



An  
Bord  
Pleanála

## Inspector's Report ABP-313327-22

### Development

Demolition of existing single storey extension to the side and shed structure, construction of extension to the side and rear of the exiting dwelling, and all associated site works.

### Location

7 Seafield Close, Booterstown, Co. Dublin

### Planning Authority

Dun Laoghaire Rathdown County Council

### Planning Authority Reg. Ref.

D22A/0046

### Applicant(s)

Kathleen & Henry Counihan

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Kathleen & Henry Counihan.

### Observer(s)

Roisin Hanna  
Ruth O'Keeffe

Gerard Cummiskey

**Date of Site Inspection**

26 July 2022

**Inspector**

Gillian Kane

## **1.0 Site Location and Description**

- 1.1.1. The subject site comprises a two-storey semi-detached dwelling that has been extended at ground level to the side, in a mature residential in the south Dublin suburb of Booterstown. The existing dwelling is set back from the road, with off-street car parking.
- 1.1.2. To the north of the subject site is a cul-de-sac of similar properties – Seafield Drive.

## **2.0 Proposed Development**

- 2.1. On the 25<sup>th</sup> January 2022, planning permission was sought for the demolition of an existing single storey side extension (19.7sq.m.) and the construction of a two-storey extension to comprise a granny flat of 74.3sq.m. and a 21.7sq.m. single storey extension to the existing dwelling.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. On the 21<sup>st</sup> March 2022, the Planning Authority issued a notification of their intention to REFUSE permission for the following reason:

1.The design, layout, scale and position of the proposed ‘granny’ flat, and its relationship with main dwelling on site would result in a form of development that is not demonstrably interlinked with the main dwelling, nor capable of being readily subsumed back into the main dwelling. In particular, the substantial size of the family flat, and its lack of internal physical access to the main house, is indicative of a layout of separate residential unit. The proposed side extension to accommodate a ‘granny’ flat would not therefore comply with the criteria set out in Section 8.2.3.4 (iii) ‘Family Member/Granny’ Flat of the Dún Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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

- 3.2.1. **Municipal Services;** Surface Water Drainage: Further information required regarding disposal of surface water run-off generated by the extension and design of hardstanding areas.

- 3.2.2. **Transportation Planning:** No objection subject to 2 no. standard conditions.
- 3.2.3. **Planning Report:** Notes that planning permission was refused in 2020 for a family flat on the grounds that the proposed flat was not demonstrably linked to the main dwelling, the proposed dormer extension was visually domineering and the proposed basement had insufficient detail. Proposed single storey extension is acceptable but that proposed granny flat is independent of the main dwelling, without internal access. Notes that the scale of the proposed granny flat does not address the previous reason for refusal in terms of scale, mass and design. Proposed roof profile alterations are stated to be acceptable but revisions to opes are not acceptable . Recommend refusal for one reason.

### 3.3. **Prescribed Bodies**

- 3.3.1. None on file

### 3.4. **Third Party Observations**

- 3.4.1. Four submissions regarding the proposed development raised issues of overlooking, party walls, and residential amenity.

## 4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. **D20A/0714**: Planning permission for the demolition of the existing single storey extension to the side and shed, construction of a single and two storey extension to the side and rear of the existing dwelling including for a 'family member' flat (unit). Construction of a dormer roof extension to the existing rear roofslope including attic conversion. Increase in floor area of the existing basement area to the rear of the dwelling was REFUSED for the following 3 no. reasons:

- 1 The design, layout, substantial scale and position of the proposed 'granny' flat, and its relationship with main dwelling on site and associated rear garden of the main house, would result in a form of development that is not demonstrably interlinked with the main dwelling, nor capable of being readily subsumed back into the main dwelling. In particular, the substantial size of the family flat, and its lack of physical access and separate rear garden to that of the main house, are indicative of a layout of separate residential unit. The

proposed side extension to accommodate a 'granny' flat would not therefore comply with the criteria set out in Section 8.2.3.4 (iii) 'Family Member/Granny' Flat of the Dún Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 2 Having regard to Section 8.2.3.4(i) Extensions to Dwellings of the 2016-2022 Dun Laoghaire-Rathdown County Development Plan in respect to dormer extensions, it is considered that the width of the proposed dormer window would be visually domineering on the roofscape, would set a poor precedent, and would seriously injure the character and visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the limited information provided with respect to the level and extent of the excavation works proposed at basement level and in the absence of a structural engineering report, it is considered that insufficient information has been provided with the application to fully establish the impact of the proposed development on the adjacent property to the northwest to which the subject dwelling adjoins. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy Context

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

- 5.1.1. The 2022 Dun Laoghaire Rathdown development plan came into effect on the 21<sup>st</sup> April 2022, after the assessment of the subject application by the Planning Authority.
- 5.1.2. The zoning of the subject site did not change in the 2022 plan and the site retains its Objective A zoning, which has the stated objective 'to provide residential development and improve residential amenity while protecting the existing residential amenities. Residential use is permitted in principle in such zones.
- 5.1.3. Section 12.3.7.3 of the 2022 plan refers to '**Family Member/Granny' Flat Extension**, stating that the Planning Authority will generally consider such sub-

division and/or extension favourably subject to ensuring no negative impacts on the integrity of the primary dwelling.

5.1.4. Proposals should be:

- Interlinked with the primary dwelling and capable of being readily subsumed back into same.
- Any such extension to the main dwelling shall be subsidiary in scale relative to the main dwelling.
- Such that the Planning Authority is satisfied that there is a valid justification for the proposal in use terms.

5.1.5. Permission will normally be on condition that:

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

**5.2. Natural Heritage Designations**

- 5.2.1. The South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024) are to the north of the subject 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. An agent for the first party has appealed the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

- The applicant have a genuine need for the proposed development. The reason for refusal could have been dealt with by a request for FI.
- The proposed development is not for a separate dwelling. The applicants have lived in the house for 30 no. years and are advancing in age. Occupancy could have been addressed by way of condition.
- The proposed development allows the existing dwelling to have 3 no. bedrooms and a home office and the granny flat of 1 no. bedroom and home office. 3 no. off-street car spaces are available.
- The proposed development complies with the development plan policies on granny / family flats as the two units are interconnected and capable of reverting to a single dwelling. The applicants are happy to abide by the condition prohibiting sale / lease. Drawings submitted showing incorporation of two units.
- The proposed elevational treatments provide an attractive addition to the streetscape, in character with the area. Alternative elevations are submitted should the Board consider necessary. This can be addressed by way of condition and is in keeping with that granted by Dun Laoghaire Rathdown County Council at no. 8 Seafield (D20A/0768).
- The Board is requested to grant permission.

### **6.2. Planning Authority Response**

- The proposed development was assessed under the provisions of the 2016-2022 Dun Laoghaire Rathdown County Development Plan which has since been superseded by the 2022-2028 County Development Plan.
- The proposed development has been re-assessed relative to section 12.3.7.3 of the 2022 County Development Plan. The proposed development is not considered to comply with the guidance and it remains the opinion of the Planning Authority that permission for the development should be refused.

### **6.3. Observations**

#### **6.3.1. Roisin Hanna, 9 Seafield Close**

- The applicant has ignored the planning history on the subject site.
- Section 8.2.3.4(i) of the County Development Plan refers to proximity to mutual boundaries. The proposed development abuts the shared site boundary with no. 9 and this has not been sufficiently addressed.
- The names on previous planning applications do not match the names of the appellants.

#### **6.3.2. Ruth O’Keeffe, 4 Seafield Drive**

- Concerned about the height of two windows – a dormer in the roof and a window at first floor which protrudes past the line of the original dwelling.
- The proposed development looks into the rear of the Observers garden and home. This would interfere with her privacy.
- The proposed development should not injure the amenity of the home.

#### **6.3.3. Gerard Cummiskey, 6 Seafield Drive**

- The reasons for refusing the 2020 application apply to the current proposal, in terms of design, layout, size.
- The subject application does not comply with the A zoning objective or the mid-century suburban estate.
- The removal of the front garden for parking materially contravenes the A zoning objective.
- The Planning Authority consider that the need for a granny flat had not been demonstrated. The Planning Authority state that the proposed development would be an independent dwelling, only sharing garden space.
- A granny flat should be to accommodate a single individual.
- The immediate neighbours of the subject dwelling would suffer a considerable loss of privacy and amenity from the two intrusive windows at the rear.
- An excessive proportion of the proposed development is at first and second floor levels, with large windows overlooking the Observers property.



- The proposed development would devalue surrounding properties.
- The Board is requested to declare the application invalid on the grounds of a misleading site notice and incorrect appellant names.
- The applicant is requested to remove the dormer window and large rear-facing first floor window in the revised scheme submitted to the Board.
- The revised proposal takes more account of the site setting and zoning objective.
- The Board is requested to refuse permission for 6 no. reasons.

## **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 proposed extension to the existing two-storey dwelling is acceptable.
- 7.2.2. The Planning Authority refused permission for the proposed dwelling, assessing the development to be an independent dwelling rather than a granny / family flat. The Planning Authority state that no justification has been made for a granny / family flat and that without an interconnection between the two units, the proposed development does not comply with the County Development Plan policy on family / granny flats.
- 7.2.3. In appealing the decision of the Planning Authority, the applicant states that the applicants are advancing in age and wish to remain in their family home. In revised plans submitted with the appeal the two units are shown as being connected through the two living rooms.
- 7.2.4. I am satisfied that a case for the proposed granny / family flat has been demonstrated. Should the Board decide to grant permission, a condition restricting

occupancy can be attached. I am satisfied that the proposed development complies with the requirements of section 12.3.7.3 of the 2022 County Development Plan in terms of interconnectability and ability to be reincorporated into the main dwelling.

### **7.3. Residential Amenity**

- 7.3.1. The proposed first floor window is approx. 9.9m and the proposed dormer window is approx. 12.5m from the rear boundary. This is considered sufficient to prevent overlooking of the adjoining properties to the north-east.
- 7.3.2. I note the revised elevation and roof profile submitted to the An Bord Pleanála for consideration as part of the appeal. It is considered that the proposed revisions allow the extension to be read as subservient to the main dwelling and are in keeping with the pattern of development in the immediate area.

### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development to be retained 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. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions:

## **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 proposed window, 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 12<sup>th</sup> day of April, 2022, 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed granny flat extension shall used solely for that purpose, and shall revert to use as part of the main dwelling on the cessation of such use.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity</p>
3.	<p>The existing dwelling and proposed granny flat extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p><b>Reason:</b> To restrict the use of the extension in the interest of residential amenity.</p>
4.	<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.</p> <p><b>Reason:</b> In the interest of public health and to ensure a proper standard of development.</p>
5.	<p>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</p>

	<p>Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.</p> <p><b>Reason:</b> 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</p>
--	--

---

Gillian Kane  
Senior Planning Inspector

02 August 2022