



An
Bord
Pleanála

Inspector's Report PL06D.246661

Development	Construct single and two storey extension to rear of existing house with associated site works at 4A Wynnsward Drive, Clonskeagh, Dublin 14.
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D16B/0074
Applicants	Alan Boland and Claire Foley
Type of Application	Permission
Planning Authority Decision	Grant Permission
Appellant	Barry and Marie Dillon
Observer	Teresa LeGear Keane
Date of Site Inspection	23 rd August 2016
Inspector	Mairead Kenny

1.0 Introduction

There are two concurrent appeals related to this case.

PL06D.246532 is for retention of extension to front and permission for new entrance and dormer window to the rear and rooflight to the front at no. 4 Wynnsward Drive.

PL06D.246882 is for retention of the first floor extension to the rear of no. 4 Wynnsward Drive.

2.0 Site Location and Description

The site is located at the southern side of a short residential street Wynnsward Drive which also provides access to UCD. The street is marked as a clearway during business hours. There is a vehicular access to the shared forecourt to no. 4A and the adjacent site no. 4 which is in the same ownership.

No. 4A comprises a relatively new independent house having been constructed through the extension and subdivision of no. 4 to the west, which is in the same ownership. No. 4A is of stated floor area of 128.56 square metres. The garden as is presently laid out provides for the majority of the private open space being associated with no. 4 and a small patio garden reserved for no. 4A. The rear wall at the two houses has been removed and replaced with a timber panel fence. The site of 4A is separated from no. 4 by a timber fence and to the rear by a shed. There are two 'Barna' shed within the site and one other shed at the rear boundary, which is of block construction. The stated site area is 0.0354 hectares.

Photographs of the site and surrounding area which were taken by me at the time of inspection are attached.

3.0 Proposed Development

Permission is sought to construct a single storey ground floor rear extension and a first floor rear extension and provision of rooflights to the rear roofs and internal alterations. The house would be extended at ground floor level by an additional 4445mm (internal dimension) and at first floor level by about 1800mm. The stated gross floor area of the proposed works is 46 square metres.

The application details indicate that the legal is owner is Ms Teresa LeGear Keane and that she has given consent to her son to the making of the application.

4.0 Planning History

Under Planning Reg. Ref. D09A/0475 permission was granted for the retention of the subdivision of the house into two self-contained units for multiple occupancy. This provided for a single vehicular access to the two houses at 4A and 4 Wynnsward Drive. The proposed additional vehicular entrance to the front site boundary was required to be omitted. Parking to the front was to be provided on a shared surface. The drawings indicate that the shared access to the two houses would be at no. 4A. The rear of the site was separated in the application drawings and a garage shown with access of the lane. The layout of the rear garden area was queried and by way of additional information it was stated that each individual house would have a garden and that the shared rear garden area would be accessible to both.

A range of documentation on file relates to previous / ongoing enforcement proceedings.

5.0 Planning Authority Decision

5.1. Planning and Technical Reports

The report of the Case Planner indicates that the development complies with the development plan. The long rear gardens are noted. The extension appears to encroach onto site no. 4 and the applicant should be advised in this regard. Letter of consent received is noted.

The report of Drainage Planning Section indicates no objection.

5.2. Decision

The Planning Authority decided to grant permission subject to conditions including:

- use as a single dwelling unit
- external finishes
- surface water disposal
- contributions.

6.0 **Grounds of Appeal / Observations**

6.1. Grounds of Appeal

The appeal lodged on behalf of the owners/occupiers of 6 Wynnsward Drive and other houses at Wynnsward Drive and Belfield Close includes the following points:

- there was a requirement to maintain a shared parking area under condition of the subdivision of the property into two separate dwellings
- the public notices should refer to removal of this condition
- the legal boundaries appear to differ from those permitted under Planning Reg. Ref. D09A/0475
- the multiple applications are unreasonable and application splitting is not permissible

- section 37(5)(a) of the Act refer – no application for permission for the same development of for development of the same description as an application for permission for development which is subject of an appeal unless the appeal is decided, dismissed or withdrawn
- a grant of permission would consolidate unauthorised development at this and the adjoining site
- the proposed development drawings do not show the development proposed for no. 4
- when considered together the proposals for 4A are visually unacceptable
- the proposal which is portrayed as a family home is in fact an attempt to increase the number of additional bedrooms to accommodate students in a de-facto hostel type accommodation
- the property due to the number of bedrooms has effectively been used as a student hostel without permission
- comments are made relating to the grant of permission for a new entranceway and to the use of the shed to the rear
- permission should be refused until all outstanding enforcement issues are addressed at both houses
- where the Planning Authority forms the opinion that there is a real and substantial risk that the development would not be completed in accordance with permission that permission should not be granted
- information is provided relating to repeated retention applications
- the road to the rear has served to provide access to the shed which has been occupied by the applicant who has no right of way over that road
- intensity of occupancy has been very high

- the Board should determine this case in the context of the planning history and the attempts over the years to provide more bedrooms
- there is a possibility of four additional bedspaces on the ground floor
- an attic conversion appears to be intended also
- there is no property in the vicinity which has an extension which projects as far beyond the rear building line as that proposed in this application
- the impact of the two storey rear extension on no. 5 would be negative and would be contrary to section 8.2.3.4(i) of the development plan and would result in overshadowing of the area immediately adjacent the rear of that house
- the house at no. 5 previously was located adjacent a semi-detached house with a large garden
- encroachment by no. 4 onto 4A is referenced
- these separate properties should be considered as separated houses
- the rear elevation of no. 4 and 4A would be visually incoherent and disjointed
- the use of the houses for student accommodation is not compatible with the zoning
- the rear gardens should not be subdivided and there is concern relating to the dividing line shown on the planning drawings for the back garden of no. 4A
- depreciation of property value
- if permission is granted exempted development rights should be removed by condition
- the overall width, limited separation distance of the proposed development when taken in conjunction with the dwelling permitted to the side of no. 4A

would appear as visually obtrusive and would be seriously injurious to the amenities of the area.

6.2. Observation

This is submitted by Teresa LeGear Keane who has transferred control and beneficial ownership of 4A Wynnsward Drive to her son Alan Boland, the applicant. The appellant has attempted to discredit me as a person although I am not the applicant and the content of much of the appeal submission has nothing to do with the matter of the application. The Planning Authority determined that the development is consistent with the proper planning and sustainable development of the area and that it will not detract from residential amenities of the adjoining dwellings and complies with the zoning. As the houses are south facing they will not adversely impact on residential amenities.

The history of ownership of the property and of communications with the Planning Authority are outlined. No. 3 has been extended recently and no. 5 is vacant.

Documentation submitted refers to rights of way over the laneway to the rear of 4 Wynnsward Drive.

7.0 Responses

7.1. Planning Authority response

The Planning Authority can assess only what is applied for in the application. The enforcement issues are a separate matter. The proposed two-storey extension would be very similar to that at no. 4 and there are precedents for two-storey extensions to the rear including at no. 3.

7.2. First Party response

The works proposed would be consistent with other properties on Wynnsward Drive. The appeal seems to be motivated by unfounded grievances with my mother and is not specific to the proposed extension under appeal.

Enclosed is a letter to the owners/occupiers of no. 6 Wynnsward Drive. This indicates that the property will be again rented to students for the academic year and that 10 students will be in place. In the summer of 2017 and from that time onwards it will be used as our family home. There are no current plans to develop the rear garden which will be used for the children at play.

8.0 Policy Context

The site is zoned 'A' to protect and / or improve residential amenity. Section 8.2.3.4(i) of the development plan relates to extensions to dwellinghouses. This acknowledges the potential for adverse impacts on adjoining properties and sets out the criteria to be taken into account including proximity and design details.

9.0 Assessment

I note that the main issues in this appeal relate to previous use of the house for the provision of student accommodation and the intensity of use and to concerns that the proposal constitutes an attempt to increase the number of bedspaces for similar purposes.

Regarding the future use of the house I accept the applicant's statements that the future use is as a home for himself and his family. The stated intention on a letter attached with the appeal response is that this would commence after one year of further renting, i.e. in 2017. Nothing on the application drawings indicate an intention to intensify the use of the house for student accommodation or to use it effectively as a student hostel as has been alleged. In planning terms the use as a house either for

the renting to students or by the owner/occupier is the same use, unless there is subdivision of that house, which is not proposed.

The Board can only consider the matters before it and if deemed necessary may consider attachment of relevant planning conditions to control other potential uses. The Board in this case may wish to consider whether a condition relating to occupancy as a single residential unit. That condition would not in my opinion prevent renting of the house to a group of students but would prevent any internal subdivisions. In this case I recommend that the Board repeat a condition along the lines of no. 2 of the decision of the Planning Authority.

Regarding the physical form, extent and design of the proposed development I do not consider that it is significantly out of character with the pattern of development in the area. The scale of the proposed extension may be slightly larger than some existing extensions but it has to be considered in the context of the long rear garden associated with the house, the extent of the existing house (128 square metres) and the size of the extension itself (46 square metres) and the fact that it is predominantly at ground floor level. I consider that the development would not be described as overbearing and that it would not result in overlooking or significant overshadowing. The adjacent rear garden at no. 5 has a large garden and a wide plot and would not be significantly adversely affected. I agree with the Planning Authority that the development complies with the requirements set out in the development plan.

Regarding the opening of the rear boundary onto the laneway to the rear and whether or not there is a right of way, I do not consider that this is relevant to the current application. I note that an observation apparently on behalf of UCD was lodged in this regard. I also note the documentation submitted with the observation, which states that there is a right of way.

Regarding the boundary treatments the Board may wish to consider a condition requiring agreement on this issue. The permitted layout on the application drawings shows two separate plots of land associated with the individual units and a large rear area to which both houses would have access. In this context I do not recommend a condition relating to the boundary treatment.

A condition regarding the future use of the existing shed for storage in association with the house is appropriate.

Regarding the alleged oversailing of the property at no. 4 I note that all works subject of the current appeals are clearly defined and that both sites are within a blue line indicating shared ownership interests. In this context and having regard to planning legislation provisions there is no role for the Board.

There is no change to the proposals for the front garden parking area under the current application.

There is no material difference to legal boundaries of previous permissions.

I do not consider that section 35(5)(a) applies.

Having regard to the nature and scale of the development and its location in an urban serviced area, I consider that it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

10.0 Recommendation

I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

REASONS AND CONSIDERATIONS

Having regard to the nature, extent and design of the development proposed, to the general character and pattern of development in the area and to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity and would not be out of character with the area. 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 existing rear shed at the southern end of the site shall be used only for storage in association with the use of the main house.

Reason: In the interests of residential and visual amenities.

3. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

5. The external finishes of the proposed extension, including roof tiles/slates shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

7. 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.

Mairead Kenny
Senior Planning Inspector

23rd August 2016