



An
Bord
Pleanála

Inspector's Report

ABP-307477-20

Development	Change of use from offices to residential and construction of single and two storey extension to rear.
Location	Kingston House, 64 Patrick Street, Dun Laoghaire
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0196
Applicant(s)	Liam O'Kelly
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Ian Hanney
Observer(s)	No
Date of Site Inspection	13 th October 2020
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of Patrick Street at the southern periphery of the town centre. The street is characterised by a mix of uses such as residential, offices, retail, and community. Building typology is quite varied and reflective of the broad range of uses and dates of construction from 1800s to recent decades.
- 1.2. The subject site is in a terrace and is one of pair of similar double fronted houses. It backs onto a gated laneway which is backed onto on the opposite side by a terrace of widely set villa houses on Musgrave Terrace.
- 1.3. The house is laid out in offices and has a two storey return to the rear with offices at ground level and toilets at first floor level. The ground floor extends 8.9m into the garden and the first floor extends 5.75m. There are windows in the first-floor side elevations serving the landing, store, and toilet areas. The garden depth is 20m at its deepest and 11 m at its shortest. There is a shed in the north east corner.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the following:
 - Change of use from offices to residential.
 - Demolition of two storey return and its reconstruction in an extended format; Construction of two storey floor extension which extends the ground floor of the existing return up to the northern boundary to provide an open-plan kitchen dining living room and also extends the depth of first floor return to a depth of 8.2m from the main house.
 - The architectural style is contemporary and incorporates a large window in the rear elevation at first floor level.
 - The proposed layout includes 98sq.m. of private amenity space which excludes the detached shed.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission subject to standard conditions including a condition requiring the following:

- North and south facing windows in return to be opaque.
- Restriction on exempted development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report refers to :

Planning history on subject and adjacent site

- Densification policy (section 2.1.3.4)
- Development plan guidance and policies on residential development standards
 - section 8.2, 8.2.3.1, 8.2.3.2)
 - Section 8.2.3.4 regarding additional accommodation in built up areas.
 - Section 8.2.8.4 regarding private open space.
 - Sections 8.2.4.5 and 8.2.4.9 regarding car parking and entrances.
- No AA or EIA issues.
- The acceptability in principle in context of development plan policy, national policy, and planning history.
- The floor area of 261 sq.m. well exceeds minimum housing accommodation standards.
- It is noted that the proposed east facing first floor window would be about 14.6m from the rear boundary of the property facing to the rear. Given the intervening laneway it is considered compliant with section 8.2.8.4(ii)
- The 3.2m high flat roof extension and first floor extension are considered acceptable given the scale and setbacks and is not considered to adversely impact on surrounding properties.
- Car parking at a current level of 2 spaces is compliant with the development plan standards.

3.2.2. Other Technical Reports

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

3.3. **Prescribed Bodies**

- Irish Water – no objection subject to conditions.

3.4. **Third-Party Observations**

- Issues raised in observations on appeal.

4.0 **Planning History**

4.1. **The site**

- 4.1.1. An Bord Pleanála ref. 229211 (PA ref: D08/0272) refers to a refusal of permission for an office extension due to bulk and scale and overlooking. Revised proposals were considered to be more appropriately addressed in a fresh application.
- 4.1.2. PA ref. D95A/506 refers to permission for car parking to front.
- 4.1.3. PA refs. 942/89 and 164/86 refer to permission for incremental changes of use from residential to office.

4.2. **Adjacent site**

- 4.2.1. PA ref. D19A/0966 refers to permission for reinstatement of residential use, refurbishment, and extension to rear and garage to side at 66 Patrick Street.

5.0 **Policy & Context**

5.1. **Development Plan**

- 5.1.1. The objective for the site is 'To protect and/or improve residential amenities.' (Zone A)
- 5.1.2. Chapter 8 sets out housing standards and notably Section 8.2.4 (ii) refers to extensions.
- 5.1.3. Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities (May 09) section 6.10 refers to 22m separation and states that
The emphasis in designing and considering new proposals should be on achieving good quality development that reinforces the existing urban form, makes effective use of premium centrally located land and contributes to a sense of place by strengthening for example the

street pattern or creating new streets. While a 22-metre separation distance between opposing above ground floor windows is normally recommended for privacy reasons, this may be impractical and incompatible with infill development. In these cases, innovation and flexibility will be essential in the interpretation of standards so that they do not become inflexible obstacles to the achievement of an attractive village and small-town character in new development.

5.2. Environmental Impact Assessment - Preliminary Examination

- 5.2.1. 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.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal has been lodged by the residents of a 22 Musgrave Terrace in the opposing terrace to the rear. The grounds of objection are based primarily on the introduction of a rear facing window at first floor level and consequent overlooking. It is argued that the 22m opposing distance as guided in the Development Plan is not being complied with. It is estimated that the distance would be 17m. The loss of privacy would also be intensified by reason of the residential use. The extension would also have an overbearing impact. Accordingly the provisions of section 8.2.8.4(ii) are not complied with.

6.2. Planning Authority Response

- No further comments to original report.

6.3. Applicant's Response

- 6.3.1. Manahan Town Planning consultants have responded to the appeal grounds and make the following points:

- There will be 25m separation distance between opposing windows at first floor level
- The extension is only a 2.5m increase in depth at first floor level. It would be 14.5m from rear boundary of 22 Musgrave Terrace.
- The 22m separation distance is a guide and is more applicable to new build. A degree of flexibility is required for existing development in urban areas.
- The re-use of this building is consistent with a sustainable settlement strategy as promoted in Dun Loaghair development plan (section 1.2.5.1) in line with the National Planning Framework.
- Ultimately the proposal is compliant with the development plan guidance and would not adversely impact residential amenity by reason of overshadowing, overlooking or overbearing appearance.
- The reinstatement of the premises as a residence will enhance the residential amenities and character of the area.

7.0 Assessment

7.1. Issues

7.1.1. This appeal relates to a proposal for a change of use from offices to residential use in a 19th house at the periphery of the town centre. From my inspection and review of the file, the key issues centre on:

- Principle
- Residential Amenity

7.2. Principle

7.2.1. Notwithstanding the residential zoning objective for the area, the site is located in an area characterised by a mix of uses and where there is evidence of vacant commercial premises. I note from the planning history the proposed residential use is in fact a reversion to its previous use. Accordingly a residential use accords with the zoning objective for area and is also compatible in terms of the immediate site context. Furthermore the loss of a commercial unit would not displace commercial development or undermine the consolidation of commercial town centre uses. I therefore consider the use of the house as a single-family residence to be

acceptable in principle. The proposal to extend the house to provide for a modernised family home is accordingly also acceptable in principle.

7.3. Residential Amenity

- 7.3.1. The key issue in respect of impact on residential amenity relates to the introduction of a first-floor window in the rear elevation of an extended first floor level which faces the rear of 22 Musgrave Terrace. In this case the appellant argues that the proposed first floor window would be 17m from the opposing first floor in his house and by reference to the development plan standard of a 22m separation distance at first level this would be substandard and constitute an undue impact on his property. He holds the view that the planning authority did not in fact have sufficient regard to its own standards.
- 7.3.2. The planning authority holds the view that the first floor window is acceptable given the garden depth of the subject site which I note extends to 12.23m as measured from the line of the new first floor window to the rear garden wall. The added intervening lane further extends the depth of the window distance from the opposing rear boundary to 14.5m. The consultant for the applicant also points out in response that the standards are guidance more appropriately applicable to new build and in any event there would be a separation of 25m at first floor level.
- 7.3.3. In the context of the scale of the site, I concur with the planning authority in its appraisal that the proposed extension at first floor level is not excessive. It is substantially the width (in fact slightly narrower) and roof pitch in the return section, albeit around 2.5m deeper. Accordingly it maintains a set back from the boundaries of properties on each side. In this regard I also note that windows have been reduced in number in the northern elevation. The introduction of opaqued glazing will further protect residential amenities on each side. The further measure to restrict normally exempted development will also further protect visual amenities of the area.
- 7.3.4. In respect of the proposed first floor window facing the rear boundary (12.23m from the boundary) I note that the gable in the opposing terrace to the rear is only 2.5m from its rear boundary but it is blank at the upper level which appears consistent with the original design of the terrace. To require a 22m distance from this gable would I consider be unreasonable. While there is a window in the side return of 22

Musgrave Terrace, at such an oblique this cannot be directly overlooked. The subject site maintains a generous buffer relative to the scale of the house, the extension and boundaries and to require a reduction in depth is not necessary or reasonable. Furthermore as the consultant points out, the opposing distance will be 25m from the west facing upper floor windows.

7.3.5. As there are intervening boundary walls and a lane way, in addition to a shed I do not consider the proposed extension will amount to an undue level of overlooking or nuisance beyond what is reasonable in an urban environment.

7.3.6. The appellant argues that the window is excessive in scale and would be overbearing. In my judgement I consider the scaling of the extension particular at first floor to be proportionate and, while deep at 8.2m, it maintains the existing set back to the sides and also generous proximity from the rear boundary.

7.3.7. The appellant considers the proposal to have the potential to be overbearing. While I do not generally agree in that I consider the contemporary approach to be simple and respectful of the original architecture, I do however accept that the proportionally much wider window 2.3m x 2.1m will accentuate its visibility and also permit more extended views. Accordingly I consider it appropriate to scale down the window. I do not however consider there to be sufficient grounds to refuse permission. I concur with the decision of the planning authority subject to a modest reduction in the scale of the new proposed east facing bedroom window.

7.3.8. I do not consider overshadowing to be an issue in view of the separation distances.

8.0 Appropriate Assessment

8.1.1. 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.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the provisions of the Dun Laoghaire-Rathdown Development Plan 2016-2022, the existing pattern of development in the area, and the nature of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to any significant overlooking or constitute overbearing development and would therefore not seriously injure the amenities of the area or of property in the vicinity and would provide an acceptable level of residential accommodation. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 dwelling and ancillary shed shall be jointly occupied as a single residential unit only

Reason: In the interest of clarity.

3. Prior to commencement of development the developer shall submit to, and agree in writing with, the planning authority the following:
Revised drawings suitably scaled, showing a 20% reduction in the glazed window area of the proposed east facing first floor bedroom.

Reason: In the interests of residential amenity.

4. Water supply and drainage arrangements, including the 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. 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, [ALT shall be erected on the site/within the rear garden area], without a prior grant of planning permission.

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

Suzanne Kehely

Senior Planning Inspector

28th October 2020