



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317731-23

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| <b>Development</b>                  | Retention works to existing dwelling house (A protected structure) |
| <b>Location</b>                     | 15 Idrone Terrace, Blackrock, Co. Dublin, A94 F240                 |
| <b>Planning Authority</b>           | Dun Laoghaire Rathdown County Council                              |
| <b>Planning Authority Reg. Ref.</b> | D23A/0197  |
| <b>Applicant(s)</b>                 | Joanne Sheahan & Kilian Finane                                     |
| <b>Type of Application</b>          | Retention  |
| <b>Planning Authority Decision</b>  | Grant  |
| <b>Type of Appeal</b>               | First Party  |
| <b>Appellant(s)</b>                 | Joanne Sheahan & Kilian Finane                                     |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 15/09/2023   |
| <b>Inspector</b>                    | Gillian Kane   |

## 1.0 Site Location and Description

- 1.1.1. The subject site is located within Idrone Terrace, a terrace of Protected Structures facing the seafront in the south Dublin suburb of Blackrock.
- 1.1.2. The subject dwelling is a mid-terrace two-storey over basement dwelling with access to the rear off Idrone Lane. The dwelling is undergoing some alteration / refurbishment and appears to be in two separate residential units – ground and upper floor levels.

## 2.0 Proposed Development

- 2.1. On the 28<sup>th</sup> March 2023, permission was sought to RETAIN refurbishment works to a three-storey Protected Structure. The 16 no. listed items were stated to facilitate the upgrade of the dwelling to a habitable structure. The application was accompanied by an Architectural Heritage Impact Statement.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 11<sup>th</sup> July, the Planning Authority issued a notification of their intention to GRANT permission subject to 4 no. conditions. Conditions of note include:

3. Within three months of the final grant date, the perimeter fencing to the rear back garden (detail 02) that is shown to measure 1.8m in height shall be reduced to a maximum height of 1.2metres.

REASON: In the interest of protecting surrounding residential amenity.

### 3.2. Planning Authority Reports

- 3.2.1. **Drainage Planning:** No objection subject to standard conditions.
- 3.2.2. **Conservation Division:** Notes that whilst done without permission, works were done sympathetically as far as possible. Two conditions recommended regarding storage of the original front door and internal door.
- 3.2.3. **Transportation Planning:** No objection.
- 3.2.4. **First Planning Report:** Considers the works for retention to be acceptable. Notes that the drawings submitted with the application show a wooden fence along the

party wall with no. 14 and that this has not been noted in the public notices.  
Recommendation to request Further Information.

### 3.3. **Prescribed Bodies**

3.3.1. None on file.

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

3.4.1. Two observations raised issues regarding to the architectural heritage of the dwelling and the impact of the works on the adjoining residential property.

### 3.5. **Significant Further Information**

3.5.1. Following a request for Further Information, the applicant re-advertised the Significant Further Information including three additional items for retention, namely, new wooden fencing along the party wall with no. 14, a new wooden screen to no. 15a Idrone Terrace and the height of existing blockwork wall increased to align with new wooden screen to no. 15a.

3.5.2. **Second Conservation Office Report:** Having inspected the site, Conservation Division note the location and materiality of the fence. Considers the fence severs the legibility of the rear elevation and its composition. This visual separation adversely impacts the relationship with the basement and the well. Possible alternative solutions such as reduction in height, landscaping should be sought.

3.5.3. **Second Planning Report:** Considers the proposed fence to be over-bearing, visually obstructive and results in undue over shadowing for occupants of lower ground floor. Recommendation to grant permission with condition reducing height of fence.

## 4.0 **Relevant Planning History**

4.1.1. None on file.

## 5.0 **Policy Context**

### 5.1. **Architectural Heritage Protection – Guidelines for Planning Authorities**

5.1.1. This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and

affecting protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).

- 5.1.2. With regard to **curtilage**, section 13.3.1 of the guidelines state that features within the curtilage and attendant grounds of a protected structure can make a significant contribution to the character of that structure. The designed landscape associated with a protected structure was often an intrinsic part of the original design concept and, as such, inseparable from the building. Where proposals are made for alterations to a designed landscape, ancillary buildings, structures or features within the curtilage or attendant grounds of a protected structure, a site inspection should be carried out by the planning authority in order properly to understand the potential effects of the proposed development. **Section 13.3.2** states that when assessing the contribution of structures or features within the curtilage or attendant grounds to the character of a protected structure, and when considering any proposals to alter such features, certain criteria must be considered.

## 5.2. **Dun Laoghaire Rathdown Development Plan 2022- 2028**

- 5.2.1. Under the 2022 development plan, the subject site is zoned Objective A Residential 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.
- 5.2.2. The subject's dwelling is listed in the RPS no. 151. The site is within the boundary of the Blackrock LAP 2015-2025.
- 5.2.3. Policy Objective 11.4.1.2.2 refers to work to Protected Structure
- 5.2.4. Section 12.11.2.1 refers to works to a Protected Structure

## 5.3. **Natural Heritage Designations**

- 5.3.1. The nearest Natura 2000 site is the South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA located c. 0.1km to the north of the site.

#### **5.4. EIA Screening**

- 5.4.1. 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 applicant has submitted a first party appeal against only condition no. 3 of the decision of the Planning Authority. The grounds of the appeal can be summarised as follows:

- A series of options were put to the owner of no. 15B Idrone Terrace prior to the erection of the fence. After consent was received, the fence was erected.
- The fence was designed to serve both parties – the safety of the children playing in the upper garden space and the privacy of the resident at the lower level.
- There is a c. 5m sheer drop between the two properties and a 1.2m high fence would not suffice.
- Within planning exemptions 2m high fences are permitted within rear gardens. Class 5, Part 1 of schedule 2 of the Planning and Development Regulations refers.
- A third function of the fence is to provide light to the lower ground level. 50% of the fence is fully op, allowing as much light as an equivalent solid 900mm fence.
- An opaque glass fence was rejected as not being in keeping with the historic character of the dwelling.
- Given that the fence is to the rear of the property, a lower than exempted fence being refused is surprising.
- Images submitted showing the drop.

- The Board is requested to grant permission to retain the fence in place.

## 6.2. Planning Authority Response

6.2.1. None on file.

## 7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. Section 139 of the Planning and Development Act 2000- 2016 provides that where an appeal is made to the Board against only a condition of a permission and where the Board is satisfied that a de novo assessment of the appeal is not required, that the Board may issue a direction to the Planning Authority relating to the attachment, amendment or removal of the condition.

7.1.2. In the case of the current appeal against condition no. 3, I am satisfied that the appeal accords with the criteria of section 139 and therefore I restrict my assessment of the appeal to condition no. 3 only.

## 7.2. Condition no. 3

7.2.1. Condition no 3 of the Planning Authority's decision to grant retention permission refers to the perimeter fencing to the rear back garden that measures 1.8m in height and requests that within three months of the final grant date, the fence shall be reduced to a maximum height of 1.2metres.

7.2.2. The subject fence, whilst out of keeping with the architectural character of the dwelling, is not visible to any, other than the residents of the upper and lower ground floors of no. 15. The special architectural interest of the building is not compromised, the rear elevation not being the principal elevation of note. The subject fence allows the principal open space at garden level to be actively used whilst providing a degree of privacy to the users of the lower ground level space. The ground level change between the two spaces is such that some form of barrier is required. The requirement to reduce the fence by 0.6m appears somewhat arbitrary and I am not satisfied that it would do much to reduce the visual impact of the fence as existing.

7.2.3. I note part (iv) of Policy objective HER8 which seeks to 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. The subject fence is a minor element in a large Protected Structure, one that is not visible to the public and one that ensures the structure functions as a family home.

- 7.2.4. Section 6.14.2 of the Architectural Heritage Protection Guidelines states that where an application for retention of unauthorised works to a protected structure is lodged, a planning authority should apply the same consideration to the works as for planning applications and should, if considering granting permission, seek to ensure that the works for which retention permission is granted have the minimum possible impact on the character of the structure. I am satisfied that that subject development does not negatively impact the special character and appearance of the Protected Structure, is of an appropriate scale, retains the special character of the protected structure, respects the historic fabric and the special interest of the interior, does not interfere with any important elements of the building and is in keeping with the policies and objectives of the Architectural Heritage Guidelines. I am satisfied that the proposed development is in accordance with Policy Objective HER8 of the 2022-2028 county development plan.
- 7.2.5. I am satisfied that were the application for permission rather than retention my assessment would remain the same – that the subject structure does not negatively impact the architectural interest or character of the protected structure and no damage to the protected structure will be caused.

### 7.3. **Appropriate Assessment**

- 7.3.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, the location of the site in a serviced suburban area and the separation distance to the nearest European site, 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**

- 8.1.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had

been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to OMIT condition number 3 and the reason therefore.

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.

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Gillian Kane  
Senior Planning Inspector

18 September 2023