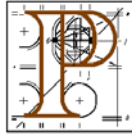


An Bord Pleanála



Inspector's Report

Appeal Reference No: 06D.246196

Development: **Demolition of existing single storey extension to rear and construction of new two-storey extension with balcony to rear at 12 Knocknacree Park, Dalkey, Co. Dublin**

Planning Application

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.: D15B/0382

Applicant: Julie and Cyril Maguire

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Gael Hall
Mary Prendiville
Jennifer McHale

Type of Appeal: Third Party

Observers: None

Date of Site Inspection: 17th May 2016

Inspector: Joanna Kelly

1.0 SITE LOCATION AND DESCRIPTION

The appeal site, rectangular in shape with a stated site area of .074 hectares, is located in the residential area of Knocknacree Park, a cul-de-sac located approx. 500m south of Dalkey train station. The existing dwellings, mainly two storey, are located on a hill which slopes down towards the coast.

The existing house, similar to all the dwellings in this residential area, is detached with mature landscaping to the perimeter. The dwelling appears as a single storey from the front and is two-storey to the rear. There is an existing terrace area on the roof of the existing single storey element to the rear which commands views towards the coast.

2.0 PROPOSED DEVELOPMENT

The proposal is to demolish existing single storey rear extension and construction of new two storey extension with balcony. There is also a new single storey extension to project beyond the two storey element. The proposal will involve lowering the existing ground floor level of the dwelling to the rear.

3.0 PLANNING HISTORY

File ref. No. D15B/0089 Permission refused for the demolition of an existing single storey extension to the rear, the construction of new two storey extension with roof terrace to the rear and removal of existing roof with new second storey extension also with roof terrace.

File Ref. No. D02B/0906 Retention permission was granted for modifications to the existing deck as follows: replacement of the timber staircase with a timber and steel staircase, associated increase in deck area of 6.9sq.m. Replacement of the timber balustrade and handrail to deck with timber and steel balustrade and handrail along with removal of unauthorised deck to the rear.

It is noted that the Planning Authority made reference to Condition 3 “the area to be reverted back to a flat roof shall not be used as a deck/balcony”.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Planning report

The first planning report recommended a further information request in line with the further information sought by Irish Water (see below). The report indicates that the development proposed was modest and will not detract from the visual or residential amenity of the area. The previous reason for refusal has been overcome.

Further to receipt of the further information the planner recommended a grant of permission subject to conditions.

8 no. submissions were noted by the Planning Authority in respect of the proposal which raised concerns about proposal to divert sewer; projection beyond established building line; impacts during construction; loss of visual amenity; objection to use of soak pits; overlooking; use of flat roof as balcony, *et al.*

Irish Water

Further information required. Applicant is required to forward new drawings showing that the extent of the proposed extension will not go beyond the line of the existing combined sewer and not beyond where the new manholes are proposed to be built and that the foundation of the proposed extension will be below the levels of the proposed manholes. Further response indicated no objection.

Transportation and Water services

No objection on condition that surface water generated by extension is discharged via soakpit which shall have no overflow pipe to the drain/sewer.

4.2 Planning Authority Decision

The Planning Authority granted permission for the proposed development subject to 7 conditions as follows:

Condition 1	Compliance with plans submitted and conditions of permission
Condition 2	Disposal of surface water
Condition 3	Maintenance of public road
Condition 4	Lower ground floor extension shall have sedum green roof
Condition 5	Entire premises to be used as single dwelling unit
Condition 6	External finishes to harmonise in colour and texture
Condition 7	Section 48 contribution

5.0 GROUNDS OF APPEAL

5.1 Appeal by Gael Hall

The grounds of appeal are summarised as follows:

- The proposed drawings are deficient as they do not demonstrate the relationship of the appellant's house and the appeal site.
- The drainage proposals in the application are inaccurate, misleading and inadequate in a proposal that has clearly made no consideration of the risks of flooding and pollution of the objector's home and garden.

- It is set out that it is not good enough for the Planning Authority to defer such a fundamental determinant in the whole building design process to consultation after works commence.
- The sewer is a major public facility that serves many dwellings and its integrity cannot be lightly dismissed.
- The appellant's home is at a considerably lower level than the applicant's site and the proposed reduction of the site's permeable surfaces due to the increased footprint of the dwelling will result in an increased percolation load on the remaining garden.
- The appeal notes that the appellant is no longer objecting to the overlooking or overshadowing but that the concern is now entirely focused on the threat of flooding.
- It is set out that Condition 2 attached to the approval is unsatisfactory in that it refuses to consider any use of the sewer to provide relief to overload from an extreme weather event.
- Reference is made to the "Greater Dublin Regional Code of Practice for Drainage Works" and more specifically, the requirement for an internal diameter of 1200mm for manhole shafts not greater than 3.0m in depth, on pipe sizes not greater than 750mm nominal diameter. It is submitted that there is not sufficient space to fit a regulation manhole chamber on a 225mm main sewer in the spaces 1200mm and 930mm between the proposed structure and the boundaries at each side of the proposed development.
- The proposal to divert the sewer line will result in an increased length of pipe and therefore a reduced flow. The addition of four additional bends in the proposed sewer will cause added friction and further reduced flow.

5.2 Appeal on behalf of Mary Prendiville

- Appellant is concerned about the injurious effect the proposed extension will have on the residential amenities of her home by reason of overlooking; overshadowing and visual obtrusiveness.
- The appellant's house is to the immediate north-west of the appeal site and is a single/two storey structure.
- The current proposal represents a modified version of the previously refused application for development of a two storey extension with roof terrace on the site.
- Reference is made to a new bedroom window at lower ground floor level in the north-western elevation which will be 0.9m from the appellant's property. It will overlook her

terraced patio. Any windows at this level facing the appellant's boundary should be glazed in obscure glass.

- It is submitted that the new extension which will have a separation of c. 2m from the side elevation of the house will have a serious impact on the access of daylight to the windows. The provision of windows will allow people within the dining area to look directly at all times onto the appellant's patio/rear garden.
- A concertina type folding window to the rear of the dining room will facilitate access to the balcony which will facilitate direct overlooking onto the appellant's patio and rear garden.
- It is requested that the Board by way of condition, require the omission of the balcony and the fitting of a solid glass window to the rear of the extension at this location thereby eliminating the possibility of the roof being used as an outdoor amenity area.
- The building by reason of its proximity to the appellant's boundary and its overall height and length will be visually obtrusive and overbearing and will totally dominate the terraced patio to the rear of the appellant's house and cause injury to its amenities.
- It is submitted that the proposed development would materially contravene the zoning objective in that it would neither protect nor improve the residential amenity of the appellant's home.
- It is requested that the Board refuse permission for the proposed development. In the event of a grant of permission it is requested that the conditions as detailed in the appeal submission relating to the windows in the side elevation of the lower ground floor are attached.

5.3 Jennifer McHale

- The overbearing aspect of the two storey extension from the appellant's living room would cause serious injury to the residential and visual amenities that she has enjoyed for past 35 years.
- The proposal would cause serious overshadowing to the back of her home and part of the garden.
- The additional flat roof extension of more than 40sq.m. and which was not included in the site notice extends approximately 6 metres beyond the established building line of all the neighbouring houses.
- It is submitted that since construction of Knocknacree Park extensions have been sensitive to the original design and planning ideals for the Park, and have not protruded excessively beyond the original building line, or obstructed views from

neighbouring properties. The proposed extension does not respect the original design for the Park or the history of sensitive extensions.

- Concerns are raised about the diversion of the main public sewer. This main drain runs alongside the property at no. 15 Knocknacree Park and across the back of the house at No. 14. It has an extremely strong flow and any backup or blockage would have serious consequences.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The Board should note that two responses were received from the Planning Authority the first of which is summarised as follows:

- The Planning Authority refers to the planner's reports.
- With regard to the appeal is submitted that due consideration was given to the issue of overlooking, overshadowing and visual impact on those properties located in the immediate vicinity of the subject site.
- It is considered that the proposed development satisfactorily addresses the reasons for refusal in relation to Reg. Ref. No. D15B/0089.
- The Planning Authority would urge the Board to uphold the decision to grant permission for the development subject to conditions.

The subsequent response indicates that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

6.2 Applicant's response to grounds of appeal raised by Gael Hall

- The planning application was validated by the Planning Authority hence the drawings were considered appropriate.
- With regard to the public notices, it is set out that the appellant's rights have not been affected in any way.
- With regard to the public sewer it is set out that a structural engineer was engaged in lengthy design consultations with the Council. An onsite survey was also undertaken to establish the exact line of the sewer on the subject site. No evidence has been provided to support the contentions regarding reduced flow rates or failure causing flooding of the diverted sewer following realignment works. Irish Water had no objections to the proposal following submission of further information.

- With regard to surface water disposal, it is submitted that the volume of additional drainage has been minimised by the use of a green sedum roof over the extended roof area and providing permeable paving in the new areas of hard landscaping. It is proposed to divert the remaining roof rainwater run-off to a soakaway located in the rear garden. As per standard practice for domestic works, the percolation test and design of the soakaway will be carried out at the commencement of works in accordance with BRE365.
- With regard to the seepage of ground water into the sewer from uphill properties, the engineering report which accompanies the response set out that the “existing flow from upstream connections to the public sewer is a matter for the local authority and they have approved the submitted drainage scheme for this property in full knowledge of the public drainage infrastructure and its capacity”.
- It is set out that the concerns which have been raised are without substance or supporting evidence.

6.3 Response from Ms. Mary Prendiville

- It is requested that the objections to this development are taken into consideration by the Board.

6.4 Response from applicant to third party objections

- It is submitted to the Board that a review of the previous planning application on the site confirms that the scheme as currently proposed has been significantly modified in order to successfully overcome the refusal reason for the earlier scheme. It is no longer proposed to raise the roof profile to construct an additional storey, while the second floor terrace at the rear has been omitted. The building line of the ground floor extension to the rear is such that it mirrors the rear building line of the neighbouring property at no. 11 Knocknacree Park.
- In order to alleviate the appellant’s concerns regarding overlooking an additional sectional drawing has been prepared by O’Carroll O’Riordain Architects to illustrate the relationship between this window and the neighbouring property. The drawing confirms the 2 metre fence eliminates any potential for overlooking of the neighbouring property from the proposed bedroom window. The use of obscure glazing as suggested would constitute an inappropriate form of development.
- A daylight assessment of the proposed extension has been undertaken and confirms that the proposed development pays due regard to the daylight conditions which will be available to the neighbouring properties. The results of the assessment on the sunlight levels available to the rear gardens of no. 11

and no. 14 Knocknacree Park confirm that very good levels of sunlight access will be enjoyed after development.

- The proposed window treatment at the north-western corner of the ground floor extension would not facilitate overlooking in excess of what would be reasonably expected from the rear elevation of neighbouring properties in a suburban context. With regard to the concertina windows it is recommended that solid glass windows are used in place of the proposed arrangement.
- The proposed balcony would not result in any material diminution of the residential amenity of the neighbouring property.
- Planning permission has not been sought for the use of the flat roof as an outdoor amenity area and applicant is willing to accept condition to this effect.
- It is submitted that the proposed extension is modest in scale relative to the existing accommodation.
- The proposal would be entirely in keeping with the zoning objective for the area. Full consideration has been given to the provisions of the development plan and the set-back reflects the pattern of development already in existence on the subject site.
- With regard to the massing and shadow study submitted with the appeal documentation pertaining to Ms. Jennifer Hale it is set out that no explanatory text accompanies the images to support the methodology used. It is submitted that the image confirms that the proposed development will have minimal impact on the property.
- With regard to drainage it is set out that the requirements of the Council has been addressed and the drainage pipework and manholes will be constructed by a specialist drainage contractor.

6.5 Response from Jennifer McHale to the Tom Philips letters of 7th April 2016

- Photographs are attached showing the open aspect from her living room window which is on the 1st floor and not the ground floor. It is set out that from the ground floor room below the living room, and the room opposite the proposed extension the overbearing impact is doubled.
- No study was done regarding the impact on skylight to the ground floor room below the living room.
- It is set out that the proposal with a floor area of the new extension could not be considered modest.

- It is set out that manhole 2 and 3 are situated under a proposed terrace and manhole 4 in a narrow passageway that is less than 1 metre wide.
- Applicant cannot provide evidence to support occurrence of backing up or blockage arising from sewers however Council cannot guarantee such would not arise.

6.6 Response from Mary Prendiville in response to other third party appeals.

The response re-iterates points already made which it is not proposed to re-state hereunder but rather to highlight subsequent matters/issues not already set out:

- The height of the side boundary has been increased with the addition of a timber fence. It is set out that direct overlooking should no longer be an issue.
- Reference is made to the daylight assessment and that it is surprising that such an exercise was not carried out to identify what levels of sunlight/daylight might be within a room which could be used for any purpose notwithstanding its description as a bedroom.
- The proposed extension at ground floor level will be 0.7m to 1.8m approx. beyond the existing rear building line.
- No screening measures were included in the development proposal to address the overlooking from the corner side window and balcony area. It is requested that an obscure glass screen of the appropriate height be erected along the western side of the balcony to eliminate direct overlooking of the appellant's patio area. Reference is made to such a condition of permission at no. 9 Knocknacree Park.
- Reference is made to the loss of skylight and morning sunlight and the loss of such to the appellant's sitting room window which is considered to have a serious material impact on the amenities of the appellant's property.
- The current proposal should be assessed on its own merits. The proposal is not reconcilable with the purpose of the area's zoning objective.

7.0 POLICY CONTEXT

The Dun Laoghaire Rathdown Development Plan is the statutory development plan for the area 2016-2022. Section 8.2.3.4 deals with additional accommodation in existing built-up areas.

The site has a land use zoning objective "A- to protect and/or improve residential amenity".

8.0 ASSESSMENT

I have reviewed the proposal in the light of the current Development Plan, relevant planning history, and the submissions on file. The proposal is to construct an extension to the rear of the existing dwelling in an established residential area. Accordingly, I consider that the pertinent issues pertaining to this appeal should be assessed under the following headings:

- Impact to existing residential amenity
- Drainage
- Appropriate assessment

I note the concerns as to whether the application should have been considered valid or otherwise. The Planning Authority validated the application and I am satisfied that the rights of third parties were not infringed in that they were aware of the application and adequate information is available for an assessment of the proposal to be carried out.

8.1 Impact to existing residential amenity

8.1.1 Third parties have raised concerns about impact arising on their properties as a result of the proposed development. The proposal is to extend the existing spilt level house. The existing lower ground floor is to be extended so as to accommodate additional bedrooms. The floor level is to be reduced by 700mm at this level so as to accommodate the additional area. The proposal involves extending the rear building line at lower ground level by 7.5m beyond the existing line. At the upper level it is proposed to extend the existing building line by 6.4m. As the upper level does not extend over the full extent of the proposed lower ground floor the applicant is providing a balcony area to the dining area.

8.1.2 In principle, the proposal is considered acceptable and the overall scale is such that is considered to be modest. Whilst I acknowledge the third party objection regarding overlooking, I do not concur. The proposed balcony may give rise to perceived overlooking however I do not consider the proposal to give rise to any more overlooking than currently exists from any window on the rear elevation. I do accept that this balcony area may/would most likely be used as an amenity area and in the event where people sit/stand in this area would give rise to an increased perception of overlooking. Pursuant to site inspection, I note that other such areas exist to the rear of these properties. I would also note that there is an existing terrace area to the rear of this dwelling (currently on flat roof area) which does not appear to have planning permission and in fact was expressly conditioned out under File Ref. No. D02B/0906 according to the planning report in this appeal. Whilst I do not consider that either the corner side window or the balcony unduly detracts from the existing residential amenities of the area. The Board may disagree

and may wish to consider omitting the balcony area/and or amend the fenestration detailing to the rear elevation at this level.

8.1.3 With regard to over-shadowing, I note the shadow analysis report submitted. In line with the BRE guide, a garden or amenity area will appear adequately sunlit throughout the year if at least half of it can receive at least two hours of sunlight on the 21st of March. The most affected location in terms of sunlight after the proposed development is Point I (ground floor window to no. 11 Knocknacree Park) to the west of the appeal site. The predicted absolute departure from target identified in the BRE is 2.4% which I consider to be small. Point C on no. 14 Knocknacree park is also affected however I agree that the impact is negligible. The proposal is not considered to unduly impact on the residential amenity of the rear gardens of contiguous gardens. I would also indicate to the Board that the fenestration to the rear of the existing dwellings are quite large thereby optimising the availability of sun/daylight to these dwellings.

8.2 Drainage

Concerns are raised regarding the drainage of the site along with the potential for flooding. The appeal site is fully serviced and the applicant is proposing to divert the 225 diameter foul sewer away from the proposed extension as per drawing submitted in response to the further information request. The new manholes will be accessible to the rear of the new extension. I note perhaps other manholes may not comply with clearance standards however they are existing. I note that neither Irish Water nor the Water Services Section of the Council raised concerns about such proposals. Location of surface water drains and soakaways are clearly indicated and the Council had no objection to same. In this regard, I consider that the proposal is acceptable subject to the construction of such in agreement with the planning authority's requirements. I acknowledge the concerns expressed in the appeal submissions, however pursuant to site inspection of the site, proposals by the applicant and the satisfaction of the planning authority in this regard, I do not consider that the concerns in relation to drainage can be sustained. I consider that the design of the soakaway can be dealt with by way of condition.

8.3 Appropriate Assessment

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

9.0 CONCLUSIONS AND RECOMMENDATION

It is considered that the proposed development should be granted for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

Having regard to the nature of the proposed development on existing residentially zoned lands, the Board is satisfied that the proposed development would be in keeping with the existing character and pattern of development in the immediate area, would not give rise to overlooking or undue overshadowing and would not otherwise unduly detract from the existing residential amenities of the area. The proposal would not be prejudicial to public health and would otherwise 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 and as amended by further information submitted 6th January 2016 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 external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. 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.

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

Joanna Kelly

Planning Inspector

17th May 2016