



An  
Bord  
Pleanála

## Inspector's Report

**ABP-315818-23**

---

<b>Development</b>	Retention of 3 no. roof lights
<b>Location</b>	21 Ardburgh Road, Dalkey, A96 HH3E
<b>Planning Authority</b>	Dun Laoghaire Rathdown Co. Co.
<b>Planning Authority Reg. Ref.</b>	D22B/0470
<b>Applicant(s)</b>	Michael McDonagh & Noreen Farrar
<b>Type of Application</b>	Retention permission
<b>Planning Authority Decision</b>	Grant of retention permission subject to 2 no. conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Darragh & Alison Fegan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> June 2023
<b>Inspector</b>	Bernard Dee

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
4.0 Planning History.....	6
5.0 Policy and Context.....	7
6.0 The Appeal .....	9
7.0 Assessment.....	11
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13
10.0 Conditions .....	13

## 1.0 Site Location and Description

- 1.1. The appeal site is located along the southern side of Ardburgh Road in Dalkey, Co. Dublin, approximately 670m south of Dalkey village centre, where it occupies an elevated position affording views northwards towards Dublin Bay. The surrounding area is primarily residential and is generally characterised by a variety of vernacular housing types interspersed with more contemporary / conventional construction whilst the wider topography is dominated by Dalkey Hill which rises steeply to the south and serves as a popular recreational resource for the area.
- 1.2. The site itself forms part of a triangularly-shaped cluster of tightly-knit cottages, the vehicular access to which is gained from a pair of narrow cu-de-sacs off Ardburgh Road. It is presently occupied by a recently developed, contemporarily-designed, two-storey dwelling house (with a single-storey, flat-roofed projection extending westwards from same) which faces directly onto Ardburgh Road.
- 1.3. To the immediate east the site adjoins a large, two-storey property known as 'Ardburgh House' whilst the lands to the west are occupied by a relatively new two-storey dwelling house. To the south the site is bounded by further residential development, including a dwelling house known as 'Shamrock Cottage' which occupies a more elevated position relative to the subject site and which is home to the Third Party appellants in this current appeal case
- 1.4. During the site visit on 7<sup>th</sup> June 2023 entry to the First and Third Party properties was possible. At No. 21 Ardburgh Road I noted that the copper clad western extension and the 3 no. roof lights which are the subject of this appeal had been completely covered over by a heavy fabric coating and that access to this flat roofed extension was not possible from the first floor level of the house but only externally via a ladder being placed against the west extension structure. I also noted that Shamrock Cottage had been gutted by construction workers currently on site presumably on foot of planning permission granted on appeal by An Bord Pleanála Ref. 311611-21.

## 2.0 Proposed Development

- 2.1. The development for which retention is sought comprises 3 no. roof lights on a flat roof extension permitted by Ref. No. D15A/0750. The roof lights provide additional lighting to the 2 no. ground floor bedrooms and bathroom.
- 2.2. From the drawings submitted to the Planning Authority the dimensions of the 3 no. roof lights are 1.3m x 0.56m for the north and central roof light and 1.75m x 0.56m for the south roof light which is the one in closest proximity to the appellants property – the drawing indicate a distance of 2.12m from the roof light to the north elevation of Shamrock Cottage.

## 3.0 Planning Authority Decision

### 3.1. Decision

Retention permission for the roof lights was granted on 18<sup>th</sup> January 2023 subject to 2 no. conditions.

1. *The development shall be retained in its entirety in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the other conditions attached thereto.*

*Reason: To ensure that the development shall be in accordance with the permission and that effective control be maintained.*

2. *For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices.*

*Reason: In the interests of clarity, and to comply with permission regulations.*

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner's Report on file, in summary, had regard to the following planning issues:

- Residential use is permitted in principle under the A zoning objective which seeks *"to provide residential development and improve residential amenity while protecting the existing residential amenities,"* and that generally the extension of an existing dwelling is acceptable subject to Development Plan provisions.
- The retention of the 3 no. roof lights would not result in overlooking or overshadowing or have an overbearing impact on adjacent buildings, and would therefore not adversely impact on the residential amenity of adjoining properties or on the character of the surrounding area.
- The retention of the roof lights is in compliance with Section 12.3.7 Extensions to Dwellings (iv) Alterations at Roof/Attic level contained in the Dun Laoghaire Rathdown County Development Plan 2022-2028.
- The Planner's Report did not feel that either Appropriate Assessment or Environmental Impact Assessment was necessary in connection with the proposed development.
- Neither EIA nor AA is required in connection with the development to which the application relates.
- No Section 48 levy is applicable as there is no increase in floorspace associated with the retention application.

### 3.2.2. Other Technical Reports

- The Drainage Department had no objections to the proposed development

### 3.2.3. Observations

A submission was received within the five week period from Darragh & Alison Fegan who live in Shamrock Cottage to the south of the appeal site and who are the Third Party appellants in this case. The submission rests on similar

ground as this current appeal which is summarised in Section 6.0 of this Inspector's Report below.

## 4.0 Planning History

### 4.1. On the Appeal Site

- An Bord Pleanála Ref. PL06D.303124/PA Ref. 11618 - the Board decided on referral that 3 no. roof lights (the subject of this current appeal) at 21 Ardrugh Road is development and is not exempted development.
- PA Ref. No. D15A/0750. Refers to a grant of permission on 28<sup>th</sup> January 2016 for alterations to previously approved plans (Reg. Ref. D07A/0507) to comprise an enlarged ground floor plan by extending to the west by 0.9 metre, altered entrance porch, revised elevations, a first floor balcony on the northern elevation and internal alterations
- PA Ref. No. D15A/0363. Refers to a refusal of permission in 2015 for alterations to approved plans (Reg. Ref. D07A/0507) to comprise an enlarged ground floor plan by extending to the west by 0.9 metre, altered entrance porch, revised elevations, a first floor balcony on the northern elevation and internal alterations. The reason stated:
  - *The western element of the proposed wraparound balcony will give rise to overlooking issues and will be visually obtrusive from the windows of the dwellings to the south. The proposed enlarged ground floor is located in front of part of the easternmost window of the dwelling to the south, Shamrock Cottage. It is considered that the proposed enlarged ground floor will be visually obtrusive from this window and will seriously detract from the residential amenity of this dwelling. Having regard to the impact of the proposed development, by reason of being visually obtrusive and resultant overlooking, the proposed development would seriously injure the residential amenity of adjacent dwellings and depreciate the value of properties in the vicinity and is, therefore, contrary to the proper planning and sustainable development of the area.*

- An Bord Pleanála Ref. PL06D.224147/ PA Ref. No. D07A/0507 - refers to a grant of permission in 2008 for the construction of a two-storey dwelling and associated works and car parking.

#### 4.2. In the Vicinity of the Site

- An Bord Pleanála Ref. 311611-21/ PA Ref. D21B/0373 refers to a grant of permission on appeal for a 21 sq.m. extension to the front of Shamrock Cottage and internal works (current Third Party appellants).
- PA Ref. No. D09B/0347 – permission granted for alterations to front of existing dwelling house, work includes a two storey extension with balconies on both sides, at The Ardburgh, Ardburgh Road, Dalkey, Co. Dublin.
- PA Ref. No. D13A/0031 – permission was granted for development consisting of a first floor extension with a living room / diner and kitchen with staircase access. The north side (front) will have a small balcony. Some internal alterations at ground floor will provide a second bedroom and visitor’s toilet. All at Woodbine Cottage, 24 Ardburgh Road, Dalkey, Co. Dublin.

## 5.0 Policy and Context

### 5.1. Development Plan

Dun Laoghaire Rathdown County Development Plan 2022-2028 was adopted on the 9th and 10th of March 2022 and came into effect on the 21st April 2022. This is now the relevant statutory plan for the area.

The site is zoned Objective A for which the objective is to *“to provide residential development and improve residential amenity while protecting the existing residential amenities”*. Relevant policies contained in Chapter 4 Residential Development and

Chapter 12 Development Management

#### 12.3.7 Additional Accommodation in Existing Built-up Areas

##### 12.3.7.1 Extensions to Dwellings

The following Section provides guidance with respect to porches, front extensions, side extensions, rear extensions, roof alterations, attic conversions and dormer extension.

(iv) Alterations at Roof/Attic Level:

Roof alterations/expansions to main roof profiles - changing the hip-end roof of a semi-detached house to a gable/ 'A' frame end or 'half-hip' for example – will be assessed against a number of criteria including:

- 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.

Dormer extensions to roofs, i.e. to the front, side, and rear, will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions, and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions shall be set back from the eaves, gables and/or party boundaries.

Dormer extensions should be set down from the existing ridge level so as to not read as a third storey extension at roof level to the rear.

The proposed quality of materials/finishes for dormer extensions will be considered carefully as this can greatly improve their appearance. The level and type of glazing within a dormer extension should have regard to existing window treatments and fenestration of the dwelling. However, regard should also be had to size of fenestration proposed at attic level relative to adjoining residential amenities.

Particular care will be taken in evaluating large, visually dominant dormer window structures, with a balance sought between quality residential amenity and the privacy of adjacent properties. Excessive overlooking of adjacent properties should be avoided.

## 5.2. Natural Heritage Designations

The following natural Heritage designations are located in the vicinity of the appeal site with South Dublin Bay SAC being the nearest designated site to the appeal site at just over 1km in distance:

- South Dublin Bay SAC (000210)



- South Dublin Bay and River Tolka Estuary SPA (004024)
- Dalkey Island SPA (004172)
- Rockabill to Dalkey Island SAC (003000)

### 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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 Board should note that the appellant submission contains a significant amount of background detail relating to the planning history and litigation between the First and Third Parties. This however is not directly relevant to the appeal in hand which relates solely to the retention of 3 no. roof lights sought by the First Party and granted by the Planning Authority under Ref. D22B/0470. Having regard to this point, the planning issues relevant to this appeal raised by the Third Party are, in summary, as follows:

- The Planning Authority erred in granting retention permission for the 3 no. skylights as they were previously refused permission (Ref. D15A/0363) and were not considered by the Board on referral to constitute exempted development (An Bord Pleanála Ref. PL06D.303124).
- The drawings submitted with the retain application are not accurate and should not have been used by the Planning Authority as the basis of granting retention permission.
- The ground floor extension to the west, which does not have the benefit of planning permission, blocks the sitting room window of Shamrock Cottage leading to loss of residential amenity.

- The 3 no. skylights are a source of light pollution during the hours of darkness given the less than 2m distance between the nearest skylight and the north facing window of Shamrock Cottage.
- There is potential for overlooking from and toward Shamrock Cottage due to the proximity of these skylights to the north elevation of Shamrock Cottage and these skylights should be a minimum of 22m away from the north facing window of Shamrock Cottage.
- Any persons on the kitchen extension roof for maintenance, cleaning or other purpose will have a clear view into the master bedroom (previously sitting room) of Shamrock Cottage and constitutes a gross violation of privacy and detracts from the residential amenity of the occupants of Shamrock Cottage.
- Sufficient light is available without the 3 no. skylights for which retention is sought and these skylights are surplus to requirements for lighting purposes.

#### 6.2. Planning Authority Response

The Planning Authority response indicates that nothing contained in the Third Party appeal would change the PA positive decision in this case.

#### 6.3. Applicant Response

The First Party response, prepared by Armstrong Planning, makes the following relevant planning points:

- This appeal relates only to the 3 no. roof lights for which retention was sought and granted by the Planning Authority under Ref. D22B/0470 and not to any other element of this property.
- Ref. No. D15A/0750 granted permission for the 0.9m western extension within which the roof lights are located so the Third Party is incorrect in calling this extended area an unauthorised development.
- The roof lights would not be a source of light pollution more than any other vertical window in the west elevation of the building to which this appeal relates.

- The reference by the appellants to a requirement for a 22m separation distance to prevent overlooking applies to windows on facades facing each other and does not apply to roof lights.
- The depth of the roof within which the skylights are located, in combination with the narrowness of these skylights means that in actuality overlooking Shamrock Cottage or being overlooked by Shamrock Cottage is not physically possible.
- The roof lights do not have an adverse impact on the character or amenity of the area but would have a beneficial impact on the residential amenity of the occupants should permission be granted by the Board.

#### 6.4. Observations

None received.

#### 6.5. Further Responses

Not applicable.

### 7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

7.1.1. The primary planning issue therefore is whether or not the 3 no. roof lights have an adverse impact on the residential amenity of neighbouring properties by virtue of loss of privacy and light pollution.

7.1.2. This assessment will not address other matters raised by the Third Party which I have evaluated and found to be without substance and not relevant to the case in hand. Issues such as: the claim that the western extension is unauthorised as Ref. D15A/0363 was refused permission ignores that fact that the extension was permitted on foot of Ref. No. D15A/0750; that the drawing submitted with Ref. No. D22B/0470 are inaccurate and misleading when in fact they are clear and accurate; and the requirement for a 22m separation between the skylights and the north facing

window of Shamrock Cottage which is applicable only in cases where the windows in question are located on facades opposite one another.

7.1.3. The issue of AA Screening is also addressed in this assessment.

## 7.2. Overlooking/Loss of Privacy

7.2.1. Having visited both the appeal site, No. 21 Ardburgh Road, and Shamrock Cottage and having gained access to both properties, I can confirm to the Board that it is not possible that overlooking can occur to a degree that would constitute a loss of privacy due to the depth of the roof within which the roof lights are set. Accordingly, I find that the retention of the skylights would not have an adverse impact on the residential amenity of neighbouring properties by virtue of overlooking and/or loss of privacy nor have any adverse impacts of the residential amenity of the occupants of No. 21 Ardburgh Road.

## 7.3. Light Pollution

7.3.1. At night there will of course be light visible from the two bedrooms and bathroom which the 3 no. roof lights service. This would be no different to other windows in neighbouring properties with their lights on, and in all probability an upwardly directed source of light has a smaller potential of causing light pollution than a light source which is horizontally projected.

7.3.2. As the use of the rooms in both No. 21 and Shamrock Cottage are bedrooms (and a bathroom in No. 21 with respect to the central skylight), the lighting of the rooms will occur when both parties are retiring to bed when presumably curtains would be drawn (or shutters closed) in Shamrock Cottage and the duration of lighting would be short term only. The potential of the 3 no. skylights being a source of light pollution is therefore negligible and consequently there should be no perceptible impact on the residential amenity of surrounding properties.

## 7.4. AA Screening

7.4.1. Having regard to the relatively minor development proposed within an existing housing estate and the distance from the nearest European site being approximately 2km, no Appropriate Assessment issues arise and 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

I recommend that planning retention be granted for the 3 no. roof lights for the reasons and considerations set out below and subject to the following condition.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Dun Láoghaire Rathdown Development Plan 2022-2028, including the zoning objective for the site Objective A for which the objective is to *“to provide residential development and improve residential amenity while protecting the existing residential amenities”*; it is considered that, subject to compliance with the condition set out below, the proposed development would not seriously injure the visual or residential amenities of the area, or of property in the vicinity, would provide an acceptable standard of amenity for future residents, and not, by virtue of overlooking or light pollution lead to loss of privacy or amenity in neighbouring properties. 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 on the 16<sup>th</sup> November 2022 and, 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>
----	--

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

**Bernard Dee**  
**Planning Inspector**

**9<sup>th</sup> June 2023**