

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D22B/0108

Appeal by Julie Keating care of Edward Fitzgerald Selby Architect of 122 Butterfield Avenue, Rathfarnham, Dublin against the decision made on the 20th day of April, 2022 by Dún Laoghaire-Rathdown County Council in relation to the application for permission for development comprising the provision of a two-storey extension to the rear (34 square metres to the ground, 16.2 square metres to first-floor) with Tongue and Groove effect composite wall-cladding, and a single storey extension to the front comprising 2 by 1.5 square metres bay windows with standing seam zinc to new roofs at 17 Landscape Avenue, Churchtown, Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions a permission for the proposed ground floor front and rear extensions and to refuse permission for the proposed rear roof level expansion and attic conversion).

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

P.C.

Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, including in particular the land use zoning (Objective A) and Section 12.3.7.1 (Extensions to Dwellings) and to the built form, design, height, depth and mass of the proposed first floor level rear extension, the orientation of the site, the relationship of the site with adjoining properties, the pattern of development in the area, 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 or of property in the vicinity and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The first-floor extension to the rear shall be amended to replace the A-roof profile to a flat roof profile. Details of the amended design shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed extension shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Surface water drainage arrangements, including attenuation and disposal arrangements, for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1400 hours 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.

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6. 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 the 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.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the separation distance from the rear extension at first floor level to existing properties to the rear (North) and that the proposed extension was removed from the boundary with the adjoining property to the east and having regard to the design presented, no overlooking could conceivably occur. The extension is modest in scale and the alteration from an 'A' roof to a flat roof profile (as can be secured by way of a planning condition) would reduce any potential overshadowing to an acceptable level in a built-up environment, where extensions to houses are a common feature and are supported in policy. The Board did not agree with the inspector therefore that the first-floor extension should be omitted in order to safeguard residential and visual amenities of the area. Furthermore, having regard to the scale of the existing development and the proposed

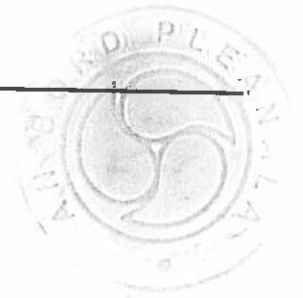
development as set out on the drawings submitted with the application and noting that the area of the existing house on site is 143 square metres gross floor area and the proposed works comprise 50.2 square metres gross floor area, the Board did not agree with the inspector that the proposed development fails to be subservient to the host dwelling and came to a different conclusion to the inspector in this respect.

On a procedural matter, the Board decided to assess the application *de novo* as the planning authority had issued a split decision and the Board did not agree with the inspector that the appeal could be treated under Section 139 of the Planning and Development Act 2000, as amended, which can be used to limit the appeal to a condition(s), given that the appeal was made against the element of the proposed development that the planning authority had decided to refuse permission as part of the split decision and not solely against a condition.



Patricia Calleary

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board**



Dated this 12 day of July 2023