



An  
Bord  
Pleanála

## Inspector's Report ABP-300302-17

<b>Development</b>	Permission is sought for demolition of existing garage / shed and construction of a new two storey building. The ground floor will accommodate a new shed and vehicle garage. New 2 bedroom apartment with outdoor roof terrace at 1st floor level.
<b>Location</b>	Rear of 88, Carysfort Avenue, Blackrock, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown Co. Co.
<b>Planning Authority Reg. Ref.</b>	D17A/0788
<b>Applicant(s)</b>	Richard and Tara Cooke
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	To Grant Permission subject to conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Dermot and Carmel Egan Joe and Margaret Behan
<b>Observer(s)</b>	Richard and Anna Butler
<b>Date of Site Inspection</b>	6 <sup>th</sup> March 2018
<b>Inspector</b>	Erika Casey

## 1.0 Site Location and Description

- 1.1. The subject site has an area of 0.0107 ha and is located to the rear of an existing dwelling house – no. 88 Carysfort Avenue. The site currently accommodates a single storey garage with a corrugated metal roof which serves the existing house. The garage has a rear access onto a laneway which exits onto Brookfield Avenue. The laneway has a width of c. 4 metres.
- 1.2. To the west of the site is the existing rear garden of the dwelling house. To the north, is the Blackrock Business Park. To the south, are a number of two storey light industrial/commercial buildings. Further to the east, is the laneway and no. 10 Brookfield Avenue, a two storey dwelling with rear garden. The general character of the area is suburban with a mix of residential and light industrial/commercial uses.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing garage/shed to the rear of no. 88 and the construction of a new 2 storey flat roofed building with rooflights. The building will accommodate a car parking garage and shed at ground floor and a new 2 bedroom apartment with a floor area of 83 sq. metres at second floor level. An outdoor terrace of 10 sq. metres is proposed at first floor level to serve the apartment.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1 To Grant Permission subject to conditions. Conditions of note include:

**Condition 2:** *The east facing first floor windows serving the proposed double bedroom shall be fitted with timber louvres for the full extent of the window.*

*Reason: In the interest of residential amenities to the east.*

## 3.2. Planning Authority Reports

### 3.2.1. Planning Report (27.10.2017)

- The principle of a residential use at this location has been established. It is also noted that residential development is identified as being open for consideration within Zoning Objective E. Therefore, it is considered that the provision of a residential unit at this location would not jeopardise the primary use of the zone for employment creation.
- Having regard to the scale, height and massing of the proposed building, it is considered that the proposal will not impact negatively on the residential amenity of no. 88 Carysfort Avenue and properties to the west by reasons of overbearing, overshadowing or overlooking and is, therefore, considered acceptable.
- The proposal will provide a high level of visual interest and is considered to be of a scale and design which will sit comfortably within the streetscape.

### 3.2.2. Other Technical Reports

**Drainage Planning (17.10.2017):** No objection subject to condition regarding SuDS.

**Transportation Planning (11.10.2017):** No objection subject to conditions regarding provision of off street parking and construction management.

## 3.3. Prescribed Bodies

**Irish Water (18.10.2017):** No objection.

## 3.4. Third Party Observations

3.4.1 2 no. third party observations were made. The issues raised can be summarised as follows:

- The development will give rise to overlooking and overshadowing and impact negatively on the amenities of adjacent residential and business premises.
- Concerns regarding increased traffic volumes on the existing laneway.
- Construction stage impacts.

## 4.0 Planning History

4.1 There have been a number of previous planning applications relating to the site which are summarised below:

### **Planning Authority Reference D06A/0672**

Permission granted in June 2006 for the change of use of gym/playroom granted planning permission under planning register reference D03B/0611 to a two bedroom mews dwelling including alterations to window configuration and replacement of skylights and dormer windows on the west elevation at rear garden.

### **Planning Authority Reference D04B/0016**

Planning permission granted in March 2004 for extensions and alterations to the rear of the existing dwelling.

### **Planning Authority Reference D03B/0611**

Permission granted in October 2003 to demolish existing double garage and construct a double garage with storage and a gym/playroom on first floor including ancillary works at rear garden.

### **Planning Authority Reference D99A/0123/Appeal Reference PL06D.111276**

Permission refused by An Bord Pleanála in November 1999 for a 2 storey dwelling to the rear. The reasons for refusal related to the size and scale of the development which was considered out of character with the surrounding area and would seriously injure the amenities of adjoining residential properties by reason of overlooking. The development was considered overdevelopment of a restricted site.

### **Planning Authority Reference D98A/0701**

Permission refused in October 1998 for a two storey dwelling to the rear.

## 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. The subject site is zoned Objective E: *'To provide for*

*economic development and employment*'. Residential use is open for consideration under this zoning objective. The main dwelling house – no. 88 is located in an area zoned Objective A: *'To protect and/or improve residential amenity'*.

5.1.2 Relevant policies and objectives include:

**Section 8.2.3.4 (vii) Infill:** *"New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings."*

**Section 2.1.3.4 Existing Housing Stock Densification:** *"Encourage densification of the existing suburbs in order to help retain population levels - by 'infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc."*

*In older residential suburbs, infill will be encouraged while still protecting the character of these areas."*

**Section 8.2.3.3 Apartment Development:** Sets out relevant design standards for apartment development.

**Section 8.2.3.4 Additional Accommodation in Existing Built Up Areas (vi)**

**Backland Development:** Sets out standards regarding open space, separation distances and vehicular access.

**Section 8.2.3.4 Additional Accommodation in Existing Built Up Areas (x) Mews**

**Lane Development:** States that where the Planning Authority accepts the principle of residential development on a particular laneway, the following standards will generally apply:

- *Development will be confined to single units in one or two storeys of modest size and the separation distance between the rear facade of the existing main structure (onto the front road) and the rear mews structure should normally be a minimum of 20 metres and not less than 15 metres, or not less than 22 metres where first floor windows of habitable rooms directly face each other.*
- *Dwellings and boundary walls may be required to reflect the scale, height, materials and finish of existing walls and buildings.*

- *All parking provision in mews laneways should be in off-street garages, integral garages (car ports), forecourts or courtyards, and conditions to ‘de-exempt’ garage conversions will normally be attached. At least one off-street parking space per dwelling will generally be required.*
- *Where dwellings are permitted on both sides of a lane, habitable room windows must be set out to minimise direct overlooking of each other where less than 9 metres apart.*
- *Vehicular entrance widths shall be a minimum but sufficient to provide for proper vehicular turning movements allowing for laneway width and for pedestrian visibility. Minimum lane width requirements are: Up to 6 dwellings: Adequate vehicular access of a lane width of circa 3.7 metres must be provided to the proposed dwellings - 3.1m at pinch points - to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.*

## **5.2. Natural Heritage Designations**

5.2.1 The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC located c. 0.6 km to the north east of the site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1 2 no. appeals submitted by Dermot and Carmel Egan and Joe and Margaret Behan. The issues raised overlap and can be summarised as follows:

- Concern that the development would overlook adjacent commercial and residential properties. Consider that the outdoor terrace would overlook adjacent offices and that the fenestration serving the proposed first floor apartment would overlook the rear garden of no. 10 Brookfield Avenue, impacting negatively on privacy.
- Consider that the development is overbearing, will give rise to overshadowing due to its scale and height and will have a negative impact on the visual amenities of the area.

- The development will result in increased traffic on an already congested and restricted laneway which will give rise to potential conflicts with adjacent business and residential properties.
- Potential impacts during the construction phase in terms of demolition impacts, construction noise and impacts to the surface treatment of the laneway.
- Consider that the development is contrary to the guidance set out in the development plan. It is considered that the laneway has a surface that is in poor condition and the development with three parking spaces will exacerbate this.
- Concerns regarding Japanese Knotwood growing at the end of the laneway.

## 6.2. Applicant Response

- With regard to potential overlooking to the offices to the south, no windows face towards this property. The outdoor terraced will be surrounded on all external boundaries by a wall with a height of 3.5 metres to prevent any overlooking.
- The design of the development incorporates vertical timber louvres which restrict the views from the proposed bedrooms and prevents overlooking of the houses on Brookfield Avenue. In urban areas a certain amount of overlooking is unavoidable. However, the design will minimise opportunities. There is already overlooking of the rear garden of no. 10 from the business park to the west, houses on Brookfield Avenue and adjoining offices.
- The development will provide additional passive surveillance of the laneway, increasing local security.
- Given its orientation and height, the proposed development will not reduce natural light to the office space.
- The design of the building is 2 storeys with a flat roof to minimise its visual impact.
- The development site currently accommodates 3 parking spaces. There will, therefore, be no intensification of traffic on the laneway. The continued use of the laneway does not constitute a traffic hazard.

- The main contractor will carry all risks insurance and undertake that any damage caused to surrounding properties will be repaired. A condition survey of adjoining properties will be carried out prior to the commencement.
- There is no intention to oversail or encroach on adjoining properties. The project has been designed with a flat roof and parapet eliminating the need for any soffit or fascia details which would have the potential to oversail the adjoining property. Concerns regarding noise impacts, surface treatment of laneway etc. are adequately addressed by way of condition.

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

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

### 6.4. **Observations**

6.4.1 1 no. observation by Richard and Anna Butler, 12 Brookfield Avenue.

- Concerns regarding overlooking.
- The additional 3 no. car parking spaces will exacerbate existing congestion and result in a traffic hazard.
- Height of development is excessive and will cause overshadowing.

## 7.0 **Assessment**

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

- Principle of Development.
- Impact on Residential Amenity.
- Access.



- Appropriate Assessment.

## 7.1. Principle of Development

- 7.1.1 The proposed development comprises an infill residential apartment to the rear of an existing dwelling house. Separate vehicular access to the apartment will be provided via an existing rear laneway from Brookfield Avenue. 3 off street parking spaces are proposed at ground floor level, 2 of which will serve the existing dwelling and 1 the apartment. The development meets the relevant qualitative and quantitative standards set out for apartment developments in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2015.
- 7.1.2 The principle of residential development on the subject site has previously been established. Under Planning Application Reference D06A/0672 permission was granted for a 2 storey mews dwelling with two off street parking spaces.
- 7.1.3 The site is zoned Objective E *To provide for economic development and employment*. Having regard to the location of the site within the curtilage of an existing dwelling house which is zoned Objective A: *To protect and/or improve residential amenity*, the development of such an infill apartment is considered acceptable. Such development is also consistent with the guidance set out in the Development Plan regarding densification of existing suburban areas and infill development. It is considered that the development will make effective use of a currently underutilised brownfield site.
- 7.1.4 Concerns have been raised by one of the appellants that the development does not accord with the guidance set out in the County Plan regarding mews development. I consider that the development is generally consistent with the relevant qualitative and quantitative standards for such development set out in the plan.
- 7.1.5 Whilst the development will accommodate 3 parking spaces, it is noted that the site is currently used as a garage with the capacity to accommodate vehicles. The previous development permitted on the site accommodated 2 no. car parking spaces. I do not consider that the development would give rise to such significant traffic volumes that it would detrimentally damage the existing laneway surface. In this regard, I am satisfied that the laneway is adequately serviced and surfaced to cater for the expected traffic volumes associated with the development.

## **7.2 Impact on Residential Amenity**

7.2.1 The principal concerns raised by the appellants and observer relate to potential overlooking and also in relation to the scale of the development which they consider will have an overbearing and overshadowing impact and a detrimental impact on the visual amenities of the area.

### **Overlooking**

7.2.2 The proposed development comprises a two storey, flat roofed structure with a maximum height of 6.4 metres. The principle fenestration is located on the eastern elevation fronting the existing laneway. This serves the proposed double and twin bedrooms. Vertical timber louvres are proposed in front of the majority of the fenestration to limit potential views to the east and in particular to the rear garden of no. 10 Brookfield Avenue. A condition was imposed by the Planning Authority requiring the east facing first floor windows to be fitted with timber louvres for the full extent of the window. This condition has not been appealed by the applicant.

7.2.3 I am satisfied that the proposed louvered screens over the entire extent of the first floor fenestration will limit overlooking opportunities, particularly to those properties to the east. I acknowledge that in tight urban areas a balance need to be achieved between appropriate intensification and infill development on serviced brownfield sites whilst protecting the amenities of adjacent properties. I consider that this has been realised in this instance and with the imposition of an appropriate condition regarding the continuation of the louvres across the windows in their entirety, I am satisfied that the development will not give rise to significant overlooking. It is also noted that the fenestration serves bedroom accommodation as opposed to the living areas of the apartments which will further limit overlooking.

7.2.4 With regard to the outdoor terrace, this is located at first floor level to the south of the building. It has an area of 10 sq. metres and will be surrounded by a wall 3.5 metres in height which will prohibit any potential overlooking to the south.

### **Visual Impact**

7.2.5 Concerns are also raised regarding the scale and design of the development and that it will have an overbearing impact. I consider that the scale of the development is generally modest. It is a two storey structure with a limited height which accords with the adjacent structures to the south. The height of development is consistent

with that previously permitted on the site which extended to 6.36 metres. The proposed flat roofed design assists in its assimilation within the existing site context. A contemporary palette of materials are proposed including rubble stone wall, timber garage doors, cladding and louvres and render finish. The dwelling will be set back over 25 metres from the rear façade of no. 88 and a generous rear garden is retained.

7.2.6 I am satisfied that having regard to the footprint, height, scale and design of the development that it does not result in the over development of the site. It is an appropriate infill development that will have no material overbearing impacts or negative visual impact.

### **Other issues**

7.2.7 It is noted that a number of concerns have been raised regarding potential impacts during the construction phase. It is considered that these matters can be addressed by way of appropriate condition.

7.2.8 The appellant's concerns regarding the removal of Japanese Knotweed are noted. It appears however, that the planting is bamboo.

### **7.3 Access**

7.3.1 It is stated that the development will give rise to an unacceptable intensification of traffic on the laneway and thus cause a traffic hazard. As noted above, the site currently accommodates a garage which has the capacity to accommodate 3 no. vehicles. The entrance to the proposed car parking area at ground floor is set back by 2.2 metres to assist in the manoeuvring of cars into and out of the proposed spaces. It is noted that the Traffic Department of Dun Laoghaire Rathdown raised no objections to the proposed development. The proposed laneway serving the development has a width in excess of 3.7 metres, the minimum set out in the Development Plan as being appropriate to serve a development of this nature.

7.3.2 I am satisfied having regard to the established use on the site as a garage, that the proposed development will not give rise to an unacceptable level of intensification of traffic on the laneway and that the development will not cause a traffic hazard.

## 7.4 **Appropriate Assessment**

7.4.1 Having regard to the nature and scale of the proposed development, a residential infill development on serviced land 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 considerations set out below.

## 9.0 **Reasons and Considerations**

Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016 to 2022, the planning history of the site and to the nature, and scale of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, or give rise to a traffic hazard. The proposed development would, therefore, 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 windows at first floor level on the eastern elevation shall be fitted with timber louvres for the full extent of the window.

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

3. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority. Any proposed render finish shall be self-finish in a suitable colour and shall not require painting.

**Reason:** In the interests of orderly development and the visual amenities of the area.

4. The car parking spaces shall be kept free from obstruction at all times for the use by the occupier of the apartment and main dwelling and shall not thereafter be used for any other purpose other than for the parking of vehicles.

**Reason:** To ensure the provision of adequate off-street parking and traffic safety.

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

**Reason:** In the interest of public health.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 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 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 and off-site disposal of construction/demolition waste.

**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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall be erected on the within the rear garden area, without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the dwelling.

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.

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**Erika Casey**  
**Senior Planning Inspector**

**6th March 2018**