



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311611

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| <b>Development</b>                  | First floor extension and first floor balcony. Internal alterations and associated site works. |
| <b>Location</b>                     | Shamrock Cottage, Ardbrough Road, Dalkey, Co.Dublin  |
| <b>Planning Authority</b>           | Dun Laoghaire Rathdown County Council  |
| <b>Planning Authority Reg. Ref.</b> | D21B/0373  |
| <b>Applicant(s)</b>                 | Daragh and Alison Fegan  |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Refuse   |
| <b>Type of Appeal</b>               | First-Party  |
| <b>Appellant(s)</b>                 | Daragh and Alison Fegan  |
| <b>Observer(s)</b>                  | No   |
| <b>Date of Site Inspection</b>      | 23 <sup>rd</sup> December 2021   |
| <b>Inspector</b>                    | Suzanne Kehely   |

## 1.0 Site Location and Description

- 1.1. The appeal site relates to an extended cottage at ground and first floor levels on a short cul de sac lane way off Ardbrough Road. The laneway is densely developed on one its northern side and overlooks a Dalkey quarry/parkland area to the south. There is a variety of architectural styles and building forms which include artisan cottages and two storey houses dating from the 19<sup>th</sup> to contemporary infill development.
- 1.2. The subject site is wedged between multiple houses and has an irregular floor plan . It has frontage of c. 4m onto the laneway on its southern side and a c. 17m frontage along a narrow passageway that is fronted by an adjoining dwelling no.31 (propped up on its norther side) and by the sides of two dwellings on the opposite side. The cottage extends up to the northern boundary, part of which adjoins the parking area of No.21 to the north and part of which is adjacent to the gable end of no.21. No.21 is a two storey newly constructed dwelling and its façade is at right angles with the rear wall of the cottage. It is at a lower ground level by some metres and the existing sitting room window directly overlooks the parking area. No. 21 also has rooflights in the slopes and in the hip facing the site. The eastern side of the cottage has a stepped footprint and abuts the parking area associated with the dwellings to the east - The Ardbrough which is subdivided and accessed off the laneway . This house is at the junction of the laneway and Ardbrough Road. The first floor level of the cottage is a small area to the north west of the site – and is set back from the laneway and also from the adjacent parking area to the east. It has feature double bay first floors windows that face east over The Ardbrough site and also face opposing windows which include first floor living/kitchen and balcony areas. These bay windows are quite prominent as viewed from the laneway .
- 1.3. The Cottage has almost 100% site coverage. The flat roof over the first floor does not serve as open space. The roof has a raised railed timber parapet/fascia and the details submitted indicate that there is a maintenance trap door for internal roof access.

## 2.0 Proposed Development

- 2.1.1. The proposed development comprises the following:

- Construction of a first floor extension to the east of the first floor bedroom. This involves the removal of the two bay windows and creation of one new window facing north (over the parking to the front of no. 21) and one pair of balcony doors opening on onto a new balcony.
- New window in passageway.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority decided to refuse permission on grounds of the scale and position in the site, proximity to neighbouring residential properties to the north and east its visually overbearing impact. It would therefore be injurious to the visual amenities of the area and would depreciate the value of property in the vicinity.

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

#### **3.2.1. Planning Report**

- The report refers to section 8.2.3.4 of the Development plan and notes that there will be no significant impact on the privacy of adjoining residences. The main concern relates to overbearing impact on no.21 to the north and The Ardrugh to the east.
- Lack of details regarding finishes are noted but could addressed by condition.

#### **3.2.2. Other Technical Reports**

- Drainage Division - no objection subject to conditions.

### **3.3. Prescribed Bodies**

- No reports

## **4.0 Planning History**

The site

PA ref D06B/1047 refers to permission for a 21 sq.m. extension to the front of the 69 sq.m. cottage and refusal for roof garden.

Adjacent site to North:

4.1.1. An Bord Pleanála RL06D.303124 The Board decided that roof lights at 21 Ardburgh Road, which is the site adjacent to 24 Ardburgh Road, Dalkey, Co. Dublin is development and is not exempted development.

4.1.2. ref. PL06D.224147/ PA Ref. No. D07A/0507 refers to a grant of permission in 2008 for the construction of a two-storey dwelling and associated works and car parking.

PA Ref. No. D15A/0363. Refers to a refusal of permission in 2015 for alterations to approved plans (Reg. Ref. D07A/0507) to comprise an enlarged ground floor plan by extending to the west by 0.9 metre, altered entrance porch, revised elevations, a first floor balcony on the northern elevation and internal alterations. The reason stated: The western element of the proposed wraparound balcony will give rise to overlooking issues and will be visually obtrusive from the windows of the dwellings to the south. The proposed enlarged ground floor is located in front of part of the easternmost window of the dwelling to the south, Shamrock Cottage. It is considered that the proposed enlarged ground floor will be visually obtrusive from this window and will seriously detract from the residential amenity of this dwelling. Having regard to the impact of the proposed development, by reason of being visually obtrusive and resultant overlooking, the proposed development would seriously injure the residential amenity of adjacent dwellings and depreciate the value of properties in the vicinity and is, therefore, contrary to the proper planning and sustainable development of the area.

PA Ref. No. D15A/0750. Refers to a grant of permission in 2016 for alterations to previously approved plans (Reg. Ref. D07A/0507) to comprise an enlarged ground floor plan by extending to the west by 0.9 metre, altered entrance porch, revised elevations, a first floor balcony on the northern elevation and internal alterations

## **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 2 sets out policies and objectives for sustainable development. Policy **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.

5.1.3. Chapter 8 sets out housing standards. Section 8.2.3.4 (i) refers to extensions.

(i) Extensions to Dwellings First floor rear extensions will be considered on their merits, noting that they can often have potential for negative impacts on the amenities of adjacent properties, and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions the following factors will be considered:

- Overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries.
- Remaining rear private open space, its orientation and usability.
- Degree of set-back from mutual side boundaries.
- External finishes and design, which shall generally be in harmony with existing.

Any planning application submitted in relation to extensions shall clearly indicate on all drawings the extent of demolition/wall removal required to facilitate the proposed development and a structural report may be required to determine the integrity of walls/structures to be retained and outline potential impacts on adjoining properties. This requirement should be ascertained at pre-planning stage. A structural report must be submitted in all instances where a basement or new first/upper floor level is proposed within the envelope of an existing dwelling.

Side gable, protruding parapet walls at eaves/gutter level of hip-roofs are not encouraged.

The proposed construction of new building structures directly onto the boundary with the public realm (including footpaths/open space/roads etc) is not acceptable and it will be required that they are set within the existing boundary on site. The provision of windows (particularly at first floor level) within the side elevation of extensions adjacent to public open space will be encouraged in order to promote passive surveillance.

Roof alterations/expansions to main roof profiles -

changing the hip-end roof of a semi-detached house to a gable/ 'A' frame end or 'half-hip' for example – will be assessed against a number of criteria including:

- Careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.
- Existing roof variations on the streetscape.
- Distance/contrast/visibility of proposed roof end.
- Harmony with the rest of the structure, adjacent structures and prominence.

More innovative design responses will be encouraged, particularly within sites where there may be difficulty adhering to the above guidance and where objectives of habitability and energy conservation are at stake.

## **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**

- 6.1.1. A first-party appeal has been lodged on the following grounds:
- The house is substandard by current building standards and this has been compounded by the development at no.21 to the north of the existing sitting room. Photographs of views are attached.
  - The extension at first floor level will provide a living room of a higher standard of habitable accommodation while providing a third bedroom in place of the existing sitting room.
  - The degree of overlooking will, in overall terms, be reduced by removing the east facing bay windows which presently oppose habitable rooms in The Ardrugh to the east.

- There will be no appreciable increase in overlooking of no.21 having regard to the existing sitting room location and window on the boundary and its intensity of use and also having regard to the existing nearer bay window which provides views to the north at first floor level.
- The family is fourth generation in the dwelling and needs a third bedroom for the family which includes a boy and girl.
- A letter of support from the residents of the property to the east (the Ardrugh) is attached. This refers to the improved relationship in terms of overlooking and that the proposal is welcomed.
- In order to stay here, the other option is to demolish and rebuild to provide improved and basic family house to current modern standards but the refurbishment and extension is more in keeping with the Development Plan in terms of sustainable development.

## 6.2. Planning Authority Response

- No further comments.

## 7.0 Assessment

### 7.1. Issues

- 7.1.1. This appeal relates to a proposal for a modest first floor domestic extension to an established and previously extended cottage dwelling in a finely grained context. The concerns of the planning authority primarily relate to overbearing impact on No.21 Ardrugh Road and The Ardrugh both of which adjoin the site.

### 7.2. Impact on No.21.

- 7.2.1. The present relationship between the site and no.21 is I consider substandard by current standards in that the sole sitting room window of Shamrock Cottage is north facing and on the boundary with no.21 and directly overlooks the parking area to the front. The bay windows also provide views over the site from the recessed location at

first floor level. As part of the proposal it is proposed to remove the bay windows from the east elevation and insert an additional north facing window overlooking no.21. This new window is proposed at a setback of just over 3m from the north boundary and will be one of two windows providing light to the new space for the relocated sitting room to this level. The existing sitting room will be changed to a third bedroom resulting in only a bedroom window directly overlooking at the boundary. The planning authority accepts that the overlooking will not be appreciably different, and it is further argued by the applicant that the likelihood and degree of overlooking will be lessened by these arrangements. This is supported by photographs of the view from the roof at the position of the proposed window. I also note that the new window is comparable to the bay window angled north. I consider that loss of privacy is not a substantive issue.

7.2.2. The main concern relates to the overbearing impact. In response to this, the applicant makes the case that the existing sitting room has a diminution of amenity by reason of the overbearing impact of the development at no.21 . Photographs illustrate how the views from the existing sitting room window are considerably dominated by the facade of the house at no.21 constructed at right angles and in close proximity to the sitting room window. While it is not fully apparent how the sitting room came to be positioned at this location, it appears it is accepted as part of the established layout by the planning authority . I accept that its outlook has been negatively affected by the development at no.21 and the juxtaposition contributes to a loss of daylight whether justified or not. I consider the applicant makes a reasonable case to relocate the sitting room to the first floor and that by stepping back this extension from the northern boundary will not result in an unreasonable overbearing impact on the parking area/amenity to the front. I do however consider the addition of a window box type treatment would better assimilate the development. This could be addressed condition.

### 7.3. **Impact on east**

7.3.1. As the proposal involves the removal of directly overlooking windows to the east, I accept that the amenities of the dwellings to the east will be considerably enhanced by the proposed configuration. This is offset by a loss of sunlight in the parking



area/open space and also by the loss of visually attractive elevation. I note the letter of support from the owners of property to the east and consider there is little basis to refuse permission with respect to impact on property to the east.

#### **7.4. Impact on properties to north and west**

- 7.4.1. No 31, a two-storey house adjoins the cottage to its north west and has an east facing window. This property is in a state of disrepair and is propped up by steel girders and appears unoccupied. It would appear that the nearest window is for a bedroom. It is not included in the drawings, however I note the angle at 90 degrees would be quite restrictive in permitting mutual overlooking.
- 7.4.2. The proposal includes the insertion of an opaque bathroom window overlooking the passageway to the west which is fronted by the sides of two dwellings. As this is on a boundary there may be issues of legal interest, although I note there are existing windows and door openings onto the passageway from the Cottage. This has not been raised and may constitute a new issue. However, a grant of permission under the Planning Acts does not confer property rights and in the event that the applicant does not have such rights to construct this window, its omission would not have a material impact on the feasibility of the proposed extension - the core element of the proposal.
- 7.4.3. The proposal also includes a small south facing balcony which would introduce private open space where none exists – it was built over to provide additional accommodation. The applicant explains that there will be screening for the mutual benefits of the adjacent residents to the west. In this regard I note the bamboo planting on the roof which provides screening in front of the first-floor gable window that fronts the passageway opposite the front door of Shamrock cottage. I note there are no objections in this regard. This could be satisfactorily addressed by conditions – A balcony would permit a more structurally sound base for screen planting.

#### **7.5. Conclusion**

- 7.5.1. While I note that the development will result in intensification of plot ratio and windows in close proximity, I also note that this is not out of character with an extremely finely grained context of weaving narrow passages and historic cottage plots in this quarry side hamlet. It is in this context that I have appraised the merits of the proposal. On balance, I consider that the overall development will result in an

improved standard of living accommodation without unduly detracting from the residential amenities of the surrounding properties in respect of loss of privacy and overshadowing. I accept that the loss of part of a façade of some character is to a degree, a negative impact on the visual amenities, but in view of circumstance of this case it is, I consider, justified.

7.5.2. In light of the above, I do not consider that the proposed development would result in any significant adverse impact on residential amenity and consider that in overall terms it would be consistent with the proper planning and sustainable development of the area. Accordingly I do not consider any potentially overbearing impact on no.21 or other surrounding properties constitutes reasonable grounds for refusal of permission.

7.5.3. I note that no.31 abuts the site and is propped up on its northern side. I consider it appropriate to require a structural engineer's report and demonstration how the proposed works will not undermine the structural integrity of surrounding properties. Details of construction and access should also be required in order to safeguard the amenities of the area.

## **8.0 Appropriate Assessment**

8.1.1. Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any 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.

## **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 and would therefore not seriously injure the amenities of the area or of property in the vicinity. 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. Prior to commencement of development, detailed structural drawings and a construction methodology statement (including the results of detailed structural surveys of the structure and facades to be retained) indicating the means proposed to ensure the protection of the structural stability of the retained and adjoining structures shall be prepared by a competent firm of structural engineers with profession indemnity and shall be submitted to and agreed in writing with the planning authority. These details shall include demonstrating the proposed foundation system and underpinning, structural bracing and support and method of construction.

**Reason:** In the interest of public safety and preserving the integrity and heritage value of the existing and adjacent structures.

3. The external finishes of the proposed development (including roof tiles/slates) shall be in keeping with the historic character of the area in colour and texture. Samples of the proposed materials 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. Details of screening for the proposed balcony and proposed first floor north facing living room shall be submitted to and agreed in writing with the planning authority prior to commencement of development

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

5. 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

6. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity

7. Site development and building works shall be carried out only between the hours of 0800 to 1930 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:** In order to safeguard the residential amenities of property in the vicinity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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.

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Suzanne Kehely

Senior Planning Inspector

31<sup>st</sup> December 2021