



An  
Bord  
Pleanála

## Inspector's Report ABP 302917-18

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<b>Development</b>	Demolish detached house and erect new house
<b>Location</b>	Old Rock, Ardburgh Road, Dalkey, County Dublin.
<b>Planning Authority</b>	Dún Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0791
<b>Applicant(s)</b>	PJ Gallagher
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Gerard O'Toole
<b>Observer(s)</b>	1) Liam O Bharáin/Leonie M. Warren. 2) Judith Warren/Donal Sexton
<b>Date of Site Inspection</b>	10 <sup>th</sup> January 2019
<b>Inspector</b>	Hugh Mannion

## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.1045ha and comprises the site, an existing detached two storey house and outbuildings at Old Rock, Ardburgh Road, Dalkey, County Dublin. The site has a gated vehicular access and a separate pedestrian access onto Ardburgh Road. To the rear of the house the site levels drop down to a boundary wall with Sana; Sana is also a two storey house which is accessed over a driveway from Cunningham Road to the north. On the east is Ardburgh House which is not easily visible from within the application site and to the west is Castle View whose eastern gable is visible from within the application site.
- 1.2. South of the site and on the opposite side of the public road is Dalkey Rock; a relatively recently constructed gated development of 6 houses. Ardburgh Road is a mix of house ages and styles. There are a number of late 19<sup>th</sup> century/early 20<sup>th</sup> century single storey terraced cottages, a few two storey detached houses dating from the 1960s or 70s and more recent/modernist buildings. Further east on Torca Road there are a number of very substantial two and three storey houses with first floor terraces which address sea views in the area.

## 2.0 Proposed Development

- 2.1. Demolition of part single storey, part two storey four-bedroom house, construction of a new three storey, five-bedroom detached house including balconies at first and second floor to the front, and first floor balcony to the rear. Relocate existing pedestrian gate and alterations to existing vehicular gate and site works at Old Rock, Ardburgh Road, Dalkey, County Dublin.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant with conditions. Condition 2(a) requires that the ridge heights of the front and rear returns shall be reduced to match the main roof ridge line. Condition 2(b) reduced the size of the front and rear master bedroom windows and condition 2(c)

omitted the balcony on the front elevation. Condition 5 required changes to second floor and side elevation windows.

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

#### 3.2.1. Planning Reports

The planner's report recommended a grant of permission as set out in the manager's order.

#### 3.2.2. Other Technical Reports:

**Transport Planning** Section reported (19<sup>th</sup> September 2019) no objection subject to conditions.

## 4.0 **Planning History**

4.1. Under reference D07A/1702 permission was granted for demolition of the existing house on site and erection of a replacement. This permission was not implemented and has expired.

4.2. Under reference D18A/0048 permission was refused for demolition of the existing house on site and erection of a replacement because of its design, bulk and massing and proximity to the southern (Ardburgh Road), northern and western boundaries would result in an overly dominant feature within the streetscape and overlooking of adjoining property.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.2. The site is zoned objective A – 'to protect and or improve residential amenity' in the **Dún Laoghaire Rathdown County Development Plan 2016-2022.**

### 5.3. **Natural Heritage Designations**

Not relevant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The appellant's house 'Sana' is on the northern boundary of the application site and the application site is elevated over 'Sana'. The proposed development will overlook 'Sana' from three levels of windows and a balcony.
- A similar proposal was refused under reference D18A/0048 in June 2018 because of its bulk, massing and height unacceptably close to the southern (road), western and northern boundaries.
- The minor changes proposed in the current case do not address the reason for refusal in reference D18A/0048. The amendments are minor in that the main roof ridge line is reduced by 0.5m but remains 2.712m higher than the existing house. Notwithstanding minor changes the proposed development will comprise an overbearing and visually dominant feature in the area.
- Condition number 2 makes minor and inadequate changes to the proposed development and does not prevent overlooking from the rear windows and balcony.
- Condition 5 requires opaque glass on a second-floor dormer window. The appellant requests that all second-floor windows have opaque glazing.

### 6.2. Applicant Response

- Under reference D07A/1702 the principle of demolition and rebuild on the site was accepted by the planning authority. That permission lapsed and a further application under reference D18A/0048 was refused for reasons related to overlooking and proximity to boundaries.
- The current application will have less impact than the permitted development under reference D07A/1702 and has been designed to overcome the issues raised in the previous refusal through reduction in height, omission of a clerestory element at roof level, replacement of a second-floor balcony with a window, omission of a rear dormer window.

- While the applicant would prefer the removal of condition 2 it is clear and reasonable and the applicant accepts the amendments if the Board considers them necessary.
- The 'Sana' house is closer to the boundary with the appeal site than is the house at Old Rock and the screening is within the application site. There is substantial private open space around Old Rock and the new house will be between 11.9m and 15.7m off the shared boundary.
- The proposed development will not overlook or visually impact on 'Sana'.
- The proposed development will not negatively impact on the streetscape of Cunningham Road or Ardburgh Road.
- The proposed development complies with the County Development Plan policy (section 2.1.3.3 Policy objective Res 3) to increase density close to transport routes.
- The Board granted permission for larger developments on an adjoining site under PL06D.242831.

### 6.3. Planning Authority Response

- No further comments.

### 6.4. Observations

Observations were received from Liam O Bharáin/Leonie M. Warren and Judith Warren/Donal Sexton. These may be summarised as follows;

- The existing house is structurally sound and an important element in the streetscape of Ardburgh Road.
- The bulk of the proposed new house will render it out of character with other houses in the area.
- The proposed development will comprise an overbearing feature when viewed from neighbouring houses and overlook adjoining houses.
- Permission was previously refused for a similar development on this site for serious injury to local amenity.

## 6.5. Further Responses

No further comments.

## 7.0 Assessment

### 7.1. Principle of Development.

7.2. The site is zoned A – to protect and/or improve residential amenity in the Dún Laoghaire Rathdown County Development 2016-2022. There is an existing house on site and I conclude, therefore, that the principle of residential development on the site is established.

7.3. Ardburgh Road runs east from Dalkey Avenue and skirts Dalkey Hill to the south and ends at Torca Road. The existing house on site is two storey. There is a variety of house styles and ages on the road. To the west of the application site is a terrace of single storey cottages on the right (southern) side and a mix of two storey houses and single storey cottages on the left (northern) side of the road. Further along and on the western side of the application site is a two storey house – Castle View. The adjoining house to the east, Ardburgh House, is not visible from the application site or the public street. Behind the application site (to the north) is Sana, the appellant's house, which is accessed over a driveway from Cunningham Road. Opposite the application site on the southern side of Ardburgh Road is Dalkey Rock, a recently built gated development of 6 two storey houses. The last building on Ardburgh Road is a three storey house with extensive glazing and a first and second floor terrace and the first house on Torca Road is also a three storey house with a second storey terrace. The County Development Plan addresses applications for demolition and replacement of houses (section 8.2.3.4(xiv)) with reference to visual amenity and character of the immediate area, energy efficiency and the structural integrity of the existing building.

7.4. There is a variety of styles and house types in the vicinity into which the proposed house may be integrated. While acknowledging that there is an initial out lay of energy in the demolition and rebuild process I consider that the long-term energy requirements of the new house will not be substantially more than that of the existing house. While the existing house may be structurally sound I consider that the

proposed development does not materially contravene an objective of the development plan on this issue.

7.5. I conclude therefore that there is a reasonable variety of house types and styles in the immediate area and that the proposed development would not be unreasonably out of keeping with this pattern and that the proposed development will, otherwise, accord with the provisions of the County Development Plan.

**7.6. Impact on Adjoining Property.**

7.7. The appeal makes the point that the proposed development overlook and appear as an overbearing element when viewed from the adjoining house to the north (Sana).

7.8. The development plan (section 8.2.8.4(ii)) provides that, generally, there should be a 22m separation distance between the directly opposing rear first floor windows of neighbouring houses and that normally each site should provide 11m of this separation distance. The new house is 11.9m off the boundary with Sana at its closest. The application drawings may overestimate the distance between Sana and the application site boundary at 3.75m and the submitted section drawings show a drop in site level of about 1.5m between the application site and Sana. Sana has a single storey return close to the boundary but there are no windows on the return facing the boundary - the windows are on the east and western elevation. There are also a patio area on both sides of this return.

7.9. While there are windows on the northern elevation of the proposed house at first floor level there is also considerable screening on the boundary and the proposed new house is more than 11m off the boundary. The main concern in relation to this rear elevation is the first-floor balcony serving the main living room/dining/bar and kitchen area. I consider that there is a reasonable concern that the activity likely to be generated on this balcony is greater than that which the conventional 11m separation distance between first opposing rear windows is regarded as reasonable insurance against. There is also a first floor south/front facing balcony which would serve the living room/dining/bar and kitchen area as recreational space without impacting on adjoining property. In summary, I recommend the omission of the first-floor rear balcony as unreasonably impacting on the amenity of the house at Sana.

- 7.10. There are windows on the rear elevation at second floor level but a second-floor balcony proposed in the earlier application under D18A/0048 has been omitted in this application. The planning authority in condition 2(b) and condition 5 has required the reduction of amount of glazing in the front and rear windows serving the master bedroom. Having regard to the areas (en-suite/bedroom) served by this glazing at second floor on the rear elevation and its distance off the boundary I do not consider that further amendment is necessary. Since the front window and balcony serving the master bedroom overlook the applicant's front garden and public road I recommend that this arrangement, also, need not be amended.
- 7.11. In relation to the adjoining houses on either side; there are no first or second floor windows on the west facing Castle View. There are three rooflights on the eastern plane of the roof serving the master bedroom. I conclude that there is no potential for overlooking of adjoining property from these rooflights. The planning authority in condition 2(a) required the ridge height on the eastern end (basically the master bedroom) to be reduced to the ridge height of the remainder of the building. Having regard to the form and variety of buildings in the immediate vicinity of the application site, some recently constructed, I do not agree that this is required to protect the visual or residential amenity of the area.
- 7.12. **Parking/Access**
- 7.13. The application proposes to retain the existing garage on site and the submitted site layout shows the setting back of the existing vehicular gate into the site and provision of a new pedestrian gate. The development plan standards set out in table 8.2.3 require two spaces per three-bedroom house. I recommend that a condition requiring the provision of two car parking spaces to the satisfaction of the planning authority be attached.
- 7.14. **Appropriate Assessment**
- 7.15. Having regard to the very modest scale of the proposed development and the foreseeable emissions therefrom 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.



## **7.16. Environmental Impact Assessment Screening**

7.17. Having regard to nature of the development comprising the erection of a domestic house in an area zoned for residential development where public piped services are available 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.

## **8.0 Recommendation**

8.1. Having regard to the foregoing I recommend a grant of permission.

## **9.0 Reasons and Considerations**

The proposed development is located in an area zoned A – to protect and/or improve residential amenity in the Dún Laoghaire Rathdown County Development Plan 2016-2022. Having regard to the pattern of development in the area, the form, scale and height of the proposed development and the proposed separation distance off the boundaries with adjoining sites it is considered, subject to compliance with the conditions set out below, that the proposed development would not overlook adjoining property, would not be intrusive in views within the area and would, otherwise, be in accordance with the provisions of the county development plan and the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. The proposed development shall be amended as follows:

(a) The first floor north facing (rear) balcony shall be omitted from the proposed development.

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

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

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

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

4. 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.

5. Two no. car parking spaces shall be provided within the site. The locations and layout of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure adequate off-street parking provision is available to serve the proposed development.

6. Details of the surface treatment and dishing of the public footpath at the revised vehicular entrance shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of pedestrian safety.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in

accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interests of sustainable waste management.

8. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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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Hugh Mannion  
Senior Planning Inspector

14<sup>th</sup> January 2019