



An
Bord
Pleanála

Inspector's Report ABP-314284-22

Development	Conversion of existing dilapidated building into an 82sqm two bedroom dwelling split level with lower ground storey set approx. 1.6m below finished ground level, and upper ground floor set approx. 1m above finished ground level, including landscaping and associated site works
Location	14A/B, Sandycove Rd, Sandycove, Co Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0346
Applicant(s)	Martin McCoy
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party
Appellant(s)	Martin McCoy
Observer(s)	Ronan and Helen Boyle

Kenneth and Hilary McKnight

Rob Johnson

Date of Site Inspection

18/01/2023

Inspector

Lorraine Dockery

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 231 square metres, is located on the western side of an L-shaped vehicular laneway that runs between the side gables and to the rear of No. 13 and No. 16 Sandycove Road, Co. Dublin. It contains the remains of a single storey, concrete structure with collapsed monopitch roof. The existing structure has a stated floor area of approximately 50m².

2.0 Proposed Development

- 2.1. Permission is sought for the conversion of existing dilapidated building into an 82sqm two bedroom split level dwelling. The lower ground storey is proposed to be set approx. 1.6m below finished ground level with the upper ground floor proposed approx. 1m above finished ground level. The proposal includes for landscaping and associated site works.
- 2.2. The stated floor area of proposed works is approximately 82m².

3.0 Planning Authority Decision

3.1. Decision

The planning authority REFUSED permission for two reasons, as follows:

1. Having regard to the restricted nature of the application site, its location along a narrow laneway which forms part of the application site, its close proximity to adjoining residential dwellings, and the overall site layout which provides for inadequate private open space which is also severed from the proposed residential units, the proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, and would represent overdevelopment of the restricted site. The proposed development would be contrary to zoning objective A, which seeks 'To provide residential development and improve residential amenity while protecting the existing residential amenities', and would be contrary to Section 12.3.7 Additional Accommodation in Existing Built-Up Areas, Section 12.3.7.7 Infill and Section 12.3.7.10 Mews Lane Development of the Dun Laoghaire Rathdown County

Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the inadequate width of the vehicular access lane, which forms part of the application site, the proposed development would be contrary to Section 12.3.7.10 Mews Lane Development of the Dun Laoghaire Rathdown County Development Plan 2022-2028, and would be contrary to the proper planning and sustainable development of the area. Furthermore, having regard to the location of the application site within Zone 2, whereby one car parking space would be required for a 2-bedroom house, the proposed development does not meet the criteria of Section 12.4.5 Car Parking Standards of the current County Development Plan. The proposed development would, therefore, be contrary to the provisions of the Dun Laoghaire Rathdown County Development Plan 2022-2028, and to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The main points of the planner's report include:

- Report of Planning Officer reflects the decision of the planning authority
- Recommends refusal of permission

3.2.2. Other Technical Reports

Transportation Planning Division- refusal recommended due to inadequate off-street car parking area and vehicular access to the proposed development

Drainage Division- no objections, subject to conditions

3.3 **Prescribed Bodies**

Irish Water

No objections, subject to conditions

4.0 **Planning History**

The most recent relevant planning history is as follows:

D16A/0329

Outline permission REFUSED for the construction of a one bedroom mews, with inhabited attic and associated site works. The reasons for refusal related to (i) seriously injurious to the residential amenities of adjoining property, depreciation of property values and overdevelopment of site (ii) creation of traffic congestion and (iii) obstruction of access lane, traffic congestion and loss of residential amenity.

5.0 **Policy and Context**

5.1 **Development Plan**

The Dun Laoghaire County Development Plan 2022-2028 is the operative County Development Plan.

Zoning: 'Objective A' which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities'.

Residential development is permitted in principle under this zoning objective

The site is located within the boundary of the proposed Dun Laoghaire and Environs Local Area Plan (LAP) area

Section 12.3.7 Additional Accommodation in Existing Built-Up Areas

Section 12.3.7.6 Backland Development

Section 12.3.7.7 Infill

5.2 **Natural Heritage Designations**

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

5.3 **EIA Screening**

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood

of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1 Grounds of Appeal

The main points of the first party appeal are:

- Refutes reasons for refusal
- Reason No. 1:
- Structure on this site since 1888; proposal represents the restoration of an historic building; design so as no overlooking; height and location prevent overshadowing
- PA has numerous policies and statements favouring densification of services residential lands; polices accords with national policy (NPF and Sustainable Residential Development in Urban Areas). Proposal represents compact growth through infill development- 600m from DART station; site zoned for residential development
- CDP allows flexibility in terms of private open space provision- south facing, private courtyard proposed; proximate to several existing public open spaces
- PA has accepted principle of backland residential development on other sites within immediate area; proposal utilising an existing structure
- No basis for stating that proposal would injure amenities/depreciate value of properties- no overlooking, overshadowing, overbearing impacts
- Reason No. 2
- Proposal most closely aligned to infill development and meets criteria for same; proximity to public transport noted
- No vehicular access proposed and no parking space; principle of accessibility of laneway in an emergency has been accepted by PA when permitted development of Highbury

- CDP allows flexibility for provision of parking spaces; cites examples of other car free development and examples where ABP have omitted car parking from proposals

6.2 Planning Authority Response

A response was received which states that the planning authority have no further comment.

6.3 Observations

Three observations were received and these may be broadly summarised as follows:

- Policy: material contravention of zoning objective by reason of significant adverse impacts on established residential amenities and established character of the area
- Residential Amenity: Overlooking, impacts on privacy; noise and general disturbance from terrace; setting of undesirable precedent; private open space extent and substandard development standard to future occupiers, quality and configuration; gross overdevelopment of restricted and constrained site
- Traffic: Concerns regarding access to lane during construction works (including works to facilitate service connections); construction practices; access for emergency vehicles; safety concerns for those existing proposed dwelling onto laneway; traffic congestion; taking in charge of laneway
- Other Matters: Impacts on integrity of boundary wall during construction of basement; capacity of existing drainage services; legal status of laneway; works requiring third party consent; blocking of access to rear garden of No. 17 Sandycove Road

6.4 Further Responses

None

7.0 Assessment

7.1 I have read all the documentation attached to this file including inter alia, the appeal, the report of the Planning Authority, the observations received, in addition to having visited the site. The primary issues, as I consider them, are (i) policy context (ii) impact on visual and residential amenities of the area arising from the proposed development (ii) traffic and transport matters and (iv) other matters.

Policy Context

7.2 The zoning of the site is 'Objective A' which seeks to 'to provide residential development and improve residential amenity while protecting the existing residential amenities'. I consider the proposed development to be in accordance with the zoning objective for the site. Residential development is permitted in principle on such a site.

7.3 Section 12.3.7 Additional Accommodation in Existing Built-Up Areas of the operative County Development Plan sets a generally favourable policy towards development of such additional accommodation, subject to compliance with normal planning criteria. There is discussion within the documentation as to whether this site constitutes infill, backland or mews development. I consider that a case could be made for all three classifications, in this instance.

7.4 I note the operative County Development Plan is favourable to the adaptation of existing structures and seeks to densify existing built-up areas through small-scale infill and mews development, together with backland development. I note Policy Objective PHP19 in this regard. The development, the subject of this appeal, is proposing the adaptation and renovation of an existing older building (stated to date from the 1880s) into a residential unit, in the midst of a housing crisis, within a serviced, built-up area that is close to existing services, employment and public transport. I welcome this and consider that it would not be setting an undesirable precedent. I consider there is merit in converting these older dilapidated structures, with established built-up area, into habitable accommodation, subject to normal planning criteria. I consider that the proposal is broadly in compliance with Development Plan and national policy and standards in this regard. I am satisfied in this regard.

Visual Amenity

- 7.5 In terms of visual amenity, I am generally satisfied with the design approach put forward in this instance. Without doubt, this is a restricted site, however a sympathetic renovation and adaption of the existing structure on site has been put forward. I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without detriment to the amenities of the area. I do not consider the proposal to be out of character with existing development in the vicinity nor does it represent over-development of the site. I am satisfied that the proposed development is in accordance with the operative County Development Plan in this regard.

Residential Amenity

- 7.6 In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. I highlight that there is an existing structure on site and this proposal seeks to renovate, upgrade and adapt same for contemporary living. Its footprint is not being substantially enlarged. I am satisfied that any impacts are in line with what might be expected in an area such as this.
- 7.7 The proposed house would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission. There is an acknowledged housing crisis and this is a serviceable site, in an established city area, where there are adequate public transport links, services, facilities and employment in close proximity. I welcome the conversion and adaptation of this historic structure into residential accommodation. I have no information before me to believe that the proposal would lead to the setting of precedent for other similar developments in the vicinity. In any event each application is assessed on its own merits. In addition, I have no information before me to believe that the proposed development, if permitted would lead to the depreciation of property values in the vicinity.
- 7.8 I note the concerns raised in relation to private open space provision, by both the planning authority and in the observations received. The total area of private open

space, including the separate garden area meets Development Plan standards for a dwelling of this size. I acknowledge that the proposed garden area is disjointed from the dwelling, however there is a proposed courtyard area immediately adjoining the proposed dwelling, of stated area 13m², which would provide a quality amenity space. I note the Development Plan allows flexibility in this regard, in certain circumstances. Given the nature of the development proposed, which includes for the adaptation of an older structure into residential use, I am satisfied with the quantum of private open space proposed. I consider the area to be well served with public open space and I note the location of the site relative to same. I am satisfied in this regard.

7.9 I note the concerns raised in the observations received regarding proposed construction practices and impacts on residential amenity from such construction practices during the course of the works. Given the scale of the development proposed, I would anticipate that any such impacts would be temporary in nature. However, I recommend that if the Board is disposed towards a grant of permission, that a condition be attached to any such grant stipulating that a Construction Management Plan and Traffic Management Plan be submitted to, and agreed in writing with the planning authority prior to commencement of development. These plans should provide details of intended construction practice for the development, including hours of working, noise management measures including noise management measures, machinery storage and off-site disposal of construction/demolition waste, together with details relating to proposed traffic management.

7.10 To conclude, I do not concur with the observer's assertion that the proposed development materially contravenes the zoning objective of the site by reason of significant adverse impacts on established residential amenities and established character of the area. The proposal is considered to be in compliance with the zoning objective for the site and consistent with the proper planning and sustainable development of the area.

Traffic and Transport Matters

7.11 I note the concerns raised in the observations received with regards to this matter. It is clear that the existing laneway is not heavily trafficked and given the limited scale

of the proposed development (one single dwelling), I would not anticipate it to lead to the generation of significant volumes of traffic. No parking is proposed. I note the proximity of the site to existing public transport options (both bus and DART) and I note the cycle infrastructure in the wider area. I also note that the operative County Development Plan allows flexibility in this regard and the proposal is substantially in compliance with same. It also complies with national policy guidance in this regard. I am satisfied in this regard.

- 7.12 I note the width of the existing laneway and concur with the opinion of the first party that the principle of emergency vehicles utilising the laneway was accepted when permission was granted for Highbury, together with its subsequent extension.
- 7.13 Matters raised in relation to construction vehicles and access of laneway during construction works could be adequately dealt with by means of condition, through the submission of Construction and Traffic Management Plans. Matters raised in relation to the taking in charge of the laneway, are a matter for the planning authority.
- 7.14 I am generally satisfied in this regard and have no information before me to believe the proposal would lead to the creation of a traffic hazard or obstruction of road users.

Other Matters

- 7.15 Matters relating to boundaries and legal ownership are considered to be a legal matters outside the remit of this planning appeal. I can only undertake my assessment based on the information before me. I am satisfied, based on this information, that the applicant has demonstrated sufficient legal interest to make this application. As in all such cases, the caveat provided for in Section 34(13) of the Planning and Development Act 2000, as amended, applies which stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development. I also note the provisions of Section 5.13 of the Guidelines for Planning Authorities, Development Management, 2007 in this regard.
- 7.16 In terms of any possible impacts on boundary walls and to ensure the protection of the structural integrity of the existing boundary walls around the site, together with that of the existing structure on site, I recommend that a Construction Method Statement be submitted to the planning authority for its written agreement, prior to

the commencement of any works on site. This matter could be adequately dealt with by means of condition.

- 7.17 Concerns raised in the observations received regarding capacity of the existing drainage networks are acknowledged. I note that neither the Drainage Division of the planning authority nor Irish Water raised concerns in this regard. This is a small-scale development and I have no information before me to believe that the existing network does not have capacity to accommodate it. I am generally satisfied in this regard.

Conclusion

- 7.18 Having regard to the limited extent, height and design solution put forward, I am satisfied that the proposed development is in accordance with the zoning objective of the County Development Plan, which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities', is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

8.0 Appropriate Assessment Screening

- 8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 Recommendation

- 9.1 I recommend permission be GRANTED subject to conditions.

10.0 Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Dun Laoghaire Rathdown County Development Plan 2022-2028, and to the standards for such development set out in section 12.3.7 Additional

Accommodation in Existing Built-Up Areas of that Plan, it is considered that, subject to compliance with conditions below, the proposed house would not seriously injure the character of the area or the amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1.	<p>The development shall be carried out 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>Details of the materials, colours and textures of all the external finishes to the proposed dwellings 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>
3.	<p>Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority a Construction Method Statement for any works to the existing boundary walls that in order to ensure the structural integrity of the existing boundary walls around the site</p> <p>Reason: In order to protect architectural character and in the interest of visual amenity</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 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</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
5.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p>Reason: In the interests of visual and residential amenity.</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 and surface water management.</p>
7.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p> <p>Reason: In the interests of public health</p>
8.	<p>The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters. In this regard, no in-curtilage car parking is permitted as part of this development.</p> <p>In this regard, a detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site</p> <p>Reason: In the interests of public safety and in the interests of clarity</p>
9.	<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</p>

	<p>development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures including noise management measures, machinery storage and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
10.	<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 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>

Note: The applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

Lorraine Dockery
Senior Planning Inspector

19th January 2023