



An
Bord
Pleanála

Inspector's Report

ABP-312743-22

Development	Demolition of the existing single storey bungalow and construction of a 2 storey house and all associated site works.
Location	70a Booterstown Avenue, Booterstown, County Dublin, A94 P7R0
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/1024
Applicant(s)	Ying and Marc McGovern
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Ying and Marc McGovern
Observer(s)	None.
Date of Site Inspection	24.08.2022
Inspector	Fiona Fair

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1.0 Site Location and Description

- 1.1. The subject site of 0.061 ha is located on the western side of Booterstown Avenue just north of its junction with Cross Avenue and Sans Souci Place and c. 550m south of Rock Road.
- 1.2. The site sits back from the road, the single store 1970's bungalow is nestled behind a old random rubble wall. Adjoining properties are a mix of 2 storey over basement, 3 storey housing adjoining to the north up to 4 storey taking account of the adjacent Holy Rosary Convent (protected structure) on Cross Avenue which shares a boundary with 70a at the rear / south. The houses on either side have a varying floor level.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of the existing single storey bungalow (c.101 sq.m.) and construction of a new 2 storey house (c.328 sq.m.) and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for one number reason which states:

“The proposed development does not accord with the provisions of Section 8.2.3.4(xiv) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 regarding Demolition and Replacement Dwellings, in that a strong justification has not been provided for the demolition of the dwelling as it appears that the existing dwelling is not beyond repair due to structural defects, and is of adequate structural condition. Furthermore, the proposed development, if permitted, would set an undesirable precedent for other similar development which would in themselves be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and would thus be contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- While the proposed development is generally considered to be acceptable in principle having regard to the residential amenity of the surrounding area and is of a design, scale and form which responds to Policy AR17 of the current County Development, it is considered that the Applicant has not adequately demonstrated that the dwelling is beyond repair. It is considered that the justification is based more on economical and energy efficiency parameters rather than the existing dwelling being beyond repair due to structural defects. A more sustainable solution, which is encouraged by the PA would be the retention, reuse and extension of the existing house over its replacement.

3.2.2. Other Technical Reports

- Drainage Planning: No Objection
- Transportation Planning: Further information requested.
- Conservation Officer: No comments on file.

3.3. Prescribed Bodies

- None received.

3.4. Third Party Observations

3.4.1. One observation submitted by Grace Terrinoni, Fitzwilliam House, 68 Booterstown Avenue – adjoining property. Concerns raised are summarised as:

- Scale and bulk inappropriate.
- Concern that first floor windows on south facing gable wall of their dwelling will lose light, view and ventilation. Proposed dwelling is 1200mm apart.
- Over shadowing on private amenity space and patio area.
- Shadow report submitted is disingenuous.
- Proposed one storey kitchen running along the boundary wall will have a negative impact.

- Concern over disturbance to boundary walls.
- Concern that the proposal breaks the existing building line along Booterstown Avenue.

4.0 Planning History

D14A/0242 Planning Permission Granted for the widening of the front entrance gateway and installation of replacement gates.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan under which the PA made their decision was the Dún Laoghaire Rathdown County Development Plan 2016 – 2022. Under which the subject site was zoned Objective A: ‘To protect and/or improve residential amenity’. Relevant sections of that Plan that applied are considered to be:

Chapter 6: Archaeology and Architectural Heritage

- Section 6.1.3 Architectural Heritage
- Section 6.1.4.5 Policy AR16; candidate Architectural Conservation Areas (cACA).

Chapter 8: Residential Development

- Section 8.2.3.1 – Quality Residential Design
- Section 8.2.3 Residential Development
- Section 8.2.3.4 Additional Accommodation in Existing Built-up Areas
- Section 8.3.2.4 (vii) Infill
- Section 8.3.2.4 (xiv) Demolition and Replacement Dwellings

- 5.1.2. The subject site is located within the Booterstown Avenue Candidate Architectural Conservation Areas (cACA).

- 5.1.3. The operative statutory development Plan currently in place is the Dún Laoghaire Rathdown County Development Plan 2022 – 2028. Under which the subject site is

zoned Objective A: 'To protect and/or improve residential amenity'. Relevant sections of that Plan that apply are considered to be:

- Section 12.3.7 refers to Additional Accommodation in Existing Built-up Areas
- Section 12.3.9 Demolition and Replacement Dwellings which states:

"The Planning Authority has a preference for and will promote the deep retro-fit of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant. (See Policy Objective CA6: Retrofit and Reuse of Buildings and Policy Objective PHP19: Existing Housing Stock - Adaptation)

Demolition of an existing house in single occupancy and replacement with multiple new build units will not be considered on the grounds of replacement numbers only but will be weighed against other factors. Better alternatives to comprehensive demolition of, for example, a distinctive detached dwelling and its landscaped gardens, may be to construct structures around the established dwelling and seek to retain characteristic site elements.

The Planning Authority will assess single replacement dwellings within an urban area on a case by case basis and may only permit such developments where the existing dwelling is uninhabitable.

Applications for replacement dwellings shall also have regard to Policy Objectives HER20 and HER21 in Chapter 11. In this regard, the retention and reuse of an existing structure will be preferable to replacing a dwelling, and the planning authority will encourage the retention of exemplar nineteenth and twentieth century dwellings on sites in excess of 0.4 hectares".

5.2. Natural Heritage Designations

- None Relevant.

5.3. EIA Screening

- 5.3.1. Having regard to the nature of the proposed development comprising of demolition of an existing single storey 1970's dwelling and its replacement with a modern two storey dwelling, in an established urban area, 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 First Party appeal has been submitted by Joe Bonner on behalf of the applicants Ying and Mark McGovern it is summarised as follows:

- The structural analysis of the existing building fabric notes that:
 - The BER rating of the structure is poor.
 - The roof needs to be replaced. The planned reconfiguration of the structure will be difficult to maintain without substantial structural alterations.
 - The floors would have to be removed and replaced
- Justification for demolition of existing house
 - Existing defects in the building
 - Health and Safety
 - Sustainability
 - No merit in retaining the existing structure
 - Existing Photographic Record
- The planning officer has misinterpreted section 8.2.3.4 (xiv) of the CDP and confused the matters of repair and replace.
- The cost of repair of the existing house would be more than the cost of replacement as the foundations, internal and external walls and the roof would need to be replaced in order to build an upper floor.
- The existing house is unfit to carry the load of an extension

- The existing building line is askew from the established line. This is another reason to demolish the house and align the proposed house with the established building line.
- It is acknowledged by the PA that the existing dwelling is of little architectural heritage merit and does not provide a valuable contribution to the architectural character of the site and surrounding ACA.
- The PA also note that the design of the proposed replacement structure is of a design, scale and form which responds to the character of the surrounds and generally preserves the rhythm of the existing streetscape and on balance, the PA is satisfied that the proposed replacement dwelling does not detract from or negatively impact upon the character of the existing streetscape and is therefore considered to generally accord with Policy AR17 of the 2016 – 2022 Plan.
- The PA is generally satisfied that the proposed does not erode or detract from the character or setting of the existing Protected Structure and in this regard the proposal is seen to be in accordance with section 8.2.11.2 (iii) of the current CDP.
- The PA considered both the residential amenities of the exiting adjacent houses to the north and south and concluded in respect of both that the proposal will not compromise their residential amenity, by reason of overlooking, overshadowing or by being visually overbearing.
- The width of the vehicular entrance is currently 3.65m and the applicant wishes to retain the access as it is.
- The existing boundary wall stands at a height of 1.95m and runs the entire length of the front boundary except of the front gate which is 3.65m in width. The boundary walls on the properties on either side are of the same or similar height. The front edge of the pillars located either side of the gate are 2.49m from the dished edge of the footpath while the gate is set back a further 285mm from the edge of the footpath.
- The required reduction in the height of the stone boundary wall along the entire boundary will effect the only element of the site that currently contributes

positively to the character of the candidate ACA and it is requested the boundary wall height is permitted to say as is, to afford privacy to the property.

- There is sufficient width and space for 2 cars to enter and exit the site safely.
- There is precedent for demolition and replacement houses in the area, and also demolition of a number of houses to be replaced by SHD's. No reference was made to seeking justification for the demolition of the existing houses on the sites.
- The retention of the house will not be possible, if it is to be utilised as a modern family home.
- Appeal Accompanied by a report from OSON Justification for Demolition of the Old House and Replacement with a New House.

6.2. **Applicant Response**

- None received.

6.3. **Planning Authority Response**

- None received.

6.4. **Observations**

- None received.

6.5. **Further Responses**

- None Received.

7.0 **Assessment**

7.1. Having inspected the site and examined the associated documentation, the following are relevant issues in this appeal:

- Principle of the proposed development.
- Demolition and Replacement

- Design & Impact on Residential Amenity
- Precedent
- Other Issues
- Appropriate Assessment

7.2. Principle of the proposed development.

- 7.2.1. The site of the proposed development is zoned Objective A, 'To protect and/or improve residential amenity', in the newly adopted Dun Laoghaire Rathdown County Development Plan 2022 – 2028. It is acknowledged it is located within the Booterstown Avenue candidate Architectural Conservation Area (cACA) and is adjacent to a protected structure 'Holy Rosary Convent', to its immediate south on Cross Avenue.
- 7.2.2. The existing dwelling is of no architectural heritage or merit and therefore I am satisfied that the principle of its demolition and replacement at this location is generally acceptable provided the it accords with or justifies the proposal in accordance with CDP policy for demolition and replacement, provides adequate residential amenity, adequately safeguards the amenities of the adjoining properties, and would not result in a negative precedent. These matters are considered in the succeeding section of this report.

7.3. Demolition and Replacement.

- 7.3.1. Albeit that it is acknowledged by the PA that the existing dwelling is of little architectural heritage merit and does not provide a valuable contribution to the architectural character of the site and surrounding ACA. The proposal to demolish and rebuild on the subject appeal site was refused planning permission for one number reason under Reg Ref. D21A10/24.
- 7.3.2. The reason for refusal set out in section 3.1 of this report above considers that the proposed development does not accord with the provisions of Section 8.2.3.4(xiv) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 regarding Demolition and Replacement Dwellings, in that a strong justification has not been

provided for the demolition of the dwelling as it appears that the existing dwelling is not beyond repair due to structural defects, and is of adequate structural condition.

- 7.3.3. Section 12.3.9 Demolition and Replacement Dwellings is set out in detail in section 5.1 of this report.
- 7.3.4. The letter from OBA Consulting Civil and Structural Engineers sets out that the existing dwelling at No. 70A Booterstown Avenue is a single storey house dating from c. 1950. I note that elsewhere in the documentation submitted that the dwelling is referred to as being 40 – 45 years old, therefore dating it to 1970's, regardless, as set out above, the dwelling is not a protected structure or a building of any historical or architectural merit. It is single storey with an attached single storey flat roof converted garage to the rear. Set in the midst of two, three and four storey structures.
- 7.3.5. Having considered the information submitted in detail, the principle of the proposal, the architectural value of the existing house, the contribution the existing house makes to the area, in particular the cACA and the balance between energy performance of the existing and the proposed dwelling, I see no reason to refuse a grant of planning permission in this instance.
- 7.3.6. I am of the opinion that the applicant has submitted sufficient detail with regard to justification for the demolition of the existing house and replacement with a new dwelling. The photographic record, the existing building defects, the issues raised with respect to sustainability and the need to provide a dwelling which will meet a nearly zero energy building standard are all relevant and justifiable.
- 7.3.7. I am of the opinion given the existing dwelling offers no value in terms of architectural interest / merit and given the replacement dwelling will benefit from significant energy efficiencies, on balance the proposal to replace the existing dwelling in this instance is a more sustainable outcome.

7.4. Design & Impact on Residential Amenity

- 7.4.1. The PA also note that the design of the proposed replacement structure is of a design, scale and form which responds to the character of the surrounds and generally preserves the rhythm of the existing streetscape and on balance, the PA is satisfied that the proposed replacement dwelling does not detract from or negatively

impact upon the character of the existing streetscape and is therefore considered to generally accord with Policy AR17 of the 2016 – 2022 Plan.

- 7.4.2. The PA is generally satisfied that the proposed does not erode or detract from the character or setting of the existing Protected Structure and in this regard the proposal is seen to be in accordance with section 8.2.11.2 (iii) of the current CDP.
- 7.4.3. The PA considered both the residential amenities of the exiting adjacent houses to the north and south and concluded in respect of both that the proposal will not compromise their residential amenity, by reason of overlooking, overshadowing or by being visually overbearing.
- 7.4.4. No issues have been raised with regard to residential amenity in the appeal. I note the third-party observation on file, from no. 68 Booterstown Avenue, an adjoining neighbour. Having carried out a thorough assessment of the site and the submitted documentation I am of the opinion the proposal is acceptable in terms of private open space and amenity to the proposed dwelling for future residents and to the residential amenity of adjoining dwellings to the north and south.
- 7.4.5. The proposal will not compromise the residential amenity of the dwellings to the north or south by way of overshadowing, overlooking, loss of daylight or sunlight, and or be overbearing.
- 7.4.6. The proposed dwelling will have a contemporary architectural expression and a restricted palette of materials and finishes are proposed comprising of brick with dark grey aluminium framed windows. I consider that the proposed dwelling is of a design, scale and form which responds to the character of the surrounding area and would not detract from the buildings and streetscape which the cACA seeks to preserve.
- 7.4.7. Given the scale, height and form of the proposed dwelling, its siting relative to the existing Protected Structure and the set back at the first floor level and the southern site boundary, I am of the opinion that proposal does not detract or erode from the character or setting of the adjoining protected structure.
- 7.4.8. I consider that the building line proposed is acceptable and in-continuity with the building line of the adjoining dwellings at No. 68 and 70 Booterstown Avenue.

7.5. Precedent

- 7.5.1. The reason for refusal set out in section 3.1 of this report above considers "...that the proposed development, if permitted, would set an undesirable precedent for other similar development which would in themselves be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and would thus be contrary to the proper planning and sustainable development of the area". I see no evidence that this statement is justified.
- 7.5.2. I am cognisant of precedent set within Dun Laoghaire Rathdown County Council to demolish and rebuild with higher densities on similar and larger sites, in particular, through the SHD process. Each application is dealt with on a case by case basis, the subject dwelling is of no architectural or historical merit, it is not protected and as set out above, on balance, merits replacement rather than refurbishment given photographic evidence and justification set out in the OSON Report, which accompanies the application.

7.6. Other Issues

- 7.6.1. I note the issues raised by the Transportation Planning report with respect to vehicular entrance width of 3.5m, a front boundary wall of 1.1m and that the proposal shall incorporate two adequate on-site parking spaces which shall be accessible and available.
- 7.6.2. The applicant's response is noted. The existing width of the vehicular entrance is 3.65m and I agree that a reduction in width by 15 cm would be immaterial and unnecessary.
- 7.6.3. The existing stone front boundary stands at 1.95m and runs the entire length of the front boundary, with the exception of the vehicular entrance. The boundary walls on the properties on either side are of the same or similar height. The continuity positively contributes to the character of the cACA and I agree that the boundary wall height, as constructed and in-situ for many years, is acceptable in this instance.
- 7.6.4. I note that a new pedestrian entrance is proposed, and I consider it acceptable.
- 7.6.5. The applicant has demonstrated that 2 car parking spaces can be accommodated on site and I consider that this addresses the concerns of the planning authority, in this regard.

7.6.6. Overall, I am of the opinion that the proposal is acceptable.

7.7. Appropriate Assessment

7.7.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, demolition of an existing dwelling and its replacement with a more modern structure, the location of the site in a serviced urban area and the separation distance 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.

8.0 Recommendation

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

9.0 Reasons and Considerations

9.1.1. Having regard to the 'A' zoning objective pertaining to the site it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable from a visual amenity perspective and would generally be acceptable in terms of compliance with the criteria stipulated under section 12.3.9 of the Dun Laoghaire Rathdown County Development Plan 2022 -2028. The proposed development will 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, 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 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 all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
3.	<p>Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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 residential amenities of property in the vicinity.</p>

4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>The developer shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site works and repair any damage to the public road arising from carrying out the works.</p> <p>Reason: In the interests of orderly development.</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>A plan containing details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste, especially recyclable materials, in the interest of protecting the environment.</p>
9.	<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</p>

	<p>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.</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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Fiona Fair
Planning Inspector

31/08/2022