwelling, “The Bungalow”, of contemporary design on the site with a deep front garden and shallow back garden. It is set back from the public road, which is a small cul-de-sac of housing units of differing designs. The house to the west of the site, “Carraig na Mara”, is the appellants’ property and is a two-storey house. A dwelling, “The Boathouse”, is located forward of this house. There is a pair of two-storey, semi-detached houses to the east. Terraced houses in Neptune Terrace lie to the south.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise the demolition of the existing bungalow with a stated gross floor area of 106 square metres and the construction of a four bedroom, three-storey, flat-roofed house of contemporary design. Daily living space would be at first floor level, with bedrooms at ground and second floor levels. The development would include a first floor balcony to the rear and garden access stairs from first floor level. The stated gross floor area of the new house would be 280 square metres on a site area of 0.0537 hectares. The proposed vehicular entrance to the site would be shared with a proposed permitted dwelling to the front granted under Planning Permission P.A. Ref. D14A/0600.
- 2.2. The proposed house would be located one metre from its eastern and western site boundaries and some 13 metres from its southern (rear) boundary. The proposal would be sited just over six metres from the rear site boundary of the recently permitted house to the front.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 14<sup>th</sup> September 2017, Dún Laoghaire-Rathdown County Council decided to grant permission for the development subject to 14 conditions.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

The Planner noted observations made, the site's planning history, development plan provisions, and interdepartmental reports received. It was considered that the proposed demolition and replacement would enhance the streetscape, being an attractive and innovative design approach. It was submitted that the applicant was required to provide a strong justification for the demolition and replacement in accordance with development plan requirements. The proposal was seen not to have a negative effect on residential amenity and was considered acceptable for the site and context. Clarity on access to the site was also considered necessary.

### 3.2.2. Other Technical Reports

The Transportation Planning Engineer requested further information relating to the proposed shared vehicular entrance and the relocation of an existing telephone pole. The Drainage Engineer had no objection to the proposal subject to conditions.

## 3.3. **Third Party Observations**

Objections to the proposal were received from Storme Delaney and Jeanne and William Delaney. The grounds of the appeal reflect the concerns raised.

3.4 A request for further information was issued on 3<sup>rd</sup> August 2017 seeking details on access and a justification for the demolition and replacement. A response to the request was received on 22<sup>nd</sup> August 2017.

A second submission was made by Jeanne and William Delaney in response to the submission.

Following the receipt of the further information, the Transportation Planning Engineer and Planner recommended that permission be granted subject to conditions.

## 4.0 Planning History

### ABP Ref. PL 06D.230547

Permission was granted by the Board for alterations and extension to the existing bungalow, including an additional storey with balconies on the north and south facades.

### P.A. Ref. D13A/0547

Outline permission was refused by the planning authority for the development of a two-storey mews in the front garden.

### P.A. Ref. D14A/0600

Permission was granted by the planning authority for the development of a two-storey mews house to the front of the existing house and alterations to the existing house by the removal of part of the existing protruding frontage.

## 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 appellants reside at “Carraig na Mara”, immediately to the west of the proposed site. The grounds of appeal may be summarised as follows:

- In a covering letter with the appeal, the appellants express serious concerns relating to proximity of the proposed development to their house, overdevelopment, adverse construction impacts, loss of natural light, and devaluation of their property.
- The submission to the planning authority is requested to be taken into account. This raises issues relating to impact on residential amenity arising from overlooking and loss of privacy, noise, loss of daylight and overshadowing, non-compliance with development plan provisions, drainage concerns, and structural impacts of the development. It also referenced the inextricable links of the proposed development with the permitted development to the front of the existing bungalow.

### 6.2. Applicant Response

The applicants’ response to the appeal may be summarised as follows:

- The overall length of the replacement dwelling will be shorter than the existing dwelling on the site and the replacement dwelling will be further from the shared boundary with the appellants’ property than the appellants’ house.
- A right of way will be provided and details have been submitted.
- The proposal will not result in overdevelopment, with site coverage appropriate for the residentially zoned lands.
- The proposed house will be c. 16m from the rear of the permitted new house to the front, longer than the existing separation distance. The terrace on the rear elevation has been designed to ensure no overlooking of neighbouring properties occurs. Furthermore, there are no windows on the west elevation of the proposed house that would overlook the adjoining property. The roof area will be for maintenance access only.

- The proposal will have no undue impact in terms of noise and the music room will be designed to ensure sounds are not audible at adjacent properties.
- With regard to overshadowing, the appellants' house is closer to the shared boundary than the proposed house. The bathroom gable windows in the appellants' house are not serving habitable rooms and the existing bedroom has another window on another elevation, providing ample daylight to this room. It is also submitted that the footprint of the replacement dwelling will be very similar to the existing dwelling.
- The proposal complies with all relevant provisions of the development plan.
- The drainage arrangements will not interfere with any drainage arrangements of adjoining properties.
- With regard to structural issues, the dwelling will be constructed to the highest standard, ensuring no undue impact on any adjoining properties.
- The development is compliant with *Sustainable Residential Development in Urban Areas* and the *Urban Design Manual*.

### 6.3. Planning Authority Response

The planning authority considered that the grounds of appeal do not raise any new matter that would justify a change of attitude to the proposal.

## 7.0 Assessment

### 7.1. Introduction

7.1.1 I consider that the principal planning issue relating to the proposed development requiring assessment is the impact of the proposed house on residential amenity, both in terms of the impact on the appellants' property and the permitted house to the front of the appeal site. A second issue relates to the principle of the demolition of the existing house and its replacement.

## 7.2. Impact on Residential Amenity

7.2.1 I first note that permission was granted by the Board in 2009 for alterations and extensions to 'The Bungalow', including an additional storey and balconies to the front and rear facades under Appeal Ref. PL 06D.230547. This clearly established a precedent for extending the existing house and accommodating a two-storey dwelling on the overall property, having regard to the prevailing conditions at that time (i.e. prior to any proposal for a house to the front). Further to this, I note that the planning authority granted permission in November 2014 for a two-storey, two bedroom mews house to the front of 'The Bungalow' under P.A. Ref. D14A/0600. Having regard to this planning history, it is necessary, in considering the proposed development, to consider the impact of the proposed development on the permitted dwelling to front of 'The Bungalow', as well as on the appellants' property in order to adequately assess impact on residential amenity.

7.2.2 With regard to the permitted house to the front of the proposed house, I note that the permitted plans provide for fixed external louvres to bedroom windows at first floor level on its southern elevation to eliminate visibility to the south (at that time in the direction of 'The Bungalow'). This permitted house would have been sited 15.68 metres from the front elevation of 'The Bungalow', which itself would have been altered by the removal of part of the existing house to the front. The permitted house would have a rear garden depth of 9.974m, leaving the front elevation of 'The Bungalow' 5.706m from the rear boundary of the permitted mews site. The proposed development now before the Board would be sited such that the front elevation of the new house would be approximately 15.2m from the rear elevation of the permitted house to the front and some 8.0m directly behind the rear site boundary of the permitted house. The Board will note that 'The Bungalow' is a single storey dwelling and the proposed replacement dwelling is three stories in height. The proposed dwelling would include the daily habitable accommodation at first floor level, with windows on the front elevation serving the kitchen and the TV room. Above this, at second floor level and set back from the floors below by approximately 4.5m, would be the master bedroom, with a large window in the front elevation. It is my submission to the Board that the siting of a three-storey house just over 15 metres directly behind a permitted two-storey house with overlooking windows, and just over 8.0 metres from the back garden of the permitted house and overlooking same,

would be extremely intrusive and wholly unsustainable, and would cause significant adverse overlooking problems, making the occupancy of the permitted dwelling intolerable due to the constant intrusion on privacy. The residential amenity of the permitted dwelling would be irrevocably altered in a severe manner.

7.2.3 With regard to impact on the appellants' property, I first note that the height and scale of the development proposed is significantly greater than 'The Bungalow'. The development would have a wider footprint, bringing the larger dwelling closer to the site boundaries, albeit by just over 0.5 metres. The building height, however, would compare favourably with the adjoining properties, with the proposal being sited between two-storey dwellings. I acknowledge that there would be no gable windows on the western elevation of the proposed house and I note that openings, balconies and external access from levels over ground level would be developed on the front and rear elevations. I further acknowledge the layout and orientation of the proposed development relative to adjoining properties. Having regard to these observations, I submit to the Board that the proposed development, while increased in scale and height, would not cause any significant overbearing impact on the adjoining property of Carraig na Mara, would result in no significant overlooking of neighbouring back gardens flanking or behind the site that is otherwise commonplace for urban dwellings, and would cause no significant increase in overshadowing of neighbouring dwellings. Furthermore, I do not consider that the siting of the music room would cause any particular concerns for the amenities of neighbours, where there are no openings on the gable elevation at this location and where standards are met in terms of building construction requirements. I, thus, conclude that the proposed development would not have a significant adverse effect on the amenities of the adjoining property of Carraig na Mara.

### 7.3. The Principle of Demolition and Replacement

7.3.1 In accordance with the current Dún Laoghaire-Rathdown County Development Plan, the planning authority may only permit demolition of a dwelling and its replacement 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 an applicant. The existing house on the appeal site is



evidently habitable, is occupied, and is not beyond repair/upgrade due to any definable structural defects. Furthermore, the applicants have not provided any reasonable justification for the demolition and replacement. What was submitted to the planning authority, by way of further information, was an Energy Statement Report, as well as Building Energy Rating details. I suggest to the Board that it is entirely unsustainable to be pursuing the demolition of a sound, habitable dwelling based upon some improved energy rating. If the dwelling to be replaced by another single house is not beyond repair due to unsustainable structural defects, one should not be considering the demolition of the existing bungalow in accordance with the obligations set out in the Plan. Retention, reuse and extension of the existing house is required to be encouraged over its replacement. The Plan 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.

7.3.2 Notwithstanding my opinion on this issue, I acknowledge the Board's recent decision under Appeal Ref. PL 06D.248888 relating to the demolition and replacement of a dwelling in the Dún Laoghaire-Rathdown administrative area. The Board granted permission for that proposed development, concluding that sufficient justification and rationale were demonstrated by the applicant in that case in terms of compliance with Section 8.2.3.4 (xiv) of the Dun Laoghaire Rathdown County Development Plan, particularly in respect of energy performance.

## **8.0 Recommendation**

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

## **9.0 Reasons and Considerations**

1. The proposed development, by reason of its scale, height, orientation and proximity to the permitted dwelling granted by the planning authority under Planning Authority Reference D14A/0600, would seriously injure the amenities of that permitted dwelling by virtue of overlooking and loss of

privacy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. 'The Bungalow' is an established single-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, to the limited extent of remedial works and improvements required to enhance the living condition of the established dwelling, and to the potential to extend, alter and upgrade the existing house, if required, to provide improvements to the available accommodation, it is considered that the proposed demolition of 'The Bungalow' 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

15<sup>th</sup> January 2018