



An
Bord
Pleanála

Inspector's Report

ABP-314732-22

Development

Permission is sought for a development consisting of alterations to an existing bungalow, to include an attic conversion with rising roof apex from 4.9m to 6.3m. In addition, permission is also sought for the conversion as well as extension of existing garage to habitable space; amendments to all external elevations together with all associated site works and services.

Location

No. 31 Brook Court, Monkstown, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D22B/0337.

Applicant

Alan Del Rio.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

Third Party.

Appellant(s) David McGarry & Caroline Calloway.

Observer(s) None.

Date of Site Inspection 5th day of December, 2022.

Inspector Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. No. 31 Brook Court, the appeal site, has a stated area of 0.056ha and it contains a detached gable fronted detached dwelling house with a flat roof attached garage located on its north eastern corner which is set back from Brook Court. The setback area comprises of a mature mainly lawned front garden area with a driveway running from its entrance onto Brook Court on the south eastern corner of the site in a northerly direction to where it terminates at the aforementioned garage structure. This driveway also provides connection via a pedestrian pathway that runs along the southern elevation to a wider path returning around the western elevation of the dwelling house. With this path providing connection to the maturely planted rear garden area. The aforementioned driveway also provides in-curtilage off street car parking for occupants of the dwelling.
- 1.2. The adjoining property to the west, No. 30 Brook Court, matches the architectural design and layout of the subject property as does the properties on the opposite side of Brook Court. The properties adjoining and neighbouring the eastern boundary of the site and facing onto the northern side of Brook Court to where Brook Court terminates with Ashtown Park consist of matching in architectural design and layout detached 2-storey detached dwellings. To the rear the site adjoins a residential cul-de-sac called 'The Orchard'.
- 1.3. No. 31 Brook Court opens onto the circular shaped turning head and is located c218m to the north west of s junction with Ashton Park as well as 560m to the north west of Monkstown Avenue/Mount Town Road Upper (R829) junction with Carrickbrennan Road, in the city suburb of Monkstown, just over 9km as the bird would fly from the heart of Dublin city centre. The surrounding area has a mature residential character. With the site being situated c0.7km to the south of Salthill/Monkstown Train Station, c1km to the south east of the N31 and c2.1km to the north east of the N11 all as the bird would fly.

2.0 Proposed Development

- 2.1. Planning permission is sought for alterations to existing bungalow, to include an attic conversion with rising roof apex from 4.9m to 6.3m, conversion and extension of

existing garage to habitable space, amendments to all elevations with associated site work.

- 2.2. According to the accompanying planning application form the gross floor area of existing buildings on site is 143m²; the gross floor area of proposed works is 78m²; and the gross floor area to be retained is 143m².

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. On the 5th day of September, 2022, the Planning Authority issued a notification to **grant** permission subject to 7 no. standard conditions.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planner's report concluded that the nature, scale, and location of the proposed development was acceptable and that it would not give rise to any undue amenity loss, particularly by way of overshadowing, overlooking or visual overbearance. It was further considered that the proposed development was consistent with local planning provisions and that it accorded with the proper planning and sustainable development of the area. It concludes with a recommendation to grant permission.

- 3.2.2. **Other Technical Reports:** None.

- 3.2.3. **Reports from Prescribed Bodies:** None.

3.3. **Third Party Observations**

- 3.3.1. 2 No. Third Party were received. These observations raised the similar concerns to those raised by the Third-Party Appellant in their appeal submission to the Board.

4.0 **Planning History**

4.1. **Recent & Relevant Site & Setting**

- 4.1.1. None.

5.0 Policy & Context

5.1. Local

- 5.1.1. The relevant Development Plan is the Dún Laoghaire Rathdown County Development Plan, 2022-2028. The site is zoned 'A' residential with the objective to: "*provide residential development and improve residential amenity while protecting the existing residential amenities*" under which residential development is listed within the '*Permitted in Principle*' category of this zoning objective.
- 5.1.2. Policy Objective PHP19: Existing Housing Stock – Adaptation of the Development Plan, sets out that it is a Development Plan policy objective to conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.
- 5.1.3. Section 12.3.7 of the Development Plan relates to additional accommodation in existing built-up areas with Section 12.3.7.1 relating to extensions.

5.2. Natural Heritage Designations

- 5.2.1. None within the zone of influence.

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 grounds of this Third-Party Appeal can be summarised as follows:
- The appellant's property adjoins the subject site.
 - The proposed development would give rise to overlooking of their property.

- The correct dimensions of rooflights proposed are not clarified by the Planning Authority in their decision to grant permission.
- It is sought that the rooflights facing their property are either removed from the plan or moved to the other side of the roof so that no overlooking arises.
- The rooflights facing towards their property would diminish its value.
- There is no consent for any oversailing of their property.

6.2. Applicant's Response

6.2.1. The Applicants response can be summarised as follows:

- The rooflights of concern to the appellant would not give rise to any overlooking as they are in excess of 2m in height above the floor.
- The discrepancies in the drawings in terms of denoting the correct number of rooflights sought is acknowledged and amended drawings are provided.
- This development would be carried out in its entirety within the site boundaries.
- The appellant has raised no new issues in their appeal submission that they have not already raised during the Planning Authority's determination.
- The Board is requested to uphold the Planning Authority's decision.

6.3. Planning Authority Response

The Planning Authority's response was received by the Board on the 12th day of October, 2022, and requests that the Board have regard to their Planning Inspectors report. It also indicates that it considers that the grounds of appeal do not raise any new matter which would warrant a change in attitude of their attitude towards this development.

6.4. Observations

6.4.1. None.

7.0 Assessment

7.1. Preliminary Comment

7.1.1. I consider that the key issues in this appeal case are:

- Procedural Concerns
- Principle of the Proposed Development
- Impact on Residential Amenity
- Oversailing
- Devaluation of Property.

7.1.2. The matter of '*Appropriate Assessment*' requires examination. I am satisfied that no other substantive issues arise.

7.2. Procedural Concerns

7.2.1. The appellant in their grounds of appeal raise concerns that there are conflicting dimensions shown in relation to the rooflights proposed and that the Planning Authority's grant of permission fails to address this concern.

7.2.2. They also seek that rooflights on the eastern slope be removed and/or repositioned to the other side as part of protecting their residential amenities from undue overlooking and diminishment of privacy.

7.2.3. The First Party in their appeal submission to the Board acknowledge that in error rooflights were omitted from a number of drawings submitted with this planning application. To rectify this, they have provided amended drawings clarifying the position and sizes of the rooflights where they were in error omitted. Should the Board be minded to grant permission I consider the discrepancy in the drawings can be dealt with by way of a condition given that the rooflights are included in the majority of the drawings at the same location and with the same dimensions. In this regard, I recommend that such a condition require the rooflights to correlate with the position and sizes denoted on Drawing No. 2_000 which is titled: "Proposed Site/Block & Roof Plan" from the suite of drawings submitted with the subject planning application. This provision, in my view, would satisfactorily address this particular concern and provide clarity on this matter for all parties.

7.2.4. In relation to the appellants request that the Board either reposition all of the proposed rooflights to the roof slope facing No. 30 Brook Court or omit the rooflights on the roof slope addressing their property No. 32 Brook Court, for the reasons set out under in my assessment below, i.e., that the rooflights addressing the property of No. 32 Brook Court would not give rise to any undue overlooking, I consider that there is no planning justification that would support or warrant either amendment.

7.3. Principle of the Proposed Development

7.3.1. The subject site is located in an area zoned 'A' which has the objective of protecting and/or improving residential amenity under the Dún Laoghaire Rathdown County Development Plan, 2022-2028. The principle of the proposed development, a development which consists of alterations and additions to an existing dwelling, i.e., No. 31 Brook Court, is a type of development that is deemed to be generally acceptable, subject to other planning considerations being satisfied.

7.4. Residential Amenity Impact

7.4.1. The appellant in this case raises concerns that the proposed development, if permitted, would give rise to diminishment of their residential amenity, as a result of the proposed rooflights on the eastern slope of the proposed raised roof structure. This impact would in their view be inconsistent with the proper planning and sustainable development of the area.

7.4.2. No. 31 Brook Court, the host dwelling, is a gable fronted single storey detached dwelling with its main roof having a given ridge height of 4.9m, with the eaves of the roof commencing their upward slope at a height of 2.2m and the attic space under the existing ridge having a given floor-to-ceiling height of 2.2m. I note that the existing roof structure contains no rooflights and the attic space is indicated to have no functional and/or ancillary use in its existing state. It is labelled in the submitted plans as 'Attic Void'.

7.4.3. I also note that the appellants property, No. 32 Brook Court, occupies the residential plot immediately bounding the eastern boundary of the site. The property thereon is a two-storey detached dwelling with a ridge height of c7.6m and eaves height of 5.6m. Its western elevation contains two transparent glazed windows which faces into the subject site without any screening or obstruction.

- 7.4.4. Further to this, the main envelope of No. 31 Brook Court is setback 2.025m from the boundary with No. 32 Brook Court. The principal entrance serving the internal space of No. 31 Brook Court is located roughly midway along the eastern elevation. The eastern elevation of No. 31 Brook Court is positioned c3.8m from the western elevation of No. 32 Brook Court and the ground levels of this adjoining property are slightly raised when compared to that of the appeal site.
- 7.4.5. The proposed alterations to No. 31 Brook Court seeks to raised the roof structure over by maintaining its gable fronted and rear profile. As such the raised roof is given as having a maximum ridge height of 6.2m, with the eaves level being indicated as 2.6m in the submitted drawings. Internally, it is proposed to accommodate an office on its southern side lit mainly by a window in the gable shaped front façade. But also containing a modest rooflight on the eastern slope, an en-suite lit by a modest rooflight, a walk-in wardrobe lit by a modest rooflight, and a master bedroom lit by a window in the gable shaped rear façade.
- 7.4.6. Of note the roof lights as shown in the section through the attic space for the habitable rooms are positioned high in the roof slope, i.e., c2m above the indicated floor levels in the sloping ceilings.
- 7.4.7. The attic rooms would be accessed from a hall landing with the ground floor altered to accommodate the provision of a stair to the attic level as well as including internal remodelling to provide a reworking of the ground floor habitable and sundry spaces.
- 7.4.8. Section 12.3.7.1(iv) of the Development Plan sets out the guidance with respect to roof alterations through to attic extensions. In relation to such alterations, it sets out the following criteria under which they will be assessed by the Planning Authority:
- Careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.
 - Existing roof variations on the streetscape.
 - Distance/contrast/visibility of proposed roof end.
 - Harmony with the rest of the structure, adjacent structures and prominence.
- 7.4.9. The proposed dwelling though forming part of a residential streetscape scene that once shared a highly uniform, coherent in built forms, architectural design, building to space relationship group of single storey and two storey detached built form is not

afforded any specific protection. Nor is its streetscape scene. A streetscape scene which I observed has been subject to various alterations and additions of varying quality. In its context the host dwelling is bound on its eastern side by a two-storey built form and on its western side a matching single storey detached dwelling.

7.4.10. The proposed design seeks to maintain the overall built form of this dwellings gable front and rear built form as well as the roof structure shape over but simply seeks to raise the ridge height to 6.245m and the eaves height to 2.6m. As such the additional height proposed is subservient and modulates in respectful manner to the built form and overall design attributes of the host dwelling. But also, the adjoining single storey dwelling to the west, i.e., No. 30 Brook Court, which it would not appear visually overbearing against and in terms of the two-storey built form of No. 32 Brook Court it would step down in its height in harmonious modulated manner.

7.4.11. The main source of light and ventilation to the attic habitation proposed is via the front and rear elevation where in excess of 22m separation distance is present from the nearest opposing first floor level window. The rooflights proposed on the western slope and eastern slope are high level as well as modest in their overall dimensions serving mainly secondary spaces such as a walk-in wardrobe, a modest in floor area en-suite and an office space.

7.4.12. In addition, no significant reduction in private amenity space serving occupants of the host dwelling would occur.

7.4.13. In conclusion, the proposed development provides a satisfactory balance between protecting the established residential amenities of properties in its vicinity and improving the residential amenities for occupants of the host dwelling in a manner that accords with the land use zoning objective of the site and Section 12.3.7.1(iv) of the Development Plan. It would give rise to no undue residential or visual amenity impact on its setting.

7.5. **Oversailing**

7.5.1. The appellant welcome that the Planning Authority's grant of permission included provisions for oversailing given that they have not consented for demolition and/or construction works to be carried out on the curtilage of their property to facilitate the proposed development.

- 7.5.2. The First Party in their response to the grounds of appeal indicate that the proposed development would be carried out in its entirety within the boundaries of their site and would not therefore give rise to any oversailing of adjoining properties.
- 7.5.3. I note that the side of the existing single storey extension appears to be constructed adjoining but not including the party/shared boundary between No. 31 and No. 32 Brook Court.
- 7.5.4. Given the nature of the proposed development as set out in the accompanying drawings. Which includes the demolition of structures and building of structures onto what appears to be a party/shared boundary. As a precaution I recommend that the Board include Section 34(13) of the Planning and Development Act, 2000, as amended, as a precaution. This sets out that a person is not entitled solely by reason of a permission to carry out any development. This can be imposed by way of an 'Advisory Note' attached to the Boards determination order in the event that it is minded to grant permission.

7.6. **Appropriate Assessment**

- 7.6.1. This appeal site is located in an established serviced residential area, and it is not located adjacent to nor in close proximity to any European sites, as defined in Section 177R of the Habitats Directive. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest European site, which I note are South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024), no appropriate assessment issues arise and therefore it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

- 8.1. I recommend that permission be **granted**.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the provisions of the Dún Laoghaire Rathdown County Development Plan, 2022-2028, the pattern of development in the area and to the nature, form, scale

design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would 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. 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.

Reason: In the interests of clarity.

2. The location and size of the rooflights shall be as per Drawing No. 2_000 which is titled: "Proposed Site/Block & Roof Plan".

Reason: In the interests of clarity.

3. 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.

Reason: In the interest of public health.

4. 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, dust management measures, protection of the trees during the construction phase, protection of the existing water mains, and off-site disposal of construction/demolition waste through to management of traffic arising from construction works, deliveries and removal of waste.

Reason: In the interests of public safety and residential amenity.

6. All necessary measures shall be taken by the Applicants and Contractors to avoid conflict between construction traffic/activities and all other road users, particularly pedestrians and other vulnerable road users on Brook Court, during construction works.

Reason: In the interests of public safety.

7. The Applicants and Contractor shall prevent any mud, dirt, debris or building material being carried out onto or placed on the public road or adjoining properties as a result of the site works and repair any damage to the public road arising from carrying out the works.

Reason: In the interest of public safety.

8. 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.

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.

Advisory Note: The applicant/developer is advised that Section 34(13) of the Planning and Development Act, 2000, as amended, states that '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*'. Thus, any grant of permission for the subject proposal would not in itself confer any right over private property.

Patricia-Marie Young
Planning Inspector

8th day of March, 2023.