



An
Bord
Pleanála

Inspector's Report ABP308296-20

Development	Demolition of rear extension and construction of new ground floor extension together with part two-storey extension to rear.
Location	15 Ard Righ Road, Stoneybatter, Dublin 7 D07 C1W8.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB 1482/20.
Applicant	Ellen Kirk.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party.
Appellants	John and Niamh Moore.
Observer	Philip O'Donnell.
Date of Site Inspection	22 nd December, 2020.
Inspector	Paul Caprani.

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1.0 Introduction

ABP308296-20 relates to a third-party appeal against the decision of Dublin City Council to grant planning permission for the demolition of an existing extension to the rear of a dwellinghouse and the construction of a part two-storey part single-storey extension in its place at No. 15 Ard Righ Road, Stoneybatter in the north-west inner city of Dublin. The grounds of appeal argue that the size and scale of the proposed development will adversely impact on the residential amenity of the adjoining property. An observation was also submitted from an owner of an adjoining property which also objects to the proposal and supports the grounds of appeal.

2.0 Site Location and Description

- 2.1. The appeal site is located in the inner suburban area of Stoneybatter approximately 2 kilometres west of Dublin City Centre. Stoneybatter is an inner city, inner suburban exclusively residential area developed by the Dublin Artisan Dwelling Company at the beginning of the 20th century. The subject site is located on the western side of Ard Na Righ Road to the north of its intersection with Ard Righ Place. The grounds of Arbour Hill Prison and Graveyard are located to the immediate west of Ard Righ Road. No. 14 forms part of a row of terraced two-storey dwellings which rise to a ridge height of 7.4 metres. At ground floor level the dwelling accommodates a hallway and living room to the front of the house, a dining room to the rear, a kitchen area and toilet/shower area is located in a single-storey extension to the rear. A small yard (8 square metres) is located to the rear of the kitchen area. Two bedrooms are provided at first floor level. No. 11 Ard Righ Place backs onto the rear of the subject site. A small alleyway separates the rear boundary of the site from the side gable of No. 11 Ard Righ Place.

3.0 Proposed Development

- 3.1. Planning permission is sought to demolish the existing single-storey return to the rear of the dwellinghouse which currently accommodates a kitchen and toilet area. In its place it is proposed to provide a new kitchen area at ground floor level

accommodating a slightly smaller footprint so as the yard area is increased from 8 square metres to 10.1 square metres. It is also proposed to demolish the internal partition wall between the dining room and living room to create an open plan area at ground floor level. The new toilet is also to be provided directly opposite the front door entrance at ground floor level. At first floor level it is proposed to incorporate a new bathroom above part of the rear return. The bathroom does not extend the full length of the rear return but occupies approximately half the area of the ground floor extension. The rear return at first floor level is just over 2 metres in length from the main rear elevation. As a result of the proposed works to be undertaken the gross floor area of the dwellinghouse will increase from 68.6 square metres to 72 square metres in size.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Dublin City Council issued notification to grant planning permission subject to 9 conditions.
- 4.1.2. A number of letters of objection were submitted to the Planning Authority the contents of which have been read and noted.
- 4.1.3. A report from Transport Infrastructure Ireland notes that the proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme (Luas Crosscity). If the above application is successful and not exempt a condition to grant planning permission should include a Section 49 Contribution Levy.
- 4.1.4. A report from the Engineering Department Drainage Division states that there is no objection subject to standard conditions.
- 4.1.5. The planner's report sets out details of the zoning pertaining to the site and also briefly details the site description and the proposed development. The various observations that were submitted and the points contained therein, are set out in the report. The planner's report notes that there would not be significant impacts resulting from the ground floor extension. It is noted that the applicant proposes a flat roof first floor extension. It is noted that in order to meet the required floor to ceiling

heights within the bathroom the floor extension needs to rise just above the eaves level of the existing dwelling. It is noted that the development would extend c.2.2 metres out from the rear boundary. It is not considered that the extension of this size will significantly impact on adjoining properties in terms of being overbearing. It is also considered that the proposal will have minimal impact in terms of loss of light. It is stated that a balance must be struck between facilitating inner city living whilst protecting residential and visual amenity of adjoining properties. It is noted that a similar type development was granted at No. 43 Ard Righ Road. Therefore, having regard to the nature and scale of the proposed development it is recommended that planning permission be granted for the proposed development.

5.0 Planning History

There appears to be no planning history associated with the appeal site. The planner's report makes reference to a grant of planning permission for a similar development at 43 Ard Righ Road on the opposite side of the road under Reg. Ref. 2438/19.

6.0 Grounds of Appeal

6.1. The decision of Dublin City Council to issue notification to grant planning permission was appealed by Niamh and John Moore of No. 16 Ard Righ Road. The grounds of appeal are outlined below.

- The appellant states that he lives in the adjoining house to the immediate north of the subject site.
- The subject site is located within a terrace of houses dating from the late Victorian era which is now designated as a residential conservation area. Typically, houses are two bedrooms with a floor area of c.45 square metres with very limited open space to the rear. Many dwellings have to date, incorporated single storey rear extensions. Traditionally, Dublin City Council have not permitted two-storey extensions to the rear of houses so as to protect the residential amenities of neighbouring dwellings to ensure that they do not result in overlooking, overshadowing or have an overbearing impact.

- The appellants' property includes a small single-storey kitchen and bathroom extension. The kitchen is south facing, and the sitting room incorporates a west facing window which is the main source of light for the downstairs of the house.
- A small outside play area is provided by way of a rear yard patio. The proposal would be completely overlooked and overshadowed by the proposed development.
- The proposal by reason of its excessive height, bulk and scale constitutes overdevelopment of a severely restricted site. The proposed two-storey element will block morning and afternoon sun from entering the patio area. It is also stated that the proposed development will block morning and afternoon sunlight for several other houses nearby.
- The proposed development will set an unwelcome precedent and would be visually obstructive.
- Reference is made to a precedent decision by An Bord Pleanála under ABP302693-18 where a proposed first floor extension to No. 48 Ard Righ Road was omitted by condition. Reference is made to various other precedent decisions in the vicinity. While it is noted that many permissions have been granted for single-storey extensions, planning permission for first floor extensions have not been permitted on a number of other sites in the wider Stoneybatter area.
- The proposal is also contrary to the Z2 zoning objective which seeks to protect and improve the amenities of Residential Conservation Areas. It is considered that an extension at first floor level will be detrimental to the character of the Residential Conservation Area and set an unwelcome precedent.
- Reference is made to various development plan policies and statements which highlight the need for alterations and extensions to be sensitive to the density and scale of the surrounding townscape and the character of the area.

- The proposal will directly affect the amenity of the private open space enjoyed by the appellants to the rear of the house.
- The Board are requested to note that the scope for extension of the dwellings in the Stoneybatter area are very restricted. The proposed two-storey extension will have a profound effect and dramatically alter the configuration of No. 15 Ard Righ Road as viewed from the appellants' back garden.
- The proposal in this instance merely seeks to provide the applicants with an en-suite bathroom, meanwhile the appellants have to pay a significant price in terms of amenity for the provision of such a bathroom.
- Having regard to the fact that the subject site is located in a Residential Conservation Area it is considered that the excessive height, bulk and scale of the proposed first floor extension will significantly impact on the visual amenities of the area and would be out of character with the established pattern of development in the area.
- It is argued that the proposal will result in an undesirable precedent for similar type developments in an area characterised by small plot sizes and high-density development.
- Reference is also made to PL29N.237424 where the Board upheld the recommendation of the planning inspector and omitted the first floor at No. 58 Viking Road (road parallel to the subject site).

7.0 Appeal Responses

7.1. A response was submitted on behalf of the appellant by Hendrick Ven der Kamp, Town Planner. The response is set out below.

- The contention set out in the grounds of appeal that traditionally Dublin City Council have not permitted two-storey extensions to the rear of houses is not correct. Reference is made to the planning register which demonstrates that in a number of cases the Planning Authority have granted planning permission for very similar type single-storey and two-storey extensions to the rear of sites. In all cases the two-storey element had a limited projection to the

rear of typically 2.5 metres. Reference is made to six decisions where Dublin City Council have granted planning permission for extensions which incorporated a two-storey element.

- In relation to overlooking it is stated that there is only one window proposed in the two-storey extension which is facing south-west and will be fitted with obscure glazing.
- In relation to planning precedents, it is stated that there are numerous precedents where planning permission was granted for a first-floor extension.
- It is not accepted that the proposed first floor extension would be detrimental to the character of the residential conservation area as the proposed extension will not be visible from the streetscape. Any concerns expressed by either the Planning Authority or An Bord Pleanála were based on impacts on residential amenity and not conflicts with the residential area zoning objective.
- The suggestion that the proposed development constitutes overdevelopment is not accepted. In fact, the opposite is the case. The proposed development will result in an increased yard area for the applicant.
- There is a limited projection outward of the first-floor extension from the rear wall to a depth of 2.35 metres. However, the applicant is willing to modify the first floor part of the extension by reducing the length by 1 metre to 1.35 metres. This is indicated in the enclosed drawing. The applicant would accept a condition should the Board require this modification.
- Having regard to the size and scale of the extension at first floor level it is stated that any loss of direct sunlight would be confined to the early morning if at all and would not affect the rear part of the yard of the adjoining property. This modest loss of residential amenity needs to be balanced against the need to provide appropriate accommodation for the applicant..

7.2. Further Submission from the Appellant

- The further submission states that they welcome the offer made on behalf of the applicant to reduce the size of the proposed extension by 1 metre. However, the appellants remain of the firm view that the entirety of the upstairs part of the proposal is inappropriate and unfairly injurious to the

amenities of the area. The appellants state that, on examining the planning register, up until very recently the majority of developments involving extensions were single-storey only which protected the visual amenity of adjoining properties.

- It is reiterated that the appellants' patio area would be overlooked and overshadowed by the proposed development.
- While it is acknowledged that the proposed development will not result in any alterations to the front of the building it is still considered that the rear extension will be detrimental to the character of the Residential Conservation Area.
- It is reiterated that the overall height, scale, bulk and mass would constitute a serious overdevelopment of a severely restricted site.
- While the applicant claims that an extension of 2.35 metres would be limited, the appellants reiterate that the extension is located on a very restrictive site.
- Photographs are attached where it is purported that the proposed rear extension will undoubtedly block sunlight and daylight into the appellants' kitchen and sitting room.

7.3. Observation

- An observation was submitted by Philip O'Donnell of No. 14 Ard Righ Road, the dwelling to the immediate south of the subject site.
- It reiterates that the limited amenity space to the rear is the only amenity space available to the observer. The observation also makes reference to the Z2 conservation status of the area. The Residential Conservation Area does not have any associated open spaces and therefore it is vital that private amenity spaces are protected against potential negative impacts. The importance of residential community is acknowledged in the development plan and this is highlighted in the observation submitted.
- The fact that the local authority planning officer determined that the impact was not "significant" does not imply that the impact would be acceptable. The fact that private amenity space is at such a premium in the layout of these houses should make its protection all the more important.

- The two-storey extensions granted at Citric Road all incorporated extensions that were below the eaves of the existing houses. The proposal will result in a monolithic block with a flat roof which is just over half the width of the plot. The height of the proposed kitchen extension is higher than the existing extension to the rear of the observer’s house.
- It is also suggested that any opening of the obscure windows should not allow for any overlooking and any access to the flat roof should be for maintenance purposes only.
- It is argued that the addition of a second bathroom to the common sewer will overburden the system. There are problems with sewer blockages in the area.
- It is argued that the proposed development should be refused for the following reason:
 - It constitutes overdevelopment of the site.
 - Will overburden the existing sewage system.
 - Does not contain sufficient information regarding the size of the proposal.
 - It will result in the loss of amenities to an established residential neighbourhood and set an undesirable precedent.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan.
- 8.2. The subject site is governed by the zoning objective Z2 “to protect and/or improve the amenities of residential conservation areas”.
- 8.3. Section 16.10.12 of the development plan specifically relates to extensions and alterations to dwellings.
- 8.4. The design of residential extensions should have regard to the amenities of properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development

should integrate with the existing building through the use of similar finishes and windows. Extensions should be subordinate in terms of scale to the main unit.

8.5. Applications for planning permissions to existing dwellings will only be granted where the planning authority is satisfied that the proposal:

- Will not have an adverse impact on the scale and character of the dwelling.
- Will not adversely affect amenities enjoyed by occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

8.6. Appendix 17 of the Dublin City Development Plan also sets out further guidelines for residential extensions.

8.7. It notes that new extensions whether they are single-storey or two-storey, have an effect on the immediate environment and accordingly the following general principles should be addressed in all proposals for extensions. Proposals should:

- Not have an adverse impact on the scale or character of the building.
- Have no unacceptable effect on the amenities enjoyed by occupants of the adjacent building in terms of privacy and access to daylight and sunlight.
- Achieve a high quality of design.

8.8. It is important to make sure that any extension does not unacceptably affect the amenities of neighbouring properties. This includes privacy, outlook, daylight and sunlight. It is advisable to discuss the proposal with neighbours prior to submitting a planning application.

8.9. Section 17.6 notes that large single or two-storey rear extensions to semi-detached or terraced dwellings can, if they project too far out from the main rear elevation, result in the loss of daylight to neighbouring houses. Furthermore, depending on orientation such extensions can have a serious impact on the amount of sunlight received by adjoining properties. Consideration will be given to the proportion of the extensions, height and design of roofs as well as taking account of the position of windows including rooms they serve to or facing adjoining dwellings.

8.10. Section 17.8 relates to the subordinate approach. The subordinate approach means that the extension plays more of a supporting role to the original dwelling. In general, the extension should be no larger or no higher than the existing structure.

8.11. Natural Heritage Designations

The site is not located within or approximate to a designated Natura 2000 site. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located 4 kilometres east of the subject site.

9.0 EIAR Screening Determination

The proposed extension is not a class of development for which EIAR is required.

10.0 Planning Assessment

I have read the entire contents of the file, have had particular regard to the grounds of appeal, the applicant's response to the grounds of appeal and the observation submitted. I have also had regard to the policies and provisions contained in the statutory development plan relating to the subject site. I consider the critical issues in determining the current application and appeal before the Board are as follows:

- Precedent Decisions
- Impact on Residential Amenity
- Impact on Visual Amenities
- Other Issues

10.1. Precedent Decisions

10.1.1. I consider that there are a number of precedent decisions which could assist in informing the Board in determining the current application and appeal. The most important precedent decision relates to the Board's decision in respect of No. 48 Ard Righ Road (ABP302693-18). It appears from the inspector's report that planning permission was sought for a very similar type development to that currently before the Board, namely to demolish part of the kitchen and existing single storey extension to the rear of the house and to construct a new single storey extension at ground floor level and incorporate an en-suite bathroom extension at first floor level. It is noted that Dublin City Council in determining the application under Reg. Ref.

3510/18 recommended a grant of planning permission subject to six standard conditions. The decision of Dublin City Council was subject of a third-party appeal by the resident of No. 46 Ard Righ Road. The issues raised in the appeal were similar to that argued in the current application and appeal before the Board. Notwithstanding the fact that the inspector recommended that the decision of the Planning Authority be upheld in its entirety, the Board in its decision of January, 2019 issued a grant of planning permission but crucially Condition No. 2 of this permission required that the first floor extension be omitted from the development.

- 10.1.2. An earlier case in respect of No. 58 Viking Road grounds of appeal highlighted a number of decisions where Dublin City Council have granted planning permission for rear extensions incorporating two-storey elements particularly on Citric Road. However, it appears none of these particular applications were the subject of an appeal to An Bord Pleanála. The Board will further note that under 237424 planning permission was granted for an extension to the rear of No. 58 Viking Road. Again, however, An Bord Pleanála incorporated a condition omitting the first-floor element of this development.
- 10.1.3. Under Reg. Ref. 301897-18 which related to the renovation and extension of a dwellinghouse at No. 13 Viking Road which related to the construction of a two-storey extension, the Board overturned the decision of Dublin City Council to grant planning permission and refused planning permission outright for the proposed extension due to the scale of the development which is considered to constitute an overdevelopment of the site and would be unduly overbearing on neighbouring residential property.
- 10.1.4. It is therefore apparent that the Board in adjudicating on two-storey extensions within the neighbourhood of the appeal site have adopted a consistent approach in permitting only single storey elements to the rear of dwellings in the neighbourhood in question on the basis that the proposed development would impact on adjoining residential amenity space. The precedent set by the Board in its previous decision is in my view a material and relevant consideration in adjudicating on the current application. If the Board seek to adopt a consistent approach having regard to decisions made in respect of extensions to similar type dwellings in the vicinity, it should in my view resist any proposals to incorporate an upper storey element to the extension in question.

10.2. Impact on Residential Amenity

- 10.2.1. As pointed out in the grounds of appeal, the dwellings along Ard Righ Road, Viking Road and Citric Road incorporate a tight urban grain with dwellings generally incorporating a narrow frontage facing directly onto the street with only small confined yard areas to the rear. It appears from the maps contained on file that the rear yard areas somewhat vary in size but on the whole appear to be less than 15 square metres in area. They offer the only outdoor amenity space within the immediate vicinity of the dwellinghouses as no communal space was provided as part of the overall scheme. The fact that the rear yard areas are both modest in size and confined results in only limited direct sunlight penetration. The incorporation of a two-storey element, notwithstanding the applicant's proposition to reduce the overall depth of the two-storey element, will still exacerbate levels of overshadowing experienced in these rear yard areas. The rear yard area of the appellant's dwelling incorporates a relatively advantageous orientation in attracting direct sunlight throughout the mid part of the day. The incorporation of a two-storey element will to some extent reduce and compromise the level of direct sunlight penetration to the appellants' rear garden area.
- 10.2.2. With regard to daylight penetration, it is impossible to state in the absence of a detailed study to what extent the proposed second storey element of the extension would impact on the vertical sky component. However, I would estimate that any impact in terms of daylight penetration would not be so significant or severe as to reduce daylight penetration into the ground floor level of the appellant's dwelling through reducing the vertical sky component to an unacceptable level. However, having regard to the modest amount of outdoor amenity space available to the appellant I consider that any reduction in the quality of this amenity area by the reduction of sunlight penetration and any increase in overshadowing of this space would be material in terms of the amount of residential amenity enjoyed by the occupants of the adjoining house to the north.
- 10.2.3. In terms of overlooking I do not consider that the incorporation of a second floor would have any material impact in terms of overlooking. As the applicant sets out in the response to the grounds of appeal, only one window is proposed at first floor

level. This window serves a bathroom and faces westwards towards the gable end of No. 11 Ard Righ Place. The proposed bathroom at first floor level therefore would not exacerbate the potential for overlooking.

10.3. Impact on Visual Amenities

10.3.1. It is acknowledged that the subject site is located in an area governed by the zoning objective Z2 which seeks to protect and/or improve the amenities of Residential Conservation Areas. I note and agree with the applicant's argument in this response to the grounds of appeal that the proposed development will not in any way alter the front of the building and therefore the streetscape along Ard Righ will remain unaltered. The proposed extension to the rear will to some extent be visible from public vantage points along Ard Righ Place. The Board will note from the photographs attached that there is considerable variation in the scale and form of the single-storey extensions to the rear of the dwellinghouses. Some incorporate flat roofs, some incorporate monopitched roofs and most are of different heights and styles. In this context I do not consider that the proposed development will significantly adversely impact on the visual amenities of the area due to the variations and styles already incorporated into the rear extensions of the houses along this section of Ard Righ Road.

10.4. Other Issues

10.4.1. The observation on file raises two other issues which are briefly addressed below.

10.4.2. It is argued that the proposed development will overburden the existing sewage system by the addition of an additional water closet within the proposed extension. The proposed extension does seek to accommodate an additional bathroom at first floor level and it is assumed this is for convenience purposes. The provision of an additional bathroom facility will not in itself alter the hydraulic or organic loadings associated with the occupancy of the dwelling, as the same number of persons will occupy the dwelling, regardless of the amount of bathrooms/ WC's provided. Therefore, there is nothing to suggest that the proposed extension will in any way overburden the sewage system.

10.4.3. It is also suggested that the application is missing key measurements regarding the height, length and breadth of the proposed extension. While all measurements may not be indicated on the drawings submitted all drawings have been appropriately

scaled and the scales are indicated on the drawings submitted. Therefore, the drawings fully comply with the requirements of Article 23 of the Planning and Development Regulations 2001 (as amended).

10.4.4. I note that Transport Infrastructure Ireland in its submission to the planning authority requested that if applicable a financial contribution shall be levied in respect of the Luas Crosscity Line. I refer the Board to the Supplementary Development Contribution Scheme adopted under Section 49 of the Planning and Development Act, as amended, and specifically Section 11 of the Scheme which sets out exemptions. It is noted that domestic extensions are exempted under the Scheme and therefore the contribution levy should not apply in this instance.

11.0 Conclusions and Recommendation

While it is acknowledged that the first floor element of the proposed extension is modest in scale and that the applicant in this instance merely seeks to extend the proposed development in order to provide for more contemporary accommodation needs, there is in my opinion relevant precedent in relation to adjudicating on applications of this nature in the vicinity of the site. And in this regard, I note that the Board have been consistent in not permitting first floor elements in any proposed refurbishment, extension or renovation of these artisan dwellings. The reasons in prohibiting first floor extensions are predicated on the reasonable basis of maintaining and preserving the modest amenity space which is currently available to the rear of these dwellings. I would therefore recommend that the Board grant planning permission for the proposed development but incorporate a condition omitting the first-floor element of the proposed extension. If the Board disagree with the above recommendation, and the Board are minded to grant planning permission for the first floor element of the proposal, I recommend that it incorporate the reduction in depth from 2.35 metres to 1.35 metres as indicated in the revised drawings submitted with the applicant's response to the grounds of appeal.

12.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site,

no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

13.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to the zoning objective Z2 for the area as set out in the Dublin City Development Plan 2016 – 2022 and the existing pattern of development in the area it is considered that subject to compliance with the conditions set out below (including the omission of the first floor element of the extension), the proposed development will not seriously injure the residential or visual amenities of the area and 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 with the planning authority prior to the 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 first floor extension shall be omitted from the development. Revised drawings showing compliance with this requirement shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of protecting the residential amenities of adjoining

properties as it is considered that the first floor extension would unduly impact by way of overshadowing and being overbearing on adjacent properties.

3. The external finishes of the proposed extension shall match the external finishes of the existing dwelling about colour and materials used.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

5. Prior to the commencement of development, a construction management plan shall be submitted to and agreed in writing with the planning authority. The plan shall include details of the intended construction practice including proposals for traffic management, noise management and measures for off-site disposal of construction/demolition waste.

Reason:

6. The site development and building works shall be carried out only between the hours of 0800 hours to 1800 hours Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

Paul Caprani,
Senior Planning Inspector.

21st January, 2021.