



An  
Bord  
Pleanála

## Inspector's Report ABP-305697

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<b>Development</b>	(a) Partial demolition of the existing residential structure to rear and side and demolition of existing storage sheds to the rear (b) Extension and alterations to existing residential house
<b>Location</b>	31 Yellow Walls Road, Malahide, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F19A/0333
<b>Applicant(s)</b>	Jon Paul and Karen Harrington.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First Party v Condition.
<b>Appellant(s)</b>	Jon Paul and Karen Harrington.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> January 2020.
<b>Inspector</b>	Rachel Kenny

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## **1.0 Site Location and Description**

- 1.1. The appeal site with a stated area of c.0.05956 hectares is located within an established residential area, along Yellow Walls Road, which is c.1 km west of Malahide village centre in north County Dublin. While the area is predominantly residential, to the west of the site there are some small scale commercial uses (hairdressers) and local neighbourhood centre (comprising Londis, pharmacy and other local shop). The site is occupied by one of a pair of semi-detached two-storey, three-bedroom dwellings. The existing dwelling has a two storey side and rear extension, which extends to c.6.95m beyond the rear wall of existing house. The rear garden is c.28 m in length beyond the existing extension.
- 1.2. The dwelling houses located either side, are all two storey of mixed design, with the exception of the neighbouring adjoining semi-detached dwelling which is of a similar original design but has been subsequently extended with a flat roof two storey extension to the side.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise (a) Partial demolition of the existing residential structure to rear and side and demolition of existing storage sheds to the rear (b) Extension and alterations to existing residential house to include new fenestration (c) The construction of a two-storey hipped roof extension to the side of the existing residential house (d) The construction of a two storey flat roof extension to the rear of the existing residence (e) Provision of velux type rooflight windows (f) Replacement and relocation of the existing piers and gate to facilitate wider driveway entrance and provision of a new gate and dropped kerb to public footpath (g) All associated site works including tree removal to front garden.
- 2.2. The existing dwelling is c.224sqm, and the proposed works will result in a development of 236sqm, with 199.5 sqm of the original building retained and 76.5sqm demolished and new extension as described above.

## **3.0 Planning Authority Decision**

- 3.1. **Decision**

3.1.1. The Planning Authority issued a notification of a decision to grant permission subject to eleven conditions including Condition No.2 and No.3 which are the subject matter of this appeal. Condition No.2 requires the proposal be amended to reduce the height of the extension to the rear so that it does not exceed eaves height. Condition No.3 requires the removal of the additional door on the front elevation of the house and its replacement with a window. Both conditions are attached for reasons relating to visual amenity:

- **C2:** Prior to commencement of development, the applicant shall submit revised drawings for written agreement with the planning authority indicating a reduction in height of the rear two storey extension so that it does not exceed the existing eaves level of the dwelling. This will require a reduction in the height of the 2no. window ope located at first floor level.

**Reason:** In the interest of protecting visual amenity

- **C3:** The additional door located along the front elevation of the proposed side extension shall be omitted and replaced with a window ope to match that located to the west which has a width of 600mm and a height of 1.7m

**Reason:** In the interest of protecting visual amenity

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- Development accords with the 'RS' zoning objective pertaining to the site and the site is of a size which can cater for the development;
- Proposed design integrates appropriately with the character of the area and will not negatively impact on the visual amenities of the area;
- The height of the extension to the rear of the property should not exceed the eaves height of the main residence., and the extension height should be reduced accordingly.
- The dwelling should, following the proposed extension, only have one front door and the second door should be a window ope mirroring and consistent in size with the existing on the opposite side of the front door.

### 3.2.2. Other Technical Reports

- **Transportation:** No objection subject to conditions to (1) protect sightlines from site, (2) footpath and kerb dishing and (3) underground and over ground services or cables to be relocated as required.
- **Water Services:** No objection subject to conditions to (1) provide for soakaways, (2) restrict discharge of surface water to foul water network and (3) implement SUDs.

### 3.3. Prescribed Bodies

- **Irish Water:** No objection

### 3.4. Third Party Observations

- None

## 4.0 Planning History

### 4.1. Appeal site

- F96B/0129: permission granted to increase size of front downstairs windows and build a single storey rear extension.
- F96B/0320: Permission granted for upstairs bedroom extension to the rear of house and new bathroom window to gable. Bay window extension and installation of porch door to front.
- F98B/007: Permission granted for bathroom extension and alterations to roof and construction of rear conservatory.

### 4.2. Within the Vicinity

- **F06A/0469** permission granted to demolish single storey conservatory to rear and existing single storey shed to rear. Also, to build new single storey 'granny flat' extension to the rear comprising 51.7sqm Together with new single storey sunroom to rear at 29 Yellow Walls.

- **F07A/0258** permission granted to demolish single storey dormer bungalow and construct a two storey dwelling including habitable rooms at roof level with 3 dormer windows to the front at 21 Yellow Walls Road.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The policies and provisions of the Fingal Development Plan 2017-2023 apply. The site lies within an area zoned 'RS' which has a stated aim to 'provide for residential development and protect and improve residential amenity'.

5.1.2. Chapter 3.4 (Sustainable Design Standards) of the Plan is relevant, including the following extracts:

- **Extensions to Dwellings:** The need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.
- **Objective PM46:** Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.
- **Objective DMS42:** Encourage more innovative design approaches for domestic extensions.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. An appeal was received from Dermot Bannon Architects representing the first party. The appeal relates solely to Conditions No.2 and 3 attached to the Planning Authority's decision. The appeal asserts that the conditions are unduly restrictive and unnecessary, as the proposed alterations to the dwellinghouse do not adversely impact the visual amenity of the area. A summary of the principal planning matters raised is set out below:

- **Re. Condition 2**

- The extension to the rear has been designed and redesigned (on appeal- see drawings submitted on 16/12/2019) to ensure that it is at a minimum height (6085mm) which is necessary to allow min.2.4m floor to ceiling heights, and is in fact lower than the original two storey rear extension albeit because of its contemporary flat roof design has a higher wall height to comprise a parapet.
- The rear extension, which has a smaller foot print, subject of condition 2 is not visible to the front of the property.
- Reducing the height of the extension at first floor would severely compromise the design and would result in floor to ceiling heights less than 2.4m, which would impact on enjoyment of the property and on out future needs.

- **Re. Condition 3**

- The door proposed along the front elevation has been located to the side of the elevation, adjacent to the boundary such that it appears as and acts a side door to the back garden, via a utility room and side passageway. This is the only access to the rear for bins, garden equipment/lawnmower, etc. unless the applicant brings bins and equipment through the house. The front elevation including such a door is not considered to adversely impact on the visual amenity of the area.
- Drawings submitted on the 16/12/2019 have facilitated minor elevational changes which further support and visually demonstrate the nature and functional use of this access to/through the house to the rear garden.
- Precedence for these types of extensions and works in the Fingal area. (I would note, although given an opportunity through s.131 process no details of these cases were provided.)

## 6.2. Planning Authority Response

6.2.1. The Planning Authority's response to the appeal can be summarised as follows:

- The PA remain of the view that the proposed rear extension and second door on the front elevation visual detract from the visual amenity of the area.
- They also note that the applicant has not provided any details of other permissions in the area which would set a precedence, notwithstanding general statement in the appeal submission to that effect.

## 6.3. Observations

- None

## 7.0 Assessment

### 7.1. Introduction

7.1.1. This is a first-party appeal which is made only against Conditions number 2 and 3 attached to the Planning Authority's decision to grant permission. Condition No.2 requires the proposal be amended to reduce the height of the extension to the rear so that it does not exceed eaves height. Condition No.3 requires the removal of the additional door on the front elevation of the house and its replacement with a window. Both conditions are attached for reasons relating to visual amenity. The appellant considers these conditions to be very onerous and would compromise their enjoyment of the dwellinghouse in its extended form.

7.1.2. The planning authority raised no objections to the principal of the two-storey nature of the rear and side extension, and I similarly have no concerns in this regard. I also note that no objections were received to the original planning application. I consider it reasonable, therefore, to consider the appeal under S139 of the Planning and Development Act, and that a *de novo* assessment is not required. The following assessment is limited to the matters raised under Condition No.2 and Condition No.3.

## **7.2. Condition number 2 assessment**

- 7.2.1. The assessment criteria for extensions are set out under Chapter 3.4 (Sustainable Design Standards) of the current Fingal Development Plan 2017-2023. In recognising the need for people to extend and renovate their dwellings, Fingal County Council policy provides that extensions are considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Objective PM46 also encourages sensitively designed extensions which do not negatively impact on the environment, on adjoining properties or on neighbouring areas. Objective DMS42 encourages more innovative design approaches for domestic extensions.
- 7.2.2. The proposed rear extension is replacing a smaller more traditional two storey with pitched roof extension with a more contemporary larger flat roof extension. The overall height of the extension remains below the roof as seen from the street. Therefore, the extension can only be viewed from the rear garden of the site and immediately adjacent properties. Because of the length of the rear garden, screen planting and another property immediately contiguous to the open space at Texas Lane/Inbhir Ide or from Texas Lane itself, it is unlikely to be seen from public open space or road to the rear of the site. In any event, I am satisfied that it is not visual incongruous or detrimental to the visual amenity of the area, and is appropriately designed and scaled to tie in with the existing house and pattern of development in the area.
- 7.2.3. I do not consider it necessary to lower the height of the rear extension and as such do not consider condition 2 to be warranted.

## **7.3. Condition number 3 assessment**

- 7.3.1. The assessment criteria for extensions are set out under Chapter 3.4 (Sustainable Design Standards) of the current Fingal Development Plan 2017-2023. In recognising the need for people to extend and renovate their dwellings, Fingal County Council policy provides that extensions are considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Objective PM46 also encourages sensitively designed extensions

which do not negatively impact on the environment, on adjoining properties or on neighbouring areas. Objective DMS42 encourages more innovative design approaches for domestic extensions.

7.3.2. The introduction of a second clearly subservient door on the front elevation has been designed to read as an access door to the side of the house rather than a second front door, and additional amended details of the treatment of this door further responds to this point. I am satisfied that the second door improves the enjoyment of the dwelling and is appropriate to facilitate access to the rear of the property. I am satisfied that it is not visual incongruous or detrimental to the visual amenity of the area, and is appropriately designed to tie in with the existing house and given the mix of styles along this road and pattern of development in the area, does not visually detract.

#### 7.4. **Conclusion on conditions No.2 and No.3**

7.4.1. Having regard to the nature of development in the area (including mix of house types) and the design of the proposed extension, I am satisfied that the proposal would not give rise to any unacceptable negative impact on the visual amenity of this area and is in accordance with Objectives DMS42 and PM46 of the Fingal Development Plan 2017-2023. Accordingly, I recommend that the Planning Authority are directed to remove conditions no. 2 and 3 which I consider are not warranted in this instance.

7.4.2. For clarity, I would recommend that condition 1, relating to the plans and particulars, be amended to have regard to the details submitted on appeal on 18/10/2019 and 16/12/19.

#### 7.5. **EIAR**

7.5.1. The proposed development is not of a nature or scale which would fall within the fifth schedule of the PD Regulations 2001 (as amended) such as would necessitate the carrying out of an EIAR.

## 7.6. Appropriate Assessment

- 7.6.1. The subject site is located just over 300m to the south of Malahide estuary special area of conservation (SAC 000205), and the Broad meadow/Swords Estuary SPA – 4025.
- 7.6.2. However, having regard to the minor nature and scale of the proposed development, the location of the site in a serviced urban area and the separation distance and absence of a source-pathway receptor 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. Having regard to the nature of the conditions the subject of the appeal, it is considered that the determination of the relevant application as if it had been made to the Board in the first instance would not be warranted and it is recommended that based on the reasons and considerations set out below, that the Planning Authority are directed under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to **REMOVE** condition number 2 and 3, and to **AMEND** condition 1 to include the dates '18/10/2019 and 16/12/2019' to reflect the proposed minor amendments to the extension at appeal stage by the applicant.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed development and the existing pattern of development in the area, it is considered that, the height of the proposed rear extension, which is not visible from the public roads, and the introduction of a second door to the front elevation, which provides access to the rear garden via the utility and side passageway, would not seriously injure the visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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Rachel Kenny

Director of Planning

19<sup>th</sup> January 2020