



An
Bord
Pleanála

Inspector's Report 313079-22

Development	Restoration, refurbishment & extension of 2-storey dwelling (Protected Structure)
Location	The Laurels, Torquay Road, Foxrock, Dublin 18.
Planning Authority	Dún Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D21A/1154
Applicant(s)	Ruth & Tommy Maher
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v. Decision
Appellant(s)	(1) Eugene & Lynette O'Sullivan (2) Daragh T Walsh & Darragh Kilbride
Observer(s)	None
Date of Site Inspection	21 st February 2023

Inspector

Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1,601 m² and is located on the north-eastern side of Torquay Road, Foxrock, Dublin 18. The site accommodates a detached 2-storey dwelling (“The Laurels”) of 231.9 m² which is a Protected Structure. The dwelling has an original 2-storey return, with a modern single-storey conservatory attached to its side / south-eastern elevation and a modern single-storey kitchen / utility extension to the rear. The dwelling is currently unoccupied.
- 1.2. The site is characterised by a lawn area to the front and a recessed vehicular entrance from Torquay Road leading into a gravel driveway which extends along the front of the dwelling. A large mature tree partially screens views into the site from the adjoining public road. A timber gate provides access to the rear garden along the side/north-western elevation of the dwelling. A solid stone wall extends from the front elevation of the building to the south-eastern site boundary.
- 1.3. The rear of the site is characterised by an area of overgrown lawn with intermittent mature trees and shrubs adjacent to the dwelling. A tennis court comprised of hard-standing is located beyond the lawn area and extends as far as the rear site boundary. The tennis court is enclosed by wire fencing. The rear site boundary comprises a stone wall, with large mature trees located on the opposite side.
- 1.4. The site is adjoined by detached 2-storey dwellings on either side. The property to the north-west (“Ashton”) has a substantial 2-storey rear extension, the footprint of which generally extends in line with the rear elevation of the existing kitchen extension within the appeal site. The shared site boundary comprises a painted blockwork wall which extends as far as the tennis court within the subject site. Thereafter the boundary is comprised of wire fencing and low-level planting. The front and rear building lines of the adjoining property to the south-east (“Pinehaven”) are set behind those of the subject dwelling. The shared boundary with Pinehaven is generally characterised by mature hedging along its length.

2.0 Proposed Development

2.1. The proposed development consists of the restoration, refurbishment and extension of the existing 2-storey dwelling house (a Protected Structure) to include the following:

- Demolition of existing modern uPVC single-storey conservatory to the south-east of the existing return and existing modern single-storey extension to the north-west of the existing return and construction of a new single-storey/part two-storey extension to the rear to include new boot room, guest bedroom and ensuite, kitchen/pantry/dining and garden room with ancillary utility/plant room, gym and sauna on ground floor with 2 bedroom and ensuites, one with balcony to 1st floor.
- Internally within the existing house works to include:
 - (1) Living room G03 - widening of opening within existing room, formation of new window opening to right hand side of existing living room fireplace, removal of modern fireplace to rear of existing living room, formation of new 1400mm wide opening and steps within rear wall of living room to create link with proposed boundary library and removal of 2nd door to hall.
 - (2) Den G02 - works to include new terrace door opening to north-east wall to side garden and provision of new fireplace.
 - (3) Hall G01 - works to include removal of non-original stairs/balustrades and replacement with new stairs/balustrade to replicate original design, widening of existing opening to G05 to 1500 mm and reposition steps further back within the existing hall. Conversion of G05 within existing return to study/link to new kitchen dining with removal of existing chimney breast and formation of new opening. Alterations to existing windows either side of new central opening and conversion of existing lean-to extension to form new library and reception wc.
 - (4) Works to 1st floor return to form new link to proposed new bedroom accommodation and new study and upgrading of existing opening on half landing.
 - (5) Alterations at 1st floor level to F05 and rear bedroom to form new master bedroom dressing room and ensuite F06 & F07.

(6) Removal of non-original partition to form bedroom 2 F02 complete with dressing area F04 and ensuite F03 and provision of 2 no. heritage roof lights to each space.

- Refurbishment works to include upgrading and replacement of mechanical & electrical services, underfloor heating to all ground floor rooms within main house. Internal drylining of external walls within first floor rooms of main house with approved breathable insulation, restoration and upgrading of existing historic sash windows and doors where necessary to include sensitive repairs to all original joinery and decorative plasterwork.
- Careful re-slating of existing roof to main house/bay window and return and repairs to existing chimneys, repairs/reinstatement of existing decorative barge boards including refurbishment of existing cast iron gutters.
- Landscaping works to front side and rear including removal of existing tarmac tennis court to form new lawn and all associated site works.

2.2. The proposed ground and 1st floor rear extensions have a stated floor area of 227 m². The proposed ground floor extension has a depth of approx. 22.7 m beyond the retained rear building line. The south-eastern (side) facing elevation of the extension is characterised by large glazing panels along its length. The ground floor extension has a low-pitched/flat roof element comprised of zinc and a pitched roof of natural slate over the proposed gym/sauna. The walls will be finished in selected cedral cladding.

2.3. The proposed 1st floor extension projects approx. 8.4 m beyond the existing rear building line and will accommodate 2 no. en-suite bedrooms. The 1st floor extension has a pitched roof which will be finished in natural slate to match the existing. The walls of the 1st floor extension will be finished in render.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission for the proposed development subject to 14 no. conditions issued on 23rd February 2022.
- 3.1.2. Condition no. 2 requires the glazing in the windows of bedrooms 3 and 4 at 1st floor level facing towards “Ashton” to the north-west and “Pinehaven” to the south-east to be permanently maintained in opaque/frosted glazing.
- 3.1.3. Condition no. 3 requires a solid panel to be fixed along the north-west side of the proposed balcony at 1st floor level.
- 3.1.4. Condition no. 4 requires that the entire dwelling shall not be subdivided or used as 2 separate habitable units.
- 3.1.5. Condition no. 5 requires the door accessing Room G03 from the entrance hall shall be retained as a dummy.
- 3.1.6. Condition no. 6 requires details and specifications of the insulation board and section drawing at window / door architrave to be provided for the written agreement of the Planning Authority to ensure sufficient depth remains.
- 3.1.7. Condition no. 8 requires that the recommendations of the submitted tree report be implemented, that an Arboricultural Consultant be retained throughout the life of the development works and that a completion certificate be signed off and submitted to the Planning Authority when works are completed in accordance with the submitted landscape drawings.
- 3.1.8. Condition no. 14 requires that the development shall not be carried out without prior agreement in writing between the applicant and the Planning Authority relating to the payment of development contributions.
- 3.1.9. All other conditions are generally standard in nature.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

3.2.3. **Other Technical Reports**

3.2.4. **Drainage Planning:** No objection to the proposed development subject to conditions.

3.2.5. **Conservation Officer:** No objection to the proposed development subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. **The Heritage Council:** None.

3.3.2. **Fáilte Ireland:** None.

3.3.3. **An Taisce:** Suggested planning conditions identified in the event permission is granted for the proposed development.

3.3.4. **Dept. of Housing, Local Government and Heritage:** None.

3.3.5. **An Chomhairle Ealaíon:** None.

3.4. **Third Party Observations**

3.4.1. Two third party observations were made on the application by: (1) Dermot Brennan Architect, 48 Highfield Park, Dundrum, Dublin 14 on behalf of Daragh T Walsh and Darragh Kilbride, "Ashton", Torquay Road, Foxrock, Dublin 18 and (2) Patrick Shaffrey, 18 Dartmouth Square, Ranelagh, Dublin 6 on behalf of Eugene and Lynette O'Sullivan, "Pinehaven", Torquay Road, Foxrock, Dublin 18.

3.4.2. The issues which are raised can be summarised as follows: (1) proximity to adjoining properties, (2) major intervention to a Protected Structure, (3) no photomontages provided, (4) inappropriate scale, height and design, (5) negative visual impact on Protected Structure and neighbouring structures, (6) overbearing, overshadowing and overlooking impacts to adjoining properties, (7) increased risk of flooding, (8) impact on special character of group of 6 Protected Structures within Foxrock ACA, (9) development is not subservient to Protected Structure, (9) measures to deal with increased surface water run-off are unclear.

4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. D18A/1235; ABP Ref. 303964-19:** Planning permission refused on 10th July 2019 for the construction of a 3-bedroom dwelling to the rear of the existing dwelling on the basis that the proposal would constitute piecemeal, backland development and would be contrary to the development management standards of Section 8.2.3.4 (vi) of the Dún Laoghaire-Rathdown County Development Plan 2016-2022.

5.0 Policy and Context

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

- 5.1.1. While the Dún Laoghaire-Rathdown County Development Plan 2016-2022 was in force at the time this planning application was lodged, the 2022-2028 development plan has been adopted in the interim and is the relevant local planning policy document for the adjudication of this appeal case.

5.2. Land Use Zoning

- 5.2.1. The site is subject to land use zoning “A” which has the objective “to provide residential development and improve residential amenity while protecting the existing residential amenities”. Residential land uses are permitted in principle under this zoning objective.

5.3. Conservation

- 5.3.1. The existing property on the site is a Protected Structure (RPS No. 1599). The site is also located within the Foxrock Architectural Conservation Area (ACA).

- 5.3.2. **Policy Objective HER8: Works to Protected Structures** - It is a Policy Objective to:

(i) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.

(ii) Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the ‘Architectural Heritage Protection Guidelines for Planning Authorities’ published by the Department of the Arts, Heritage and the Gaeltacht.

(iii) Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.

(iv) Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.

(v) Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.

(vi) Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.

(vii) Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

(viii) Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.

(ix) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.

(x) Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development (consistent with NPO 17 of the NPF and RPO 9.30 of the RSES)

5.3.3. **Policy Objective HER13: Architectural Conservation Areas** - It is a Policy Objective to:

(i) Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).

(ii) Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.

(iii) Ensure that any new development or alteration of a building within an ACA or immediately adjoining an ACA is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials.

(iv) Seek a high quality, sensitive design for any new development(s) that are complementary and/or sympathetic to their context and scale whilst simultaneously encouraging contemporary design which is in harmony with the area. Direction can also be taken from using traditional forms that are then expressed in a contemporary manner rather than a replica of a historic building style.

(v) Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.

(vi) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

5.4. Development Management

- **Works to a Protected Structure**

5.4.1. Detailed development management guidance concerning works to a Protected Structure is set out in Section 12.11.2.1 of the development plan. In summary, interventions should be kept to a minimum and all new work should relate sensitively to the fabric, scale, proportions and design of the structure. Original features and plan forms should be retained, and new work should be readily identifiable. Works should be carried out to the highest possible standard, under the supervision of a conservation specialist.

5.4.2. Planning applications must include an Architectural Heritage Impact Assessment in accordance with the requirements of the “Architectural Heritage Protection Guidelines for Planning Authorities”.

- **Architectural Conservation Areas**

5.4.3. The guiding principle of ACAs is to protect the special external expression of the buildings and the unique qualities of the area to ensure future development is carried out in a manner sympathetic to its distinctive character.

- **Extensions to Dwellings**

- 5.4.4. Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. The extension should match or complement the main house.
- 5.4.5. First floor rear extensions will be considered on their merits and will only be considered where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. Factors which will be considered include overshadowing, overbearing, overlooking, remaining rear private open space, degree of set-back from mutual side boundaries and external finishes and design.

5.5. Flooding

- 5.5.1. Flood map no. 6 of the development plan identifies an area of pluvial flooding (surface water and foul) approx. 182 m to the south-east of the site at the junction of Torquay Road and Golf Lane.

5.6. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

- 5.6.1. These guidelines assist Local Authorities and prospective applicants in dealing with development proposals which relate to a Protected Structure, or the exterior of a building located in an ACA. Criteria for assessing proposals within an ACA are set out in Section 3.10 of the Guidelines. Where demolition is proposed, the onus is on the applicant to make the case for demolition and the Planning Authority should consider the effect on the ACA and any adjacent Protected Structures.
- 5.6.2. Guidance in relation to extensions is provided in Sections 6.8.2 – 6.8.5. New work should involve the smallest possible loss of historic fabric and ensure that important features are not obscured, damaged or destroyed. In general, principal elevations of a Protected Structure, should not be adversely affected by new extensions. Generally, attempts should not be made to disguise new additions or extensions and make them appear to belong to the historic fabric. Extensions should complement the original structure in terms of scale, materials and detailed design while reflecting the values of the present time.

5.7. Natural Heritage Designations

5.7.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Two third-party appeals against the Planning Authority's Notification of the Decision to Grant Planning Permission for the proposed development have been lodged by: (1) Patrick Shaffrey Architect, 18 Dartmouth Square, Dublin 6 on behalf of Eugene and Lynette O'Sullivan, "Pinehaven", Torquay Road, Foxrock, Dublin 18, and (2) Dermot Brennan Architect, 48 Highfield Park, Dundrum, Dublin 14 on behalf of Daragh T. Walsh and Darragh Kilbride, "Ashton", Torquay Road, Foxrock, Dublin 18.
- 6.1.2. The appellants' property at "Pinehaven" adjoins the subject site to the south-east, while the appellants' property at "Ashton" adjoins the appeal site to the north-west.
- 6.1.3. The appeal submission on behalf of **Eugene and Lynette O'Sullivan** can be summarised as follows:
- A major concern arises in relation to condition no. 9 of the permission, which relates to the treatment of surface water. Details regarding the treatment of surface water are unclear and will be decided after the decision has been made.
 - A soakaway test is a vital component of any planning process in this area of high flood risk and should have been requested by way of Further Information.
 - In refusing planning permission for a separate dwelling on this site in 2019, the Board was not satisfied that adequate information had been provided in relation to flood risk.
 - There is insufficient capacity in the local drainage system to cater for the additional rainwater run-off from the increased hard surfaces within the appeal site. The proposed development will increase flood risk in the area.
- 6.1.4. The appeal submission includes photographs of past flood events on the appellants' property. A copy of an Engineers Report on Surface Water / Flooding Risk on foot of

the previously proposed dwelling on the site (2019 application) as prepared by Magahy Broderick Associates is also included. The appellants' agent submits that the concerns identified in this report remain, regarding the ability of the ground within the appeal site to contain and disburse the additional rainwater run-off from the proposed extension. The content of this report has been reviewed and noted in the adjudication of this appeal case.

6.1.5. The appeal submission on behalf of **Daragh T Walsh and Darragh Kilbride** can be summarised as follows:

- The proposed extension is proximate to the appellants' property and has an excessive depth of 23m, which would set an undesirable precedent.
- No assessment of the potential impact on the setting and views to and from the adjoining houses has been presented. No photomontages submitted.
- The architectural heritage impact assessment is too brief and does not meet the requirements of the Architectural Heritage Protection Guidelines for Planning Authorities.
- The development is a major intervention to a Protected Structure. Alternatives should be considered for the proposed gym and associated facilities, or else these should be omitted.
- Inappropriate development height, scale and design which will have an adverse visual impact on the setting of the Protected Structure and adjoining dwellings.
- Overbearing visual impact on setting and amenity of appellants' rear garden.
- Overlooking of appellants' rear garden / terrace from proposed 1st floor windows.
- The scale of the extension does not protect, preserve or enhance the special character associated with the group of 6 no. Protected Structures on this road which are part of the Foxrock ACA.
- The ridge height of the single-storey extension should be reduced from 4.8 m to 3.5 m.

- Rear balcony will overlook the appellants' garden terrace. The bedroom which it serves should have a window facing Torquay Road only.
- The zinc roof behind the balcony has a very low pitch which may result in its use as a balcony space. A linear vaulted roof or similar low pitch roof is suggested as an alternative.
- The provision of a hipped roof on the 2-storey section of the extension would greatly reduce the shadow impact on the appellants' garden terrace.
- The provision of a solid panel to the side of the balcony as required under condition no. 3 increases the negative impact on the residential amenities of neighbouring properties and adds an unwarranted visual impact on the appellants' garden amenity.
- Condition no. 2 of Planning Authority Reg. Ref. D18A/0740 relating to the appellants' property required that no access be provided from the master bedroom to the French balcony in the interest of the residential amenity of the adjoining properties.
- The gable window in bedroom F07 overlooks the appellants' terrace and should be removed.

6.1.6. The appeal submission includes a summary report on the setting of the ACA. This report accompanied the appellants' third-party submission on the planning application, the contents of which have been reviewed and noted in the adjudication of this appeal case.

6.2. Applicant Response

6.2.1. A response to the third-party appeals was lodged by Brazil Associates Architects on behalf of the applicants on 21st April 2022. The response includes 4 no. overlays of photographs submitted by the adjoining owners of the Ashton property and taken from the rear of their property towards the boundary with the appeal site. It also includes additional drawings (nos. 21022-PL-0005, 21022-PL-029, 21022-PL-0031 and 21022-PL-1003) to demonstrate the relationship between the proposed development and the adjoining property at Ashton. A letter is also included from

SGR Structural Engineers which summarises the proposed surface water drainage arrangements.

6.2.2. The response addresses each third-party appeal in turn and can be summarised as follows:

- The 2-storey rear bedroom extension has its rear elevation in line with the rear building line of Ashton. The proposed rear dormer window and balcony has a separation distance of more than 9 m to the projected balcony to the rear of Ashton. The proposed single-storey extension will hardly be visible given the difference in levels between the 2 no. properties and the location of the existing single-storey shed within the Ashton property.
- The existing tree in the rear garden will be removed to facilitate the proposed extension and will increase sun light to the terraced area within Ashton.
- The submitted overlays demonstrate that the proposed development will have little or no impact on the adjoining properties, particularly Ashton.
- The Architectural Conservation Appraisal submitted with the application questions the commentary on the existing house as contained in the NIAH for not being precise enough in terms of the architectural assessment of the house.
- While the existing house is pleasant and intact, it is unremarkable, and its setting has been compromised by the construction of Ashton and Pinehaven within its curtilage some years ago.
- The impact of the proposed extension on the rear exterior of the house will be mitigated by not being visible from the front of the house / Torquay Road and by the glass link to the Protected Structure, which could be easily removed, if required.
- There is no impact on Ashton with respect to light.
- The removal of the existing tennis court will help to strengthen the sylvan character of the site.
- The proposed rear dormer is 6 m from the side boundary and faces due east. The view to the rear garden of Ashton is incidental.

- It is acknowledged that the site is located in an area of pluvial surface water and foul water flooding and that a final surface water drainage proposal will depend on further site tests and assessment.

6.3. **Planning Authority Response**

6.3.1. None received.

6.4. **Observations**

6.4.1. None.

7.0 **Assessment**

7.1. I am satisfied that the main issues arising in this case include:

- Impact on Residential Amenity of Adjacent Properties
- Impact on Protected Structure
- Surface Water Drainage
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

7.3. **Impact on Residential Amenity of Adjacent Properties**

7.3.1. The owners of the adjacent dwelling (“Ashton”) to the north-west of the appeal site raise numerous concerns regarding the impact of the proposed development on their property. They submit that the proposed extension will have an overbearing visual impact on their rear garden and that overlooking will occur from the proposed windows and balcony at 1st floor level. The appellants have suggested several amendments to the design of the proposed development. They also consider that the provision of a solid panel to the side of the balcony as required under condition no. 3 of the Planning Authority’s decision, will add an unwarranted visual impact on the amenity of their garden.

7.3.2. In responding to these grounds of appeal, the applicants’ agent notes that the 2-storey, rear extension aligns with the rear building line of Ashton. It is noted that the proposed rear dormer window and balcony has a separation distance of more than 9

m to the projected balcony to the rear of Ashton. It is also noted that the proposed rear dormer is 6 m from the side boundary and faces due east, with the view to the rear garden of Ashton being incidental. It is submitted that the proposed single-storey extension will hardly be visible given the difference in levels between the 2 no. properties and the location of the existing single-storey shed within the Ashton property. The applicants' agent considers that the overlay drawings which accompany the appeal demonstrate that the proposed development will have little or no impact on adjoining properties, in particular Ashton.

- 7.3.3. In assessing the potential impact of the proposed development on neighbouring properties, Dún Laoghaire-Rathdown County Council's Planning Officer noted that the secondary windows to the proposed bedrooms at 1st floor level face directly towards the adjoining sites. It was considered that this could impact on privacy / the development potential of these sites and a condition requiring the use of obscure glazing was recommended (condition no. 2 refers). It was also considered that the rear balcony serving bedroom no. 3 would allow unrestricted views into the rear garden of Ashton and a condition was recommended requiring the fitting of a solid panel along its north side (condition no. 3 refers).
- 7.3.4. In considering the foregoing, I note that the proposed rear extension has a significant building footprint, particularly at the ground floor level, which extends approx. 22.7 m beyond the retained rear building line. The proposed 1st floor extension extends approx. 8.4 m beyond the existing rear building line and generally aligns with the rear façade of the 2-storey extension at Ashton. The proposed extensions are set back by 1.8 m from the shared property boundary with Ashton, which I consider to be a standard arrangement in an urban context, and which generally reflects the footprint of the retained element of the Protected Structure.
- 7.3.5. In my opinion, the existing blockwork boundary wall between the 2 sites will largely screen the proposed ground floor extension from the occupants of Ashton. The height of the single-storey extension varies from 3.2 m to 4.8 m to ridge level over the proposed gym. While the appellants submit that the ridge height should be reduced to 3.5 m, I can identify no reasonable justification to warrant such a reduction having regard to the overall site size, that of the neighbouring Ashton site and the separation distance arising between the extension and the shared boundary. I consider that the proposed ground floor extension is acceptable.

- 7.3.6. I also consider that the proposed 1st floor extension can be accommodated on the subject site. I do not agree that it will have an overbearing visual impact on the amenity of the appellants' rear garden, and in this regard, I note that its rear building line reflects that of the appellants' property. The applicant has submitted shadow cast images (Drawing Nos. 21022-PL-1000 and 1001 refer) which demonstrate the impact of the development at 10am, 12 noon, 2pm and 4pm in March, June, September and December. These images confirm that any shadow impacts arising to the neighbouring property will be minor.
- 7.3.7. I agree that the proposed gable windows serving bedroom no. 3 (F07) and bedroom no. 4 (F10) at 1st floor level should be comprised of obscure glazing to prevent overlooking of the adjoining properties. This matter can be addressed by planning condition should the Board decide to grant permission for the proposed development. No direct overlooking of the neighbouring properties will occur from the 1st floor windows serving these bedrooms which face towards the rear garden of the appeal site.
- 7.3.8. I have concerns regarding the proposed balcony serving bedroom no. 3 (F07) at 1st floor level and the potential overlooking of the rear garden of Ashton which would likely arise from the use of this amenity space. Notwithstanding the requirements of condition no. 3 of the Planning Authority's decision, I consider that this amenity space has the potential to impact negatively on the residential amenity of the neighbouring property. As such, I consider that the balcony as proposed should be omitted and replaced with a Juliet / French style balcony, which does not facilitate access / sitting at the 1st floor level. As identified by the appellants, this reflects condition no. 2 of Planning Authority Reg. Ref. D18A/0740 relating to the appellants' property (Ashton) which required that no access be provided from the 1st floor master bedroom to the proposed French balcony in the interest of the residential amenity of the adjoining properties. This matter can be addressed by condition should the Board decide to grant planning permission in this instance.
- 7.3.9. While the appellants raise concerns that the proposed zinc roof behind the balcony may be used as a balcony, I note that permission has not been sought to use the roof space in this manner. Notwithstanding the foregoing, I consider that this matter can be clarified by condition.

7.3.10. For the avoidance of doubt, I consider that no overbearing, overshadowing or overlooking impacts will arise to the neighbouring property to the south-east (“Pinehaven”) on foot of the proposed development having regard to the separation distances arising and the configuration of the proposed development within the appeal site.

7.4. Impact on Protected Structure

7.4.1. The appeal from the owners of Ashton notes that no assessment was provided regarding the potential impact of the proposed development on the setting and views to / from the adjoining houses. It is considered that the architectural heritage impact assessment is too brief and does not meet the requirements of the Architectural Heritage Protection Guidelines for Planning Authorities. It is also considered that the inappropriate development height, scale and design does not protect, preserve or enhance the special character of the Protected Structure or that of the adjoining Protected Structures within the ACA. It is submitted that alternatives should be considered for the proposed gym and associated facilities, or else these should be omitted.

7.4.2. In response to the foregoing, the applicants’ agent submits that the existing house is unremarkable, and that its setting has been compromised by the construction of Ashton and Pinehaven within its curtilage some years ago. It is considered that the impact of the proposed extension on the rear exterior of the house will be mitigated by its not being visible from the front of the house / Torquay Road and by the glass link to the Protected Structure, which could be easily removed if required. It is also considered that the removal of the existing tennis court will strengthen the sylvan character of the site.

7.4.3. The planning application documentation includes a “Planning Report” which provides a description of the existing building and the proposed development. Photographs of the interior and exterior of the building are also included. An “Architectural Heritage Assessment” is also included as prepared by John R. Redmill Conservation Architect and Historic Building Consultant. This report sets out the history of the building, an architectural description of the building and an appraisal of the proposed development. It concludes that the internal repairs and modernisation works will have little, if any, impact on the interiors of the houses, which are not considered to

be of any special architectural or cultural significance, despite their Protected Structure status. It also concludes that while the rear extension will have an impact on the exterior of the house, it will be mitigated by its not being visible from Torquay Road and by being physically and visually connected to the Protected Structure by a glass link. Having reviewed the contents of these documents, I am satisfied that sufficient information has been provided regarding the condition and conservation status of the building.

- 7.4.4. Dún Laoghaire Rathdown County Council's Conservation Officer had no built heritage concerns regarding the removal of the modern extension and conservatory, which are noted to be of no architectural significance. It was considered that the construction of the new rear extension would not unduly harm or adversely affect the external character and expression of the Protected Structure, which will remain clearly legible within the development. The extension was noted to have been designed in a contemporary idiom which accords with best practice. It was further considered that the proposed development would not result in any impact on the established built character of Foxrock ACA. The Conservation Officer made recommendations regarding the retention of the access door to Room G03 at ground floor level and the submission of details of the proposed internal insulation. These requirements are reasonable given the protected status of the building and can be addressed by condition should permission be granted for the proposed development.
- 7.4.5. In my opinion, the works which are proposed in this instance would serve to provide additional high-quality accommodation for the future occupants of the Protected Structure. I consider that the proposed development would not have any significant impact on the character or integrity of the Protected Structure or any neighbouring such structure, and that the concerns which have been raised by the appellants in this regard are unfounded. In reaching this conclusion, I also note that neither of the appellants' properties are Protected Structures.

7.5. **Surface Water Drainage**

- 7.5.1. The appeal submission from Eugene and Lynette O'Sullivan raises serious concerns in relation to the treatment of surface water on foot of the proposed development, including condition no. 9 of the Planning Authority's decision, which requires details of the treatment of surface water to be decided by way of compliance. The

appellants consider that a soakaway test should have been requested by Further Information and that there is insufficient capacity in the local drainage system to cater for the additional run-off from the increased hard surfaces within the site. It is submitted that the proposed development will increase flood risk in the area. In responding to these grounds of appeal, the applicants' agent acknowledges that the site is located in an area of pluvial surface water and foul water flooding and that a final surface water drainage proposal will depend on further site tests and assessment.

7.5.2. The Drainage Planning Department of Dún Laoghaire-Rathdown County Council did not consider that Further Information was required in relation to the proposed development and had no objections to same subject to conditions. Condition no. 1 of the Drainage Department report dated 7th February 2022 requires, inter alia, surface water to be infiltrated locally to a soakaway, which shall not have an overflow, shall be designed to BRE Digest 365, shall be at a minimum 5 m from foundations, 3 m from adjacent property boundaries and shall have no impact on neighbouring properties. Where a soakaway is not a feasible solution, the applicant is required to propose an alternative SuDS measure for agreement with the Planning Authority.

7.5.3. In considering the issue at hand, I note that the overall extent of hard standing within the subject site will decrease on foot of the proposed development through the removal of the existing tennis court and the reinstatement of landscaping on the rear portion of the site. In my opinion, the attachment of a planning condition requiring the agreement of the final surface water drainage arrangements in accordance with the Planning Authority standards represents a standard approach, which would be appropriate in this instance should the Board decide to grant planning permission for the proposed development. As such, I am satisfied that the concerns which have been identified by the appellants can be satisfactorily addressed through the compliance process.

7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the proposed development, comprising an extension to an existing dwelling on zoned land in an urban area, and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant

effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that planning permission be granted for the proposed development.

9.0 Reasons and Considerations

9.1. Having regard to the residential land use zoning objective which applies to the site, the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in design, form and scale and would not adversely impact on the character or setting of the Protected Structure or any neighbouring structure or the residential 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, 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 the 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 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 within 3 months of the date of this Order 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>
3.	<p>All works to the Protected Structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.</p> <p>Reason: To secure the authentic preservation of this Protected Structure and to ensure that the proposed works are carried out in accordance with best conservation practice.</p>
4.	<p>The following details shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development:</p> <p>(a) Drawings demonstrating the retention of the hallway door serving Room G03 as a dummy.</p> <p>(b) Details / specifications of the proposed internal insulation boards and section drawings demonstrating the interface with window/door architraves.</p> <p>Reason: In order to protect the original proportions, plan form and character of the Protected Structure.</p>
5.	<p>The gable windows serving bedroom no. 3 (F07) and bedroom no. 4 (F10) at 1st floor level of the proposed extension shall be permanently maintained in obscure glazing.</p> <p>Reason: To prevent overlooking of adjoining residential properties.</p>

6.	<p>(a) The 1st floor balcony serving bedroom no. 3 (F07) of the proposed extension shall be omitted and replaced by a Juliet balcony or similar, which shall be inaccessible.</p> <p>(b) No part of the roof of the ground floor extension shall be used as an amenity space.</p> <p>Reason: To protect the amenities of adjoining residential property.</p>
7.	<p>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, and shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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>

Louise Treacy
Senior Planning Inspector

27th February 2023