



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307405

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<b>Development</b>	Demolition of vacant dwelling and construction of 2 houses (2-storey 2-bed semi-detached), bin storage, off street parking and associated works.
<b>Location</b>	20 Lanesville, Monkstown Farm, Dun Laoghaire, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D20A/0118
<b>Applicant(s)</b>	O' Donoghue + Associates
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	Fergus Sheridan
<b>Observer(s)</b>	
<b>Date of Site Inspection</b>	13 <sup>th</sup> October 2020
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. Lanesville is a residential road accessed off Monkstown Road to the north and Oliver Plunkett Rod to the South. Houses appear to date from late 19<sup>th</sup> century to contemporary style and also range from cottage style dwellings on wider plots to mid-20<sup>th</sup> Century and contemporary terraces on narrower plots. There are also larger scaled modern apartment blocks. The appeal site relates to a two-bay single storey 19<sup>th</sup> century cottage to the front with two storey return that has been extended and altered over the years and is presently vacant and in poor repair. The house is rendered and dashed and has cement tiles in the roof. Windows are old pvc replacements. There is a pedestrian passage located along the north western boundary which also provides access and daylight to the adjacent two storey 19<sup>th</sup> century dwelling on Lanesville and there is an ancillary building to the rear of this property which has roof lights. The dwelling on the other side to the south east is one of a pair of contemporary two storey dwellings 19 and 19A Lanesville recently built as a redevelopment and they incorporate extensive glazing to the front and rear. Monkstown Manor a modern residential development backs onto the site and a terrace of single aspect two storey houses immediately backs onto the boundary. This terrace also has rooflights.
- 1.2. The house has a low walled (fairfaced concrete block) garden with pedestrian gate. On street parking fronts the dwelling and is mostly occupied by a disabled access space whereas nos. 18, 19 22 and 23 have off-street parking.
- 1.3. The house is about 10m wide and the plot width at the frontage is 11.29m and widens slightly towards the rear from the rear building line.

## 2.0 Proposed Development

The proposed development comprises the following:

- Demolition of dwelling, outbuilding and front boundary wall.
- Sub-division of the site.
- Construction of two number two storey two-bedroom houses in a contemporary minimalist style.
- Recessed ground level with overhanging first floor to front to provide car ports for perpendicular off-street parking. .

- With the exception of the pedestrian passage the proposed building extends the width of the plot and is 23.6m deep (as measured from first floor façade to ground floor rear building line. The first floor is stepped back 6m from the ground floor rear wall.
- The design retains the side passage
- The proposed rear gardens are each at 46 sq.m.
- The submitted drawings include outlines of the previously refused proposal which allow for comparison. E.g. the first floor is now stepped back from the side and the boundary wall is lowered to 1.8m.
- The application is accompanied by specialist documents which include: a planning report, a heritage appraisal, an architect's design statement, and a daylight and sunlight analysis.

### **3.0 Planning Authority Decision**

#### **4.0 Decision**

4.1. The Planning Authority decided to grant permission subject to 11 conditions of a standard nature.

- Condition 3 restricts exempted development.
- Condition 5 requires dishing of footpath etc at the applicant's expense.

### **5.0 Planning Authority Reports**

#### **5.1. Planning Report**

The report refers to :

- Development Plan
  - Densification policy ( sections 2.1.3.3 and 2.1.3.4)
  - Section 8.2 guidance and policies on residential development standards
  - Section 8.2.3.4 regarding additional accommodation in built up areas, infill and demolition.
  - Section 8.2.8.4 regarding open space. Min of 48 sq.m. for a 2 bed.
  - Section 8.2.4.9 regarding car parking entrances.

- Objections to development
- The favourable comparison with the previously refused proposal. It is noted that the overall development has been reduced and incorporates setbacks. The boundary wall is lowered and the oversailing of gutters has been addressed in drawings.
- Consistent with demolition/infill policy: It is noted that the applicant has submitted a heritage assessment which concludes that the house is of no significant architectural heritage value and in poor condition. This is accepted and it is concluded that the existing house contributes little to the streetscape. And that the 2 new modern dwellings constitute more sustainable form of development.
- The conclusion regarding significant of impact on loss of sunlight and daylight are accepted. Insignificant impact on no.21 due to height and form and notably a setback of 2.2m from boundary and absence of north west facing windows.
- Insignificant impact on no. 19 due to form and height and extent of comparative building line breach – extending 900m to rear of adjacent upper floor.
- Will not unreasonably compromise the residential amenity of adjacent properties.
- Scale, height and for sits comfortable with the streetscape.
- In the context of the 48sq.m. requirement for open space it is considered that the open space at 45 sq.m. is acceptable in view of the supplementary 5 sq.m. terrace at first floor level.
- The first floor set back of 12.5m from the rear boundary is acceptable in terms of separation.
- Car parking and drainage are generally acceptable.

#### Other Technical Reports

- Drainage Division - Engineering Department - no objection subject to conditions
- Transportation Planning Division – no objection subject to conditions.
- EHO: No objections subject to conditions

## 6.0 Prescribed Bodies

- Irish Water – no objection subject to conditions.

## 7.0 Planning History

### 7.1. The site

PA ref D19A/0681 refers to a refusal of permission for a two 3 bed dwellings on site for 3 reasons:

- Overdevelopment and overshadowing and overbearing impact on dwellings each side
- Insufficient private open space
- Insufficient car parking provision and layout substandard – requires 2 spaces each.

Details, including drawings included in pouch at back of file.

## 8.0 Policy & Context

### 8.1. Development Plan

- The objective for the site is ‘To protect and/or improve residential amenities.’ (A)
- The development plan advocates densification of the suburbs in line with national strategy. (Section 2.1.3.4)
- **RES4** states that it is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.
- **Chapter 8** sets out housing standards - as cited in planning authority report.
- **Section 8.2.3.4 (xiv)** refers to demolition and replacement dwelling in the context of building strategy:

The Council will sometimes state a preference to retain existing houses that, while not Protected Structures, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character and/or accommodation type. Demolition of an existing house in single occupancy and replacement with multiple new build units will not be considered simply on the grounds of replacement numbers only but will be weighed against other factors. Better alternatives to comprehensive demolition of, for example, a distinctive

detached dwelling and its landscaped gardens, may be to construct structures around the established dwelling and seek to retain characteristic site elements. In larger proposals for demolition of existing structures, the balance between the greater energy efficiency ratios of the new build, its size for running costs/impacts, and resources used for its construction - and those of the existing dwelling and the 'embodied energy' lost in its demolition, will be considered. The Planning Authority will assess single replacement dwellings within an urban area on a case by case basis and may only permit such developments where the existing dwelling is beyond repair due to structural defects. For all applications relating to replacement dwellings, a strong justification / rationale shall be provided by the applicant.

Applications for replacement dwellings shall also have regard to Policies AR5 and AR8 (Sections 6.1.3.5 and 6.1.3.8). In this regard, the retention and reuse of an existing structure will be encouraged over replacing a dwelling. Applications for replacement dwelling within the rural area will be assessed under the provision of Section 8.2.3.6(iv).

- **Section 8.2.4 (ii)** refers to extensions.
- **Section 8.1.1.1. Urban Design Policy UD1** sets out that all development is of high-quality design that assists in promoting a 'sense of place'. The promotion of the guidance principles set out in the 'Urban Design Manual - A Best Practice Guide' (2009) and in the 'Design Manual for Urban Roads and Streets' (2013).
- **Section 8.2.3.4 (vii)** refers to infill sites. Such proposals shall be considered in relation to a range of criteria including respecting the massing and height of existing residential units.
- **Section 8.2.3.1** refers to the objective of the Council to achieve high standards of design and layout and to foster and create high quality, secure and attractive places for living.
- **Section 8.2.3.5** refers to the general requirements for residential development including habitable room sizes.
- **Section 8.2.4.9 (i)** refers to the minimum width of 3m and maximum of 3.5m required for vehicular entrances.

## **9.0 Natural Heritage Designations**

9.1. The nearest European sites are South Dublin Bay SAC (site code 00210) and South Dublin Bay and River Tolka Estuary SPA (site code 004024) about 1km to the north of the site.

## **10.0 Environmental Impact Assessment - Preliminary Examination**

10.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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.

## **11.0 The Appeal**

### **11.1. Grounds of Appeal**

11.1.1. A third-party appeal has been lodged by Conor Sheehan Planning Consultant on behalf of the owner of the property F. Sheridan and is based on the following grounds:

- Impact on 19A not properly addressed having regard to scope of daylight and sunlight analysis report and potential impact on BER rating. A number of windows are identified as not being included in the analysis. Accordingly the conclusion in the applicant's analysis and Planning Authority's assessment that there will only be an imperceptible impact is disputed. Accordingly impact on residential amenities has not been necessarily successfully overcome as compared to previously refused proposal. Due regard is required in accordance with development plan policy.
- External and internal photographs of the 2 high levels windows omitted from the analysis are attached.
- Further clarification of the impact is requested.

- There is also concern about access to drains. Access should not require trespass and permission should be conditional on this.

## 11.2. **First Party Response**

- 11.2.1. The appeal is based on an incorrect interpretation of the sunlight and daylight analysis. This is supported by a further statement by the relevant consultants.
- 11.2.2. As the house is vacant the Board is requested to expediate the decision in the interest of contributing to housing stock.
- 11.2.3. The benefits of the development are highlight in the context of strategic policy.
- 11.2.4. Condition 5 which requires works to be carried out on the public footpath should be omitted on the grounds of it legitimacy as a condition.

## 11.3. **Planning Authority Response**

- Grounds of appeal do not raise new issues which would warrant a change in attitude.

## 12.0 **Assessment**

### 12.1. **Issues**

- 12.1.1. This appeal relates to a proposal for demolition of a 19<sup>th</sup> century single storey cottage and its replacement with 2 dwellings. From my inspection and review of the file, the key issues centre on:
- Principle
  - Residential Amenity
    - Overshadowing
    - Overbearing
  - Other matters: Car Parking/access/frontage

### 12.2. **Principle**



12.2.1. The site is centrally located in an established residential area which includes a mix of low and higher density development where it is an objective to provide 'to protect and/or improve residential amenities'. The development plan advocates densification in line with national policy and, most relevantly, in section 8.2.3.4 (vii) it sets out design criteria for accommodating development in infill sites.

12.2.2. The infill development however in this case relies on the demolition of a cottage over 100 years old and the development plan policy in such cases requires justification particularly where it is a building of character. In the submitted heritage assessment with the application the building condition is stated, and not unreasonably in my opinion, to be in poor repair and its architectural features are limited insofar as it contributes little to the character of the streetscape. In this regard I note that the building is not included in the Record of Protected Structures. While it may be possible to restore the building, notwithstanding the economies, I consider that in the context of the sustainable land use and housing policies seeking to improve housing stock, the principle of replacing a single storey dwelling with a pair of two storey dwellings compliant with current housing and building technology standards accords with the housing development policy and would not conflict with conservation of the built heritage. Moreover I consider the contemporary design as rationalised in the detailed architectural statement to constitute a positive contribution to the streetscape and urban design quality of the road subject to consideration of design details and interface with immediate surroundings.

### 12.3. Residential Amenity - Overshadowing.

12.3.1. The appellant (owner of nos. 19 A and 19) to the south east states that while he does not object to the redevelopment of the site for housing there are concerns about the obstruction of sunlight and daylight. The grounds of appeal focus principally on the issue of overshadowing and impact on energy efficiency as a consequence of the massing and height of the development and its proximity to no.19A. Much of the concern relates to the uncertainty of the impact due to the scope of the daylight and sunlight analysis. The grounds of appeal focus in particular on the omission of particular windows in the assessment. These include two vertical windows in the rear elevation and roof lights in no.19A.

- 12.3.2. In response the applicant has submitted a further report by the relevant consultants.
- 12.3.3. In respect of the vertical windows it is explained that one of the windows was omitted as it serves a circulation area and accordingly, as it is not a habitable area, the BER regulations do not require assessment as per section 2.2. The consultant however provides results of further analysis and concludes that the impact on Visible Sky Component would be less than a 20% reduction as it would be reduced from 24.9% to 23.45%. I accept this would be a negligible impact on the room that this window serves.
- 12.3.4. It is further explained that the high level window was omitted given that a worst case scenario was used for the kitchen/living area and so the large eye level window was used. The inclusion of additional glazing in fact yields a more favourable result and this I accept seems logical. This window for example has a higher VSC at 27.95% and would be reduced to 27.05% which is well within the 20% criteria.
- 12.3.5. With regard to the two roof skylights it is pointed out that the VSC analysis is not carried out for such window types – it is only carried out on vertical windows. It is also pointed out that the VSC has already passed on the windows serving the internal space. It is however pointed out that the sky is visible from more than 99% of the work plane and that this figure would remain.
- 12.3.6. In further support of the methodology used, the Average Daylight Factor baseline for the room is calculated by the consultant to be at 7.46% and this would be reduced to 6.48% which it is pointed would be significantly above the minimum level of 2% for this type of internal space.
- 12.3.7. Finally no further analysis is provided for the second skylight which serves a circulation space as such a window does not require assessment under the BER guidelines.
- 12.3.8. I consider the submitted details demonstrate that the level of impact on the internal natural lighting and sky views would be within acceptable limits. Notwithstanding there is an issue of the overbearing impact which is examined below.

#### **12.4. Residential Amenity - Oversailing/overbearing**

- 12.4.1. The appellant is concerned about the potential for trespassing on his property for maintenance and seeks a set back.
- 12.4.2. The applicant has designed the guttering to be integrated and concealed behind a parapet wall along the boundary and accordingly the development is contained within the site boundary and within the realm of entitlement of the applicant. Access can be from the roof and it also possible to render the wall in a manner than does not require routine maintenance. I do not consider trespassing to constitute grounds for revising the design or refusing permission.
- 12.4.3. With respect to the request for a set back generally, I note that the ground floor projects over 5m from the building line of 19A in addition to being marginally angled towards the rear elevation of 19A. I also note that the planning authority is satisfied by reference to the negligible impact on natural lighting. However I am of the opinion that in view of the depth of the projection relative to that of the ground floor of 19A, the orientation and (relatively narrow) private open space of 19A that is already enclosed by the mews houses along the rear boundary to the north and the adjoining house at no. 19 to the south east, that the introduction of a 2.8m high wall over this depth together with the angling would have an oppressive aspect and that a modest stepping back would significantly reduce the impact without unduly compromising the ground floor area which is 5.05m wide in the rear section. For example, a stepping down of the roof along the boundary would still facilitate storage. The first floor only moderately projects and is not unreasonable. I consider this matter can be addressed by condition.
- 12.4.4. On balance, I do not consider the proposed development would, subject to minor alterations by way of condition, be unduly intrusive or injurious to residential amenity of adjacent properties.

#### **12.5. Other matters**

Car parking and public footpath:

- 12.5.1. While I accept that the proposal has been designed by reference to the requirements of the planning authority and notably the provision of off street parking I consider this to have a minor negative impact on the streetscape quality. I note the plot width of just over 11 metres and consider that on street parking for two cars could be retained to the front. The only benefit in the proposals from a parking perspective is that private parking would be retained for the houses but this will result in the loss of on street parking – although visitors may possibly park across the frontage. I note however at time of inspection that a disabled space fronts the site and effectively reserves a space for the site and so the loss of on-street parking in this case would only have negligible impact.
- 12.5.2. From an urban design perspective it is not ideal and while I consider there is perhaps a case to omit the car ports and reinforce the façade thereby allowing for reducing the depth of the building to the rear, I consider on balance that the provision of boundary walls and piers would help to reinstate the frontage.

#### Condition 5

- 12.5.3. This condition refers to the requirements of the Transportation Division and in particular the detailed requirements in respect of the vehicular entrance such as dishing and strengthening. The applicant, in response to the grounds of appeal uses the opportunity to point out that this condition was not attached to the grant of permission for the adjacent site and requests that it is omitted. While I do not have the details of that case, it is I consider a fairly standard condition but perhaps overly detailed. I consider that in the interest of orderly development and traffic safety that the entrances should be safe otherwise the new entrances should be omitted. To require such works that in this case directly benefit the development is not unreasonable and to require that the burden of cost of this is on the applicant is also not unreasonable. The planning authority could also have reasonably attached a section 48 contribution levy to cover exceptional costs of such works that it may incur. There is also the possibility that the footpath or part thereof is within the holding of the applicant so a degree of flexibility is required. Either way I consider it reasonable to attach a condition requiring and facilitating such works. On balance it is therefore reasonable that the applicant be required to comply with requirements of Transportation Division in so far as the works will directly benefit the site and ensure orderly development within the relevant legal parameters. It is therefore not

unreasonable for the planning authority to attach such a condition although the Board usually leaves the detailed specification to be agreed between the parties. I therefore recommend that in the event of a permission the condition is effectively retained. I also recommend as a safeguard that a section 48 (2) (c) condition be attached.

## **12.6. Appropriate Assessment**

12.6.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise. Accordingly, the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## **13.0 Recommendation**

13.1. I recommend that planning permission for the proposed development be granted based on the following reasons and considerations, as set out below.

## **14.0 Reasons and Considerations**

Having regard to the architectural design and massing of the proposed development and the pattern of development in the area and the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not seriously injure the residential amenity of adjacent properties and would not detract from the character or setting of Lanesville. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 15.0 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 modified as follows:
  - (a) Unit 2 shall be reduced by either
    - (i) Stepping back the ground floor from the boundary with 19A by 0.9m over a depth of 2m as measured from the rear wall of Unit 2, or,
    - (ii) Stepping down the height of the ground floor to 1.8m along the boundary with 19A over a depth of 2m and width of 0.9m as measured from the rear wall of Unit 2.
  - (b) The front curtilage and vehicular entrances, which shall be no more than 3.6m in width, shall be provided with a boundary wall and piers in keeping with the proposed and adjacent 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 interest of visual amenity.

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed building, including those as modified at

condition number 2 (b) above, 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. 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 noise and dust management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of traffic safety and to protect the amenities of the area.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 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:** To protect the amenities of the area.

7. 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 take place within the curtilage of the house, without a prior grant of planning permission.

**Reason:** In the interest of the amenities of the area.

8. (a) Two number car parking spaces shall be provided within the overall site. The layout of these spaces including the access and boundary arrangement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) The footpath in front of the proposed vehicular entrances shall be dishd at the road junction(s) in accordance with the requirements of the planning authority and at the developer's own expense.

**Reason:** In the interest of traffic safety, orderly development and to ensure that adequate off-street parking provision is available to serve the proposed development.

9. 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.

10. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act



2000 in respect of road/footpath works necessary in the safe provision of the proposed entrances. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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Suzanne Kehely

Senior Planning Inspector

26<sup>th</sup> November 2020