



An  
Bord  
Pleanála

## Inspector's Report ABP-302721-18

### Development

Demolition of single storey bay window and replacement with an enlarged single storey bay window and porch to the front and the part demolition and replacement of a single storey extension including an additional 5 sqm to the rear.

### Location

19A Sydney Avenue, Blackrock, Co. Dublin.

### Planning Authority

Dún Laoghaire Rathdown County Council

### Planning Authority Reg. Ref.

D18A/0716

### Applicant(s)

Maurethe & Peter McGovern

### Type of Application

Permission

### Planning Authority Decision

Grant subject to conditions

### Type of Appeal

Third Party v. Decision

### Appellant(s)

Jerry & Emelda Collins

### Observer(s)

None.

**Date of Site Inspection**

21<sup>st</sup> December, 2018

**Inspector**

Robert Speer

## 1.0 Site Location and Description

The proposed development site is located in an established residential area in the outer suburb / village of Blackrock, approximately 200m south-southwest of the Frascati Shopping Centre, where it occupies a position along the northern side of Sydney Avenue opposite its junction with Green Road. The immediate site surrounds are generally characterised by mature established housing which predominantly consists of a combination of detached, semi-detached and terraced period properties of varying design, although there are several examples of more contemporary developments in the wider area. In this respect it is notable that the surrounding area retains an attractive quality and is of considerable interest from a built heritage perspective. The site itself has a stated site area of 0.022 hectares, is rectangular in shape, and presently comprises a narrow, elongated plot of land occupied by a two-storey (plus attic) 'infill' dwelling house (which has been extended substantially to the rear in recent years) with a red-brick, front-gabled elevation. This house is a relatively recent addition to the streetscape when compared to neighbouring properties in that it would appear to date from the late-Victorian period (c. 1900). To the immediate southeast, the site adjoins a terrace of 4 No. two-bay, two-storey-over-basement / lower ground floor, brick-faced, mid-19<sup>th</sup> Century dwelling houses constructed in the classical 'Georgian' style with a simple roof level parapet to the front of same. The property to the northwest of the site comprises a notable three-bay, single storey-over-basement / lower ground floor, classical 'villa'-type residence known as 'Sydney Lodge' which predates the existing dwelling house on site.

## 2.0 Proposed Development

2.1. The proposed development involves the following:

- The demolition of an existing single-storey, ground floor, bay window to the front of the property and its replacement with a contemporarily-designed single storey extension incorporating an enlarged bay window and an enclosed porch feature that will extend across the full width of the front facade with associated elevational alterations.

- The partial demolition of an existing single storey extension to the rear of the property and the replacement of same with a new single storey extension that will also provide for an additional 5m<sup>2</sup> of floor area.
- Associated site development works, including the provision of a new front terrace area with 1.6m high privacy screening.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On 12<sup>th</sup> September, 2018 the Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 6 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars.

Condition No. 2 – Clarifies the extent of the proposed demolition works.

Condition No. 3 – Requires the dwelling house to be used as a single residential unit and prohibits its subdivision into two or more separate habitable units.

Condition No. 4 – Requires all external finishes to harmonise with the existing dwelling unless otherwise stated.

Condition No. 5 – Refers to the surface water drainage arrangements.

Condition No. 6 – Refers to the maintenance and repair of the public road during the construction works.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports:

States that the proposed development will not have an adverse impact on the residential amenity of adjacent properties by reason of overlooking, overshadowing or an overbearing appearance and that there is no objection to same from a built heritage perspective. The report subsequently states that the proposed works will enhance the aesthetics of the building line and will improve its appearance when

viewed from the public realm before finally recommending a grant of permission, subject to conditions.

3.2.2. Other Technical Reports:

*Drainage Planning (Municipal Services Department):* No objection, subject to conditions.

*Conservation Officer:* Notes that the subject building is located within the Sydney Parade Candidate Architectural Conservation Area (as included in the County Development Plan, 2016-2022) and subsequently states that whilst the property is set within a row of protected structures, it is of little or no architectural significance in its own right. The report proceeds to conclude that the proposed works are not considered to visually detract or result in any adverse impact on the cACA and thus there is no objection to the proposal from a built heritage perspective.

*Transportation Planning:* No objection, subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A total of 2 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- The proposed development will have an undue impact on the character and setting of adjacent properties which have been designated as protected structures.
- The proposal to build forward of the established building line will diminish the current distinction between the subject site and adjacent buildings / protected structures.
- There are continuing difficulties as regards previous development works carried out on site, with particular reference to the integrity of a boundary wall.
- Concerns with regard to the impact of the proposal on the residential amenity of adjacent properties.
- Inadequate private open space provision to the rear of the property.

## 4.0 Planning History

### 4.1. On Site:

PA Ref. No. D01B/0749. Was granted on 18<sup>th</sup> February, 2002 permitting Peter McGovern permission for renovations & alterations to 2 storey dwelling, including demolition of single storey kitchen and bathroom, construction of a new 2 storey extension and an additional floor within a new roof, all to the rear.

## 5.0 Policy Context

### 5.1. National and Regional Policy

- 5.1.1. The '*Architectural Heritage Protection, Guidelines for Planning Authorities, 2004*' provide detailed guidance in respect of the provisions and operation of Part IV of the Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing applications for development which may affect architectural conservation areas and protected structures.

### 5.2. Development Plan

5.2.1. **Dún Laoghaire Rathdown County Development Plan, 2016-2022:**

Land Use Zoning:

The proposed development site is located in an area zoned as 'A' with the stated land use zoning objective '*To protect and-or improve residential amenity*'.

Other Relevant Sections / Policies:

*Chapter 6: Built Heritage Strategy:*

*Section 6.1: Archaeological and Architectural Heritage:*

*Section 6.1.3: Architectural Heritage:*

*Policy AR5: Buildings of Heritage Interest:*

It is Council policy to:

- I. Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of a streetscape in preference to their demolition and redevelopment and to preserve surviving shop and pub fronts of special historical or architectural interest including signage and associated features.
- II. Identify buildings of vernacular significance with a view to assessing them for inclusion in the Record of Protected Structures.

*Policy AR8: Nineteenth and Twentieth Century Buildings, Estates and Features:*

It is Council policy to:

- I. Encourage the appropriate development of exemplar nineteenth and twentieth century buildings and estates to ensure their character is not compromised.
- II. Encourage the retention of features that contribute to the character of exemplar nineteenth and twentieth century buildings and estates such as roofscapes, boundary treatments and other features considered worthy of retention.

*Section 6.1.4: Architectural Conservation Areas (ACA):*

*Policy AR16: Candidate Architectural Conservation Areas (cACA):*

It is Council policy to assess candidate Architectural Conservation Areas (cACA) to determine if they meet the requirements and criteria for re-designation as Architectural Conservation Areas.

*Policy AR17: Development within a cACA:*

It is Council policy that development proposals within a candidate Architectural Conservation Area will be assessed having regard to the impact on the character of the area in which it is to be placed.

*Chapter 8: Principles of Development:*

*Section 8.2: Development Management:*

*Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas (i) Extensions to Dwellings:*

First floor rear extensions will be considered on their merits, noting that they can often have potential for negative impacts on the amenities of adjacent properties, and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions the following factors will be considered:

- Overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries.
- Remaining rear private open space, its orientation and usability.
- Degree of set-back from mutual side boundaries

Roof alterations / expansions to main roof profiles - changing the hip-end roof of a semi-detached house to a gable / 'A' frame end or 'half-hip' for example – will be assessed against a number of criteria including:

- Careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.
- Existing roof variations on the streetscape.
- Distance/contrast/visibility of proposed roof end.
- Harmony with the rest of the structure, adjacent structures and prominence.

Dormer extensions to roofs will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions shall be set back from the eaves, gables and/or party boundaries.

The proposed quality of materials/finishes for dormers will be considered carefully as this can greatly improve their appearance. The level and type of glazing within a dormer structure should have regard to existing window treatments and fenestration



of the dwelling. Particular care will be taken in evaluating large, visually dominant dormer window structures, with a balance sought between quality residential amenity and the privacy of adjacent properties. Excessive overlooking of adjacent properties should be avoided unless support by the neighbours affected can be demonstrated.

More innovative design responses will be encouraged, particularly within sites where there may be difficulty adhering to the above guidance and where objectives of habitability and energy conservation are at stake.

Section 8.2.11: *Archaeological and Architectural Heritage:*

Section 8.2.11.3: *Architectural Conservation Areas*

*N.B.* The proposed development site is located within the *Sydney Avenue Candidate Architectural Conservation Area*.

### 5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 600m northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 600m northeast of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 3000), approximately 6.2km east of the site.
- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 6.3km southeast of the site.
- The North Dublin Bay Special Area of Conservation (Site Code: 000206), approximately 5.6km north-northeast of the site.
- The North Bull Island Special Protection Area (Site Code: 004006), approximately 5.6km north-northeast of the site.

*N.B.* This list is not intended to be exhaustive as there are a number of other Natura 2000 sites in excess of the aforementioned distances yet within a 15km radius of the application site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Having regard to the site context, with particular reference to its siting between two protected structures within a candidate Architectural Conservation Area, and noting the potential wider cumulative impact of the proposal which provides for an incremental change in the built environment to both the front and rear of the existing dwelling house, it is considered that the proposed development will adversely impact on the special interest of the appellants' property at No. 21 Sydney Avenue ('Sydney Lodge') which has been designated as a protected structure. In this regard, it is submitted that 'Sydney Lodge' is one of the oldest houses along Sydney Avenue and long pre-dates the subject property (i.e. No. 19A Sydney Avenue). Moreover, it was originally constructed as a 'stand-alone' villa and continues to present as an accomplished work of the late Georgian-era of early 19<sup>th</sup> Century Blackrock. In contrast to the foregoing, the subject building is a relatively late addition to the streetscape and was clearly conceived of as an adjunct to 'Sydney Lodge'. It was originally a more modest property, however, it was subsequently expanded considerably on foot of the grant of permission issued under PA Ref. No. D018/0749 with the result that it now dominates 'Sydney Lodge' and severely impacts on the setting of that protected structure.
- The front of 'Sydney Lodge' presently retains much of its original character as a stand-alone villa, which is part of its special interest in terms of built heritage, whilst No. 19A Sydney Avenue (i.e. the subject site) does not impinge on its setting to any great extent as the newer house is set back behind the front building line of the earlier houses to either side (*N.B.* A later 19<sup>th</sup> Century addition to the other side of 'Sydney Lodge' has been substantially set back behind the front building line so as to be visually subordinate to the original house). However, the proposed glazed extension to the front of the subject building would serve to erode the character of 'Sydney Lodge' by aligning the front facade of No. 19A Sydney Avenue with the appellants' property to a height in excess of 3.4m. Due to the significant scale of the proposed glazed structure, the uppermost part of which will be

within 1.6m of the top of the roof parapet of 'Sydney Lodge', the difference in floor levels between the respective properties, the prominence of the proposed metal-clad roof design, and notwithstanding that the new development is to occur at ground floor level only, the impact of the proposal on the character of 'Sydney Lodge' will be disproportionately negative. In particular, 'Sydney Lodge' would no longer retain its appearance as a separate villa and would be visually subsumed into a terraced unit with the subject site. In effect, the proposed development would give rise to a 'terracing' effect between the subject site and the adjacent properties which would significantly alter the setting of those protected structures.

- The perspective sketch provided with the application does not give a full picture of the relationship of the proposed development with adjacent properties.
- The construction works associated with the proposed development, including the excavation & formation of foundations and the weather-proofing of the new construction at its intersection with adjacent buildings, could potentially result in damage to the adjoining protected structures (i.e. Nos. 19 & 21 Sydney Avenue).
- Insufficient information has been provided as regards the proposed construction works and in this respect the Board is advised that the appellants' property was adversely affected by an ingress of moisture in the period following the previous extension of the subject dwelling house. It would be appropriate to seek the submission of a construction methodology given the juxtaposition with adjacent protected structures.
- The appellants have not consented to any works which would affect the fabric of their property.
- The proposed fencing alongside the boundary walls shared with the adjacent properties, which will enclose the front terrace area, exceeds the maximum height permitted by exempted development at such a location. Accordingly, the fencing should have been referenced in the description of the proposed development set out in the public notices.

- Having regard to the sensitivity of the site location within a Candidate Architectural Conservation Area and adjacent to protected structures, the proposed development would have an adverse impact on the special interest of 'Sydney Lodge' and would, therefore, conflict with the provisions of the *'Architectural Heritage Protection, Guidelines for Planning Authorities'*.
- Inadequate consideration has been given to the relevant policy provisions of the County Development Plan, including the requirement to provide information in relation to the design of proposals affecting protected structures. It is further considered that the submitted details fall short of the applicable requirements.
- The conditions imposed by the Planning Authority do not attempt to adjust the proposed development in any significant way, save for Condition No. 5(a) which requires a method of drainage that may be outside the ability of the applicants to deliver insofar as the rear extension does not have the benefit of any adjacent garden area suitable for the disposal of surface water.
- The subject proposal would amount to an overdevelopment of the application site in the context of the protection of the special interest of adjacent protected structures and thus would conflict with the policy provisions of the County Development Plan.
- In the event that the Board decides to grant permission for those works to the front of the house, it is requested to reduce the size of the proposed extension by setting it back 900mm so that existing house remains visually subservient to 'Sydney Lodge' with the latter retaining some of its character as a standalone villa. Furthermore, a requirement should be imposed for the agreement of a construction methodology which should include details of how the integrity of the fabric of 'Sydney Lodge' will be assured. In addition, the inclusion of Condition No. 5(a) should be critically examined given its potential to give rise to problems on site.

## 6.2. Applicant's Response

- The subject proposal amounts to a carefully considered and thoughtfully designed minor extension of the applicants' property.

- Contrary to the appellants' assertions, the Planner's Report states that the proposed works are not considered '*to visually detract or result in any adverse impacts on the cACA (candidate Architectural Conservation Area)*' and further notes that '*The Conservation Division has no built heritage objections*'. In addition, the Planning Authority has concluded that the works will '*enhance the aesthetics of the building and improve its presentation when viewed from the public realm*'.
- With regard to the substantial grounds of appeal which concern the notion of the visual separation of 'Sydney Lodge' from the terrace to which it has been entirely attached for over 100 No. years, it is useful to note that the historic mapping provided by the appellants clearly demonstrates that 'Sydney Lodge' has been fully attached to the extended terrace of Sydney Avenue since at least 1913.
- It is apparent from the submitted details that the visual separation of No. 21 Sydney Avenue is most prevalently legible at the upper floor level where the red brick gable of the subject dwelling house is set back from the adjoining properties. Moreover, a comparison of the existing and proposed construction clearly demonstrates that as the upper red brick portion of the dwelling house is to be retained, the perceived separation of the buildings in the terrace will be maintained whilst the impact on the adjoining properties will be negligible.
- The photograph detailed in Figure 14 clearly shows how the party wall construction of 1913 overlaps the upper parapet with 'Sydney Lodge' and that as the upper portion of the red brick gable is retained, the overall setting remains unchanged.
- Given the single storey nature of the construction, and as there is no alteration proposed to the line of the upper red brick gable, the interrelationships between the buildings will be retained and thus there will be no change to the 'visually subservient' character of No. 19A Sydney Avenue (i.e. the subject site).
- Due to the substantial trees and foliage situated along the boundary perimeter of 'Sydney Lodge', both the proposed front extension and the applicants'

property will be almost entirely enveloped to such an extent as not to be visible from most vantage points along the streetscape.

- The Planning and Development Regulations, 2001, as amended, do not require the submission of construction methodologies as part of a planning application and, therefore, no such methodology was provided with the subject application.
- The proposed development works have been designed by a competent and long-standing architectural practice which has engaged consulting engineers with specific expertise in works to protected structures in order to advise on the structural design, construction methodology, and sequencing of the works. In this respect the Board is referred to the accompanying report compiled by CORA Consulting Engineers which outlines a methodology and form of construction which minimises the risk of damage to adjoining structures.
- The height of the privacy fencing is entirely incidental to the proposed development, being only 400mm above that which would be permissible by way of exempted development. For this reason, it is suggested that it was unnecessary to expressly refer to the fencing in the site notice.
- Given that the appellants are fully aware of the details of the proposal, including the height of the fence, it is submitted that the site notice has adequately described the works.
- The appellants have failed to mention the significant tree planting to a height of c. 3m within their property alongside the shared site boundary for a distance of approximately 27m. Indeed, one of these trees is so overgrown that it is undermining the stability of the boundary wall. Furthermore, the trees in question also have the effect of blocking all direct sunlight into the garden and living space of the applicants' property after midday.
- The overall height of the proposed privacy fencing, being significantly lower than the existing trees, will have no negative impact on the appellants' property as the dwelling house has its living quarters at a 'Piano Nobile' upper floor.

- The projecting bay window of 'Sydney Lodge' faces directly into the front of the application site and, therefore, some level of screening would be desirable for both parties.
- The suggestion that the Planning Authority did not adequately consider the provisions of the '*Architectural Heritage Protection, Guidelines for Planning Authorities*' is rejected.
- The accompanying report prepared by CORA Consulting Engineers details how surface water drainage will be addressed within the site boundary whilst the applicants are committed to meeting the requirements of the Planning Authority in this regard.
- The subject proposal is of a high quality and sensitive design which has addressed all concerns pertaining to design, height, size and architectural setting.
- The development to the rear of the site does not require the demolition of the boundary wall and will have a limited, if any, impact on the appellants. A description of this aspect of the works is included in the accompanying engineering report. Furthermore, the boundary wall in question was constructed as an integral part of the previous grant of permission on site and is entirely within the applicants' ownership. In addition, it should be noted that the extension permitted under PA Ref. No. D01B/0749 was agreed with the appellants and their agent who was instrumental in the design and massing of the construction.
- The Planning Authority has correctly determined that the proposed works will improve the existing urban context and will not negatively impact on the cACA or adjacent protected structures.

### 6.3. Planning Authority's Response

- States 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**

None.

#### 6.5. **Further Responses**

None.

### 7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the grounds of appeal are:

- Overall design and layout / impact on built heritage considerations
- Appropriate assessment
- Environmental impact assessment (screening)
- Other issues

These are assessed as follows:

#### 7.2. **Overall Design and Layout / Impact on Built Heritage Considerations:**

7.2.1. The proposed development site is located within the Sydney Avenue Candidate Architectural Conservation Area as identified in the County Development Plan where it occupies an infill position between two protected structures, namely, No. 19 Sydney Avenue (RPS No. 279) to the southeast and No. 21 Sydney Avenue ('Sydney Lodge') (RPS No. 264) to the northwest, by reference to their inclusion in the Record of Protected Structures contained in Appendix 4 of the Development Plan. Accordingly, in view of the foregoing, it is necessary to examine the impact, if any, of the various aspects of the wider development proposal on built heritage considerations.

7.2.2. With regard to the works proposed to the rear of the existing dwelling house on site, it is of relevance in the first instance to note that the subject property was substantially redeveloped in recent years pursuant to the grant of permission issued in respect of PA Ref. No. D01B/0749 and that this included for the construction of a



new partial single / two-storey extension to the rear of the main residence. Notably, the completion of these works would appear to have been reliant on a 'land-swap' between the applicants and the owners of the neighbouring property to the northwest given that the building line of the former (since demolished) ground floor rear extension projected further northwest beyond its current position to encapsulate the easternmost rear corner of 'Sydney Lodge'.

7.2.3. The subject proposal effectively seeks permission to further extend the ground floor of the contemporary return to the rear of the property in order to achieve a single uniform rear building line, although the submitted drawings indicate that this will actually also involve the associated demolition of the existing single storey rear extension(s) in order to allow for the completion of a new roof construction incorporating an amended rooflight detail. In this respect it is clear that the aforementioned works will not be visible from within the public realm and thus I am satisfied that they will not detract from the wider appreciation or built heritage interest of the Sydney Avenue Candidate Architectural Conservation Area. Indeed, this aspect of the proposed development will not be overtly visible from within the confines of the adjacent protected structure to the immediate northwest (i.e. Sydney Lodge') as it will not exceed the height of the existing intervening construction / boundary wall (the latter of which is to be retained). Furthermore, whilst the new construction will extend above the existing boundary wall shared with No. 19 Sydney Avenue (which is also a protected structure) by 675mm for a distance of approximately 2m, in my opinion, given limited scale and extent of the works, the impact of same on the character and setting of that protected structure will be minor and does not give rise to any built heritage considerations.

7.2.4. By way of further comment, I would also advise the Board that the existing boundary treatment to be retained between the subject site and 'Sydney Lodge' would not appear to be original to either of the properties and was seemingly constructed as part of the development approved under PA Ref. No. D01B/0749. Accordingly, any repair works to this wall arising from the demolition of the existing single storey extension will not directly impact on any features of built heritage significance.

7.2.5. Therefore, I am satisfied that the demolition and construction works proposed to the rear of the subject site are generally acceptable.

- 7.2.6. The principle concerns raised in the grounds of appeal relate to the potential impact of the works to the front of the property on the architectural and historical character of 'Sydney Lodge', with particular reference to the proposal to construct a new front bay window / porch extension across the full width of the existing dwelling house at ground floor level which will project forward of the established building line of the main residence. More specifically, the appellants are concerned that the construction of the proposed front extension will give rise to a 'terracing' effect whereby a continuous building line will be created at ground floor level between Nos. 13, 15, 17, 19, 19A (the application site) and 21 Sydney Avenue (the appellants' property, 'Sydney Lodge') which will serve to erode the distinctive character of 'Sydney Lodge' as a stand-alone, classically designed, 'villa'-type residence whilst also detracting from the setting of other adjacent protected structures.
- 7.2.7. Having reviewed the available information, it would appear that whilst 'Sydney Lodge' was originally constructed as a detached residence, over the intervening years, and as a result of later additions to the property and the development of adjacent lands, the dwelling house now directly abuts the existing structures / properties on the adjoining sites to the immediate northwest and southeast along Sydney Avenue. This has had the effect of somewhat reducing the 'grandeur' of Sydney Lodge in that it now forms part of an unbroken series of attached properties within the streetscape, however, I would concur with the appellants that the character and setting of the original three-bay, single storey-over-basement / lower ground floor, classical 'villa'-type residence has been maintained in part by the decision to recess the more recent constructions to either side of same back from its front building line. In this respect I would advise the Board that the side annex to 'Sydney Lodge' along its north-western elevation is stepped back from the original construction whilst the existing front-gabled dwelling house on the subject site to the immediate southeast has similarly been positioned behind the front façade of 'Sydney Lodge'.
- 7.2.8. The proposed development entails the construction of a replacement bay window / porch feature across the full width of the existing dwelling house to a height of up to 3.7m thereby establishing a continuous building line at ground floor level between Nos. 13, 15, 17, 19, 19A (the application site) Sydney Avenue to the southeast and 'Sydney Lodge' to the northwest. Given the special built heritage interest of those

properties to either side of the subject site, both of which have been designated as protected structures, and the wider character and setting of the surrounding streetscape which is a candidate Architectural Conservation Area, it is my opinion that those works to the front of the existing dwelling house would unacceptably impact on the appreciation of Nos. 13, 15, 17 & 19 Sydney Avenue (including the buttress detail to the gable end of No. 19) as a definable terrace and would also have an adverse impact on the distinctive character and setting of 'Sydney Lodge' to the northwest by partially subsuming it into a wider terrace of properties. Whilst I would acknowledge that the works in question will be limited to ground floor level only and will not be overtly visible from the public road given the presence of intervening walls and planting etc., I would nevertheless concur with the basic premise set out in the grounds of appeal that the subject proposal will give rise to an unacceptable 'terracing' effect between the subject site and the adjacent properties which would detract from the built heritage interest of those protected structures. Indeed, the extension proposed to the front of the subject site would seem to undermine the entire rationale for the recessing of the existing dwelling house in the first instance.

7.3. **Appropriate Assessment:**

- 7.3.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.4. **Environmental Impact Assessment (Screening):**

- 7.4.1. Having regard to the nature and scale of the proposed development, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.5. **Other Issues:**

7.5.1. **Procedural Issues:**

In relation to the suggestion that the description of the proposed development as set out in the public notices is deficient on the basis that it makes no reference to the proposal to erect privacy fencing to the front of the property to a height which will exceed that permissible by way of exempted development pursuant to the Planning and Development Regulations, 2001, as amended, it is my opinion that procedural matters, such as a determination as to the adequacy (or otherwise) of the public notices and the subsequent validation (or not) of a planning application, are generally the responsibility of the Planning Authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements. It should also be noted that the Board is not empowered to correct any procedural irregularity which may have arisen during the Planning Authority's assessment of the subject application. Notwithstanding the foregoing, I would advise the Board that Article 18(1)(d) of the Planning and Development Regulations, 2001, as amended, requires a newspaper notice to provide 'a brief description of the nature and extent of the development' and whilst I would acknowledge that the description of the subject proposal makes no specific reference to the proposed privacy fencing nor to any other works associated with the wider development, I do not propose to comment further on this matter other than to state that the Planning Authority's actions have not infringed the appellants' right to lodge an appeal.

7.5.2. **Surface Water Drainage:**

Concerns have been raised in the grounds of appeal as regards the disposal of surface water runoff from the proposed development and the ability of the applicants to comply with the requirements of Condition No. 5(a) as imposed by the Planning Authority which states the following:

*'The surface water generated by the proposed increase in footprint (roof and pavements) shall not be discharged to the drain / sewer but it shall be infiltrated locally, to a soakpit or similar. The soakpit shall have no overflow to the drain / sewer. The soakpit shall be designed to BRE Digest 365, shall be at a minimum of 5m from the house, and shall have no impact on the neighbouring properties. If the applicant does not consider a soakpit a feasible solution, the applicant*

*shall submit a report signed by a Chartered Engineer, showing a test done (with results, photos etc.) and shall propose another Sustainable Drainage Systems proposal'.*

In this respect I would advise the Board at the outset that conflicting details would appear to have been provided in the initial application documentation given that the planning application form refers to surface water being drained to the public mains sewer whereas the site layout plan (Drg. No. P-1000) implies that runoff will be diverted to an existing soakaway located within the front garden.

Notably, in its assessment of the subject proposal, the Drainage Planning Division (Municipal Services Department) of the Local Authority did not raise any objection to the proposed development, subject to the inclusion of a condition requiring all new hardstanding areas to be constructed from gravel or a specially designed permeable paving stone system. Moreover, this report did not include any express recommendations as regards prohibiting the discharge of surface water runoff to the public sewer or the use of an on-site soakaway / soakpit.

Given the restricted size and nature of the proposed development site, it is clear that there are certain practicalities / difficulties as regards the on-site disposal of surface water runoff emanating from those roofed and / or paved areas within the site curtilage, however, in light of the limited extent of the additional roof / paved areas consequent on the proposed development, I am inclined to suggest that the actual impact of the surface water runoff generated by same will be somewhat minimal when taken in a wider context. Furthermore, in my opinion, it is apparent that the intention of Condition No. 5(a) as imposed by the Planning Authority was to provide for a degree of flexibility as regards the potential options for the on-site disposal of surface water runoff generated by the proposed development (i.e. by way of a soakpit or similar, or an alternative sustainable urban drainage system), although I would suggest that due to the confined nature of the site, it would also be reasonable to allow consideration to be given to connection to the mains sewerage system.

At this point I would refer the Board to the engineering report provided with the applicants' response to the grounds of appeal which states that a soakaway test will be undertaken in accordance with the requirements of BRE Digest 365 in order to establish the infiltration qualities of the soil at the location of the proposed soakaway.

Accordingly, provided the test results are satisfactory, a new soakaway will be provided within the front garden area an equal distance from the site boundaries and in excess of 5m from all dwelling houses. In the event that the infiltration tests fail, it has been suggested that an alternative approach would be to install a rainwater harvesting tank under the front garden into which rainwater from the front roofed areas would be discharged for reuse within the house by the washing machine, showers etc. In relation to the additional runoff from the proposed rear extension, it has been submitted that it is only practical to discharge this to the public sewer, although runoff from a section of the existing front roofed area of the dwelling house will be diverted to the new soakaway as a compensatory measure in order to avoid any increase in loadings on the mains system.

In view of the foregoing, on balance, I would suggest that the ultimate resolution of the surface water drainage arrangements required to accommodate the limited level of development proposed is a matter best resolved through agreement with the Planning Authority.

**7.5.3. The Nature of the Construction Works:**

In respect of the appellants' concerns that the proposed construction works, including the excavation & formation of foundations and the weather-proofing of the new construction at its intersection with adjacent buildings, could result in damage to the adjoining property (a protected structure) and that there is a need for the applicants to provide a construction methodology, I would refer to the Board to the engineering report submitted with the applicants' response to the grounds of appeal wherein it is detailed that the new extension to the front of the existing dwelling house will be constructed atop a concrete floor slab cantilevered off a setback foundation arrangement which will be designed to support the rising blockwork walls. Therefore, the proposed construction will be structurally independent of the adjacent buildings, although the gap between same is to be sealed with lead flashing which will either be chased into No. 21 Sydney Avenue (i.e. the appellants' property) or by applying a bell case render band with lead flashing inserted to displace the water.

In my opinion, the aforementioned construction detail would appear to be reasonable and whilst the appellants have indicated that they have not consented to any works which could affect the fabric of their property, I am satisfied that any alleged damage

to, or interference with, the appellant's property attributable to the proposed development is essentially a civil matter for resolution between the parties concerned. Moreover, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and thus any grant of permission for the subject proposal would not in itself confer any right over private property.

## 8.0 Recommendation

8.1. Having considered the contents of the application, the decision of the planning authority, the planning history of the site, the grounds of appeal, and my assessment of the planning issues, I recommend that a split decision be issued as follows:

- **GRANT** permission for the part demolition and replacement of a single storey extension including an additional 5 sqm to the rear, for the reasons and considerations, and subject to the conditions, marked (1) hereunder.
- **REFUSE** permission for the demolition of single storey bay window and replacement with an enlarged single storey bay window and porch to the front, based on the reasons and considerations marked (2) hereunder.

### **Reasons and Considerations (1):**

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022, and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or residential amenities of property in the vicinity, would not be detrimental to the character or setting of any protected structure, and would not adversely impact on the character of the Sydney Avenue Candidate Architectural Conservation Area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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

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

3. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

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

4. Site development and building works shall be carried out between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of adjoining residential occupiers.

5. 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.

**Reasons and Considerations (2):**

1. Having regard to the existing character and the prevailing pattern of development, the site location within the Sydney Avenue Candidate Architectural Conservation Area, and the relationship of the site with neighbouring properties which have been listed as protected structures in the current Development Plan for the area, it is considered that the proposed development, by reason of its overall design and alignment relative to the established building line, would seriously detract from the architectural character, context and setting of the adjacent protected structures and the visual amenities of the adjoining terrace and streetscape generally. The proposed development would, therefore, materially and adversely affect the character of these protected structures, would seriously injure the visual amenities of the area, and would be contrary to the proper planning and sustainable development of the area.

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Robert Speer  
Planning Inspector

10<sup>th</sup> January, 2019