



An
Bord
Pleanála

Inspector's Report

ABP-313005-22

Development	Construction, of a single storey extension and all associated site works, to northern side of detached dwelling.
Location	Arabella, Claremont Road, Foxrock, Dublin 18
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21B/0678
Applicant(s)	Eamonn & Caroline O'Kane
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Justine & Darragh Treacy and others
Observer(s)	None
Date of Site Inspection	30 April 2022
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located on the western side of Claremont Road, in the south Dublin suburb of Foxrock. Currently on site is a two-storey detached dwelling, one of two dwellings built on the former grounds of Greencroft, Claremont Road (PL29D.236703 refers). All dwellings are accessed via a recessed driveway off Claremont Road (also known as Cornelscourt Hill Road).
- 1.1.2. The subject dwelling Arabella, is a two-storey detached dwelling in the northern section of the former plot. It has a single storey garage to the front (east). Due to the topography of the area, the dwellings along the northern boundary of the site (numbers 1 to 9 Kerrymount Rise) are between (approx.) 3m and 5m lower than the subject site.

2.0 Proposed Development

- 2.1.1. On the 13th December 2021, planning permission was sought for the construction of a single storey extension (40.98sq.m.) to the side of the existing dwelling (291.65sq.m.), all on a site of 0.1129ha.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 21st December 2021, the Planning Authority issued a notification of their intention to GRANT permission subject to 12 no. standard conditions.

3.2. Planning Authority Reports

- 3.2.1. **Drainage Planning:** No objection subject to 2 no. conditions.
- 3.2.2. **Planning Report:** Proposed development is acceptable in principle. Subject proposal is sufficiently reduced in scale from that previously refused permission. Proposed development will not overlook or overshadow adjoining dwellings. Notes the concerns raised regarding earth works but states that the engineering report addresses these concerns. Recommendation to grant permission subject to conditions.

3.3. Observations

3.3.1. Four objections to the proposed development were submitted to the Planning Authority. The issues raised can be summarised as:

- Contravention of planning history
- Concerns over ground stability and vibrations
- Flooding,
- Overlooking
- Inaccurate plans

4.0 Planning History

4.1.1. **D21B/0378**: Planning permission for a two-storey extension to the existing dwelling was refused for the following reason:

- 1 The proposed development would have an adverse impact on the surrounding residential amenity in terms of overbearing visual intrusion and overlooking towards the neighbouring properties located to the north and is therefore not consistent with Zoning Objective A of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022, which seeks 'to protect and/or improve residential amenity'.

4.1.2. **PL06D.236703** (PA ref. D09A/0287): Planning permission granted for the construction of 2 no. two-storey houses at Greencroft, Claremont Road.

4.1.3. **PL06D.205654** / PA Ref. D03A/0551: Permission granted by the planning authority and granted on appeal to the board for 2 No. 2-storey houses on the subject site. Conditions 2 and 3 related to the omission of balconies and the modification of fenestration.

4.1.4. **PL06D.204077** (PA Ref. D03A/0552) - permission refused by the planning authority and refused on appeal to the board for demolition of garages and stores and construction of a single-storey dwelling on the southern most part of the overall curtilage. The board's refusal reason cited insufficient private open space.

4.1.5. **PA Ref. D09A/0140**: Permission refused for works to the existing house at Greencroft and the construction of a new house at the southern (Hainault Road) end

of the site. The refusal cited the road objective, the substandard vehicular entrance, and the visual impact.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2022-2028.

- 5.1.1. The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2022-2028. The site is zoned objective A – to protect and/or improve residential amenity whilst protecting existing residential amenities.
- 5.1.2. **Section 12.3.7** Additional Accommodation in Existing Built-Up Areas. Section 12.3.7(iii) refers to **Extensions to the Side** and states “Ground floor side extensions will be evaluated against proximity to boundaries, size, and visual harmony with existing (especially front elevation) and impacts on adjoining residential amenity”.

5.2. Natural Heritage Designations

- 5.2.1. Rockabill to Dalkey Island SAC (003000) and Dalkey Islands SPA (004172) to the east of the site.

5.3. EIA Screening

- 5.3.1. Having regard to nature and scale of the proposed development and the urban location of the site 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. The owners of no.s 1B, 5, 7 and 9 Kerrymount Rise seek to appeal the decision of the Planning Authority to grant permission. The appeal takes the form of a submission from each of the home-owners. The grounds of the appeal can be summarised as follows:

- The proposed extension will bring the already over-large dwelling 4m nearer, within 1.6m of the boundary. This is a reversal of the 2009 An Bord Pleanála

decision which required the dwelling to be relocated 5m from the northern boundary.

- The Board decision in 2003 required Arabella to be reduced in size and relocated.
- The proposed extension is between 5m and 6m above the dwellings on Kerry Mount Rise. This is akin to having an apartment block in your garden which would block light and overshadow the adjoining properties.
- The proposed development could damage the granite cliff to the rear of the properties. The cliff face has become a rock-garden in 1B.
- The proposed development would be visually intrusive, over-bearing and overly dominant.
- The site of the subject dwelling was bedrock with natural soakage. The dwelling caused a dramatic increase in ground water flowing into the adjoining lower-level gardens, causing serious drainage issues. An additional 300sq.m. of hard surface will exacerbate this. The existing rainwater harvesting system at Arabella is inadequate.
- There is a constant flow of water between no.s 7 and 9 Kerry Mount Rise. Irish Water investigations have shown this water to be ground water.
- The proposed development risks ground destabilisation and damage to the houses on Kerry Mount Rise. The residents are concerned about family and children who use the gardens.
- The rock breaking necessary to remove the granite would cause vibrations which will damage the rock face. This will cause considerable noise and dust to all residents.
- The engineering report undertaken by the applicants falls short. It does not address any of the houses on Kerry Mount Rise or contain any assurances or warranties in relation to the stability of the rockface or impact on the homes to the north.
- No site visit was undertaken from the gardens / homes on Kerry Mount Rise.
- Any development on top of the three-storey granite cliff face will cause landslides. Rocks and debris appear in the gardens on a weekly basis.

- The applicants plans show the actual floor height from one of the highest houses only.
- The proposed development is not consistent with the zoning objective for the area.

6.2. Applicant Response to the Third-party Appeal

6.2.1. An agent for the applicant has responded to the third-party appeal, as follows:

- The daylight and sunlight analysis shows that there will be no overshadowing and no change to the amenity of the neighbouring gardens. Neighbours windows will remain in compliance with BRE Guidance.
- Planning drawing GCB-PL-010 demonstrates that the proposed development will not cause a visual alteration.
- A response from the engineering company is included with the response. It states that the cliff face is not 1.6m from the proposed extension but is 2.6m away. The existing boundary fence is not the top of the cliff, but is approx. 1m from the cliff top.
- The area of influence of the proposed foundations is well removed from the cliff face. Drawing no. 21-019_SK-01 refers.
- The homogeneous granite bedrock has a high bearing capacity that far-out performs any additional loading that will be placed on it.
- The proposed new hardstanding is 41sq.m., not 300sq.m. Rainwater drainage will be reduced.
- The submitted example of PL06D.248541 is not comparable as that development involved significant works to the base of a cliff. The proposed development involves no work to the retaining bedrock or cliff face.
- **Engineering Report:** The foundation located 1.6m below the ground level and 1.65m from the boundary places the 45 degree line of influence well within the base of the rockface even if the pressure bulb extended to the bottom of the rock face. There is no influence on the rock face. Excavation for foundations in clay will not require rock breaking to remove granite. The foundations will site on the rock surface. These can accommodate any granite outcrops to within 600mm of

surface by rising the strip foundation. There is no need for heavy machinery on site and mini diggers are adequate. No need for specialist retaining structures. Best construction practice and site management will ensure the boundary is protected.

6.3. Planning Authority Response

6.3.1. None on file.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Residential Amenity

7.2. Principle of Development

7.2.1. The subject site is located in an area zoned to protect and / or improve residential amenity. In principle, extending an existing domestic dwelling is acceptable, subject to all other planning considerations.

7.2.2. The Appellants reference the planning history on the subject site and state that bringing the building line closer to the northern boundary is contrary to the permissions received for the dwelling. It is my understanding that this issue refers to the requesting of further information by Dun Laoghaire Rathdown under D03A/0551. The Planning Authority requested the applicant to address the “unacceptable level of visual intrusion / overbearing” from House B (i.e. Arabella) to the residential properties on Kerrymount Rise. In responding to that request, the applicant submitted a smaller house type for both plots and relocated House B 5m further from the northern boundary. This revised plan was ultimately granted permission by the Board under PL06D.205654. While that permission was not implemented, it is very similar to that which was granted (PL06D.236703) and ultimately developed. The Board in granting permission for the 2009 permission accepted the location of

House B / Arabella 5m further from the northern boundary than was originally proposed in 2003. That decision should not be taken as an acceptance that all buildings on site must maintain a 5m buffer from the northern boundary, only that the permission before the Board under PL06D.236703 was acceptable to the Board.

- 7.2.3. The appellants submission that the proposed development of a single storey extension is a contravention of the granted permission is not accepted. As stated above, no condition attached to the final grant by the Board makes note of a distance between the dwelling and the northern boundary. Nor does any condition prohibit future exempted development rights, which is commonly used on restricted sites. I am satisfied that the proposed development of a single storey extension 1.63m from the northern site boundary is acceptable in principle.

7.3. Residential Amenity

- 7.3.1. The appellants submit that the proposed development, due to the significant difference in ground levels will increase the sense of dominance and overbearing experienced by their dwellings on lower ground.
- 7.3.2. The existing dwelling at Arabella can be seen from the dwellings on Kerrymount Rise at varying degrees from each of the rear gardens. There is a boundary of mature hedging within the subject site, that largely restricts views of Arabella to the roof and the first floor of the northern elevation. The proposed extension with an overall height of 3m (lower than the existing 3.6m existing flat roof ground floor kitchen / dining room area) whilst adding further bulk and mass to the existing dwelling, will not introduce any greater overlooking or overshadowing than already exists. The single storey extension will largely be hidden behind the existing screening. I acknowledge that screening can be removed at any time, however, should such a scenario arise, there are already two windows and a door on the ground floor northern elevation of Arabella. So, any future removal of screening exposing the proposed single storey extension would not alter the existing situation.
- 7.3.3. I am satisfied that the proposed development would not significantly alter the existing situation in terms of impact on visual or residential amenity.

7.4. Ground Stability

- 7.4.1. The appellants raised the issue of ground stability, vibration and rock breaking from the proposed extension. The exposed rock face with vegetation on top, forms the northern boundary of Arabella and consequently the rear boundary of the dwellings on Kerrymount Rise. The ground level difference between the two areas is such that the rock face varies in height but is mostly approx. 5m high when viewed from the rear gardens of Kerrymount Rise. The appellants state that the rock face is already unstable and any rock breaking or vibrations necessary for the proposed development will destabilise the existing precarious position. The appellants raise concerns that rock may fall into their gardens and cause damage to property and people.
- 7.4.2. The applicant was accompanied by an engineering report and a further engineering report submitted in response to the third-party appeal. The report states that a trial pit was dug at the approx. location of the outer (northern) wall of the proposed extension. The 1.6m deep pit demonstrated gravelly clay over dense undisturbed clay over grey granite rock. The report states that the structural layout of the extension will rely on cross walls to minimise loading on the gable wall, approx. linear load of 50kN/m. The report notes that the bearing capacity of grey granite is in excess of 2,000kN/m² and thus any loading from the extension will be supported by the rock and limit the pressure zone under any foundations. The response engineering report notes that the with a 1.6m deep foundations and 1.65m from the boundary, the 45 degree line of influence is within the base of the rock face.
- 7.4.3. The appellants do not accept the assurances of the report and state that as no site investigations were carried out on their side, the impact of the proposed development cannot be assessed.
- 7.4.4. The concerns of the appellants are understood. However, should the Board decide to grant permission, the onus is on the applicant – and their engineer - to ensure the development is carried out and completed according to the specifications of the plans and particulars submitted to the Board. The applicant has submitted bone fides that the proposed development will not injure properties outside of the subject site and that must be accepted where no evidence to the contrary has been put forward.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

- 8.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **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.

Reason: In the interest of clarity.

- 2 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 and to ensure a proper standard of development.

- 3 Site development and building works shall be carried out only between the hours of 0800 to 1800 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 amenities of property in the vicinity.

- 4 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. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

- 5 The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development

- 6 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process

7 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Gillian Kane
Senior Planning Inspector

02 May 2022