



An
Bord
Pleanála

Inspector's Report ABP-308881- 20

Development	Demolition of an existing shed, construction of a single-storey family flat extension, connected to the existing house by way of a glazed link and all associated site works.
Location	Rockall, Ballygihen Avenue, Sandycove, Co. Dublin.
Planning Authority	Dun Laoghaire-Rathdown County Council.
Planning Authority Reg. Ref.	D20A/0717
Applicant(s)	Ronald Kavanagh
Type of Application	Permission
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Date of Site Inspection	21 st April 2021
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The site comprises a two-storey semi-detached house, 'Rockall', located on the eastern side of Ballygihen Avenue, Sandycove, County Dublin. Ballygihen Avenue provides a north to south link between Marine Parade and Sandycove Road.
- 1.2. The subject site has a stated area of 0.065 hectares and is of an unusual layout. The front of the house faces north towards Marine Parade and the Irish Sea. The adjoining house, Fastnet, is located to the east of the public street and its primary private amenity space is located to the front/ northern side of the house, whereas the private amenity space for Rockall is located to the rear/ southern side. Vehicular access is available to Rockall from Ballygihen Avenue and a narrow pedestrian access is available from Marine Parade.
- 1.3. A stone/ brick shed is located to the south eastern side of the site; this is proposed for demolition and replacement as part of the application.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - The demolition of an existing garden shed with a stated area of 18 sq m.
 - The construction of a single-storey family flat which is connected to the main house by way of a glazed link. This to be a stated area of 64 sq m and the link to have a stated area of 9 sq m.
 - All associated site works and services.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission subject to a single reason as follows:

'Section 8.2.3.4 (iii) of the Dún Laoghaire Rathdown County Development Plan 2016-2022 states that family member/ granny flat accommodation should be inter-linked with the main dwelling, be capable of being readily subsumed back into the main dwelling when no longer required, and be a subsidiary element, but not a fully

independent dwelling. Having regard to the position, layout, access arrangements and relatively large size of the proposal, with the main element of the family member/granny flat largely separate from the main dwelling house, linked only by long glazed corridor which connects to the rear conservatory of the dwelling house, it is considered that the proposed development would not accord with Section 8.2.3.4(iii) 'Family Member/Granny' Flat Extension, of the Dún Laoghaire Rathdown County Development Plan, 2016-2022, and would be indicative of a layout of a separate residential unit. The proposed development would depreciate the value of property in the vicinity, and furthermore, would help set an undesirable precedent for similar type development in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area'.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning report reflects the decision to refuse permission for the proposed development. No concerns were expressed in relation to impact on residential amenity and the proposed use of the family flat is acceptable. The primary concern with the development was that it was unclear if the family flat could be subsumed back into the main dwelling when no longer required as a family flat.

3.2.2. Other Technical Reports

Municipal Services Department – Drainage Planning: No objection to this development subject to conditions.

Transportation Planning: No objection to this development subject to conditions. One of the conditions requires the provision of two car parking spaces which can be entered/ exited independently of each other.

3.2.3. Prescribed Bodies

None.

3.2.4. Objections/ Observations

None received.

4.0 Planning History

None on the subject site in recent times.

P.A. Ref D18A/0774/ ABP Ref. 302883-18 refers to a March 2019 decision to grant permission for the demolition of two existing dwellings and construction of 4 new semi-detached houses on the site to the south of the subject site.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A, 'To protect and/ or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.

5.1.2. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development' and the following are relevant to the subject development:

8.2 'Development Management' – with particular reference to section 8.2.3 'Residential Development', 8.2.3.1 'Quality Residential Design', 8.2.3.2 'Quantitative Standards' and 8.2.3.4 'Additional Accommodation in Existing Built-up Areas' – (iii) 'Family Member/ Granny' Flat Extension' is the relevant section for this development:

'A 'Family' or 'Granny' flat refers to a temporary subdivision of a single dwelling - often by adding an extension to the dwelling or converting an attached garage - for a subsidiary element, for use by a member of the immediate family (e.g. elderly parent) but not as a fully independent dwelling. These will be assessed against the criteria applied to 'normal' domestic extensions. The Planning Authority will generally consider such sub-division and/or extension favourably subject to ensuring no negative impacts on the integrity of the primary dwelling. Applications for granny / family flats within the rural area will be assessed under the provisions of Section 8.2.3.6(vi).

Proposals should be:

- Interlinked with the primary dwelling and capable of being readily subsumed back into same.
- Such that the Planning Authority is satisfied that there is a valid justification for the proposal in use terms.

Permission will normally be on condition that:

- The flat can be subsumed back into the main dwelling when it is no longer required.
- It shall not be let or sold, other than as an intrinsic part of the overall property.
- Where the owner wishes it to remain subdivided on a permanent basis, an application shall be made for sub-division which will be assessed on the more demanding criteria as would be applied to a separate dwelling house’.

5.2. **Natural Heritage Designations**

None in the immediate vicinity. The nearest European site is Dalkey Island SPA (site code 004172), which is approximately 1.7 km to the east of the subject site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant, Ronald Kavanagh, has engaged the services of Simon Clear & Associates, Planning and Development Consultants, to appeal the decision of Dun Laoghaire-Rathdown County Council who refused permission for a family flat at Rockall, Ballygihen Avenue, Sandycove, Co. Dublin.

The issues raised in the appeal include:

- The history of the site/ house is outlined. Fastnet was the original house on this site, and the lands were divided, and Rockall was constructed to the eastern side of Fastnet. The development result in the original garden area to the rear/ south being allocated solely to Rockall which has its private amenity space located to the north west side/ corner of Ballygihen Avenue and Marine Parade.
- A single storey garden shed of 18 sq m is located to the south eastern corner of the site and this is proposed for demolition and replacement with a 55 sq m family flat. The family flat is attached to the existing house by way of a 8 m long link.

- No third-party submissions were received, and no concerns were raised by the internal departments within Dun Laoghaire-Rathdown County Council.
- The Planning Authority raised no objection to the principle of a family flat. The proposed development will not impact on the residential or visual amenities of surrounding properties. The Planning Authority Case Officer's reported that it is not possible to integrate the unit with the existing house due to the layout of the site and the unit would lend itself to being used as a separate dwelling unit.
- The development should be considered on its merits in accordance with Development Plan policy. Concern is raised that the development was considered and refused based on conjecture that the unit would operate as a separate dwelling. If permitted, any departure from the terms of permission would open the development up to enforcement procedures.
- The nature of the link between an existing house and a family flat is not described in planning policy. The proposed layout makes optimum use of the site and ensures that the residential amenity of the existing house is retained. It is noted that the Planning Authority Case Officer refers to the need for the family flat to be 'subsumed into the body of the main dwelling'. This need for subsuming into the main body of the house is not stated in the development plan.
- The appeal outlines a number of uses for the family flat when no longer required for that purpose including additional living space, garden rooms, domestic office and gym.
- The scale of the family flat was also raised as an issue of concern in the report of the Planning Authority Case Officer. The unit will provide a one bedroom, two-person unit with a stated floor area of 55 sq m and the floor area is appropriate for such a unit.

The appeal is supported with a number of photographs and an aerial photograph of the site.

7.0 **Assessment**

- 7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Nature of the Development
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Compliance with Family Flat requirements
- Infrastructure
- Appropriate Assessment Screening

7.2. Nature of the Development

- 7.2.1. The proposed development consists of the demolition of an existing garden shed and the provision of a one-bedroom, two-person family flat to the south of 'Rockall', Sandycove. The family flat to have a stated area of 55 sq m. The shed, whilst attractive, is not of any particular importance that requires its retention.
- 7.2.2. The site is suitably zoned for residential development, which allows for family flats, and I note the planning history of the area. It is stated, in the cover letter submitted with the original application to the Planning Authority, that the family flat is for the applicant's son so that he can look after the applicant and his wife, both of whom are elderly. The Planning Authority had no objection to the need for the family flat and I also have no objection to this aspect of the development.

7.3. Design and Impact on the Character of the Area

- 7.3.1. The proposed family flat will be located in the south eastern corner of this site and will be attached to 'Rockall' by way of a connecting link from an existing conservatory. The development will be located within the boundary wall and not attached to it. The main structure will be finished in stone with granite detailing and the link will be primarily glazed. A green roof will be provided over the family flat.
- 7.3.2. The design of the proposed unit and lowered ground levels ensure that the new unit does not dominate the site. From the submitted details, I am satisfied that the development will integrate into its surrounding without negatively impacting on the existing character of the area.

7.4. Impact on Residential Amenity

7.4.1. The proposed floor area and room sizes are acceptable in terms of floor area and useability for this one-bedroom unit. As this is a family flat private amenity space can be shared with that provided for the existing house. A small courtyard area is proposed to the east of the link.

7.4.2. The development will not give rise to overlooking leading to a loss of privacy or overshadowing leading to a loss of daylight to the existing units/ properties to the east and south. The unit is single storey and windows are inward facing onto the site. The only real potential for overshadowing is in the late evening onto the property to the east, but this will not significantly greater than at present and will not impact on any useable private amenity areas.

7.5. Compliance with Family Flat requirements

7.5.1. Section 8.2.3.4 (iii) of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 provides the requirements for a family flat. Family flats are generally housing units for a family member that are for an unspecified temporary period of time, at the end of which, the unit reverts back as/ forms part of the main house.

7.5.2. The development plan is clear in what is required; the unit should be interlinked with the main house, be capable of being subsumed into the main house and there should be a justifiable reason for the unit. The applicant has outlined the reason for the unit in the cover letter and I have already accepted this under Section 7.2.2 of this report. The unit, which is a new build structure, is clearly interlinked to the main house by way of a mostly glazed link.

7.5.3. The main issues that the Planning Authority had, was concern that the unit would operate as a separate dwelling and would not easily be subsumed back into the main house. I note the issue raised in the appeal statement that the Planning Authority Case Officer commented on the need for the unit to be 'subsumed into the body of the main dwelling'. The development plan only requires the unit to be subsumed into the main dwelling. The appeal provides a range of uses that could be applied to this unit when no longer required as a family flat.

7.5.4. The front of 'Rockall' faces north, towards the sea and therefore has the benefit of high-quality views from this side of the house towards the sea/ coastline. The rear of the house/ private amenity space has the benefit of a southerly/ south west aspect and this is the well-maintained rockery/ garden indicates that it is well used. The

proposed family flat will also benefit from the westerly aspect and I have no reason to believe that this unit cannot be integrated into the main house, providing for high quality floor area for the residents of 'Rockall'. There is no restriction in the county development plan on the maximum floor area of a family flat. I note from the Dun Laoghaire-Rathdown County Council Development Contribution Scheme 2016 – 2020, that 'The first 40 square meters of any extension, including granny flats, shall be exempt from the contribution scheme'. A contribution is levied on the floor area over the exempt 40 sq m and this development will therefore be liable for such a contribution.

- 7.5.5. I therefore disagree with the Planning Authority decision to refuse permission. The unit complies with the family flat requirements of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022. The unit is directly attached to the existing house and I have no reason to believe that the unit cannot be subsumed into the main house when no longer required as a family flat. The use of the family flat as an independent unit would not be in accordance with the submitted plans and details as described in the public notices.

7.6. **Infrastructure**

- 7.6.1. The Municipal Services Department – Drainage Planning report raises no concerns subject to conditions in relation to the green roof and that the parking/ hardstanding area will be constructed in accordance with the recommendations of the Greater Dublin Strategic Drainage Study for sustainable urban drainage systems (SUDs).
- 7.6.2. The report and recommended conditions of the Transportation Department is noted. There is adequate room on the existing driveway to accommodate the parking of a number of cars.
- 7.6.3. The site is located in an established urban area with good public transport provision in the form of the nearby DART station at Sandycove & Glasthule, within 750 m walking distance and bus services on Sandycove walk.

7.7. **Appropriate Assessment Screening**

- 7.7.1. Having regard to the nature and scale of the proposed development and the location of the site in an established, serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not

considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 and the zoning of the site for residential purposes, to the location of the site in an established urban area within walking distance of public transport and to the nature, form, scale, density and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 5th of October 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The existing dwelling and proposed family flat shall be jointly occupied as a single residential unit and the family flat shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling. The family flat shall be</p>

	<p>used for private domestic use only and it shall be reintegrated into the main dwelling house when no longer required.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity.</p>
3.	<p>Prior to the commencement of development, the developer shall provide, for the written agreement of the planning authority, full details of the proposed external design/ finishes in the form of samples and on-site mock-ups. These details shall include photomontages, colours, textures, and specifications.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Two car parking spaces shall be provided within the site. The parking spaces shall allow for both cars to enter into/ exit from the spaces independently of each other, even when the other car is parked in its space. The location(s) and layout of these spaces shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>Reason: To ensure adequate off-street parking provision is available to serve the proposed development.</p>
5.	<p>Water supply and drainage arrangements, including the disposal of surface water and the provision of a green roof shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>

7.	<p>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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
8.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
9.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
10.	<p>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</p>

<p>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.</p> <p>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.</p>
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Paul O'Brien
Planning Inspector

22nd April 2021