



An  
Bord  
Pleanála

## Inspector's Report PL06F.247251

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<b>Development</b>	Construction of a single storey extension, internal modifications to house and all associated site works.
<b>Location</b>	31 The Walk, Robswall, Malahide, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F16B/0167
<b>Applicant(s)</b>	Edward and Amanda Owen
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Patricia McGovern
<b>Observer(s)</b>	Liam Liston and James Wardick
<b>Date of Site Inspection</b>	01 December 2016
<b>Inspector</b>	Patricia Calleary

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## 1.0 Site Location and Description

- 1.1. No. 31 The Walk, the subject appeal site, has a stated site area of 0.026 hectares and forms part of a relatively new residential development collectively known as 'Robswall' which is located on the western side of the Coast Road (R106) over one km to the south east of Malahide in North County Dublin.
- 1.2. The irregular shaped site contains a three storey modern design detached dwelling house that is positioned forward of an adjoining pair of two storey semi-detached houses to the east (No. 29 and 27). In addition, the subject property stands in its entirety forward of the front and rear building line of the adjoining terrace group to the west which consists of houses numbers 33,35 and 37.
- 1.3. The appeal site lies to the north of Parkview, the main access road serving the 'Robswall' residential scheme and to the rear of the appeal site lies the more established 'Biscayne' residential scheme.
- 1.4. The site is relatively flat and c. 0.5m above the adjoining property to the east. It is surrounded to the east and west by a timber screening fence c.1.6m high and to the rear by a block wall c.2m.

## 2.0 Proposed Development

- 2.1. The proposal development would comprise the erection of a single storey extension (area 40 sq.m) to the rear of the dwelling together with internal modifications and associated site works.

## 3.0 Planning Authority Decision

- 3.1. The Planning Authority issued a decision to **grant permission** subject to five conditions which are standard in nature.

## 4.0 Planning Authority Reports

### 4.1. Planning Reports

- Site is in an area zoned 'RS' and proposal corresponds with zoning objective;

- Seeks to revise previous design permitted under F15B-0172 / PL06F.245578 whereby An Bord Pleanála required that a two storey element be omitted;
- Third party concerns regarding residential amenity on adjoining property noted;
- Previous proposal for two storey extension – Inspector considered that a two storey extension may not be an appropriate insertion into the hose dwelling but did not raise concerns regarding a single storey extension in terms of overshadowing;
- While the depth of the extension would increase to 6.4m, it is considered this would not have a significant adverse impact in terms of overshadowing over and above that previously approved (5.24m);
- Given the variation in building lines, the proposed extension would actually only project 3.7m behind the rear elevation of No.29 to its east and would not have a significant adverse impact in terms of overshadowing such as to warrant a refusal;
- Proposal does not give rise to overlooking;
- Proposal will not give rise to issues of residential amenity on the property to the west, No.33 The Walk, or to properties positioned to the rear of the site;
- Contemporary design form which will not appear prominent or incongruous in the streetscape;
- Materials proposed would accord with the contemporary design.

The Planning officer concludes that the proposed development would not detract from adjoining residential or visual amenity and would not result in a significant adverse impact over and above that permitted under F15B/0172 /PL06.245578. A recommendation to **grant permission** was put forward.

#### 4.2. Other Technical Reports

No referral

#### 4.3. Prescribed Bodies

No referral

#### 4.4. Third Party Submission

A third party submission was received by the Planning Authority. I have noted its content and I consider that the concerns raised are also included in the current appeal which the third party submitted to the Board.

### 5.0 Planning History

#### 5.1. Appeal site and Vicinity

- **ABP Ref. No. PL06F.123998 [P.A. Reg. Ref. No. F00A/1009]:** On appeal to the Board planning **permission was granted** in July 2001 for the overall residential scheme at Robswall that the current appeal site forms part of.
- **ABP Ref. No. PL06F.245578 [PA Reg. Ref. No 15B/0172]:** **Permission granted** for a part double, part single storey extension to rear of the same dwelling as the current appeal. Condition 2 attached by An Bord Pleanála stipulated that the second floor level extension would be omitted.
- The Planning Officer's report details the planning history of other extension type developments for which planning permission was sought at Robswall following its completion. This report is attached to file.

### 6.0 Policy Context

#### 6.1. Development Plan

- The appeal site is governed by the policies and provisions contained in the Fingal Development Plan, 2011-2017. The site is zoned 'RS' and the zoning objective for such land is to: 'provide for residential development and protect and improve residential amenity. The vision for this land use zoning is to

ensure that any new development in existing residential areas has a minimal impact on existing amenity.

- Objectives OS35, OS36 and OS37 deal with private open space.

## 6.2. Natural Heritage Designations

- None

## 7.0 The Appeal

### 7.1. Grounds of Third Party Appeal

7.1.1. An appeal was received from Patricia McGovern who occupies 29 The Walk which is the two storey semi-detached house immediately east of the appeal site. The following points are set out.

- Proposal would have a significant negative impact on the residential amenity of No.29 The Walk by virtue of overshadowing, overlooking and the breakdown of creative, distinctive and sensitive design of Robswall estate;
- Would contravene Condition No.14 of PL06F.123998;
- Would contravene Objective OS35s, OS36 and OS37 of the current Fingal development plan;
- Overbearing impacts will result on No.29 The Walk and in addition because of level differences, will result in overlooking of neighbouring Biscayne estate (houses 141 and 142);
- Potential to add an internal upper mezzanine level;
- Proposal will increase the shadow effect on the rear living area and garden to the detriment of 29 The Walk. No daylight /shadow analysis was submitted;
- Design does not respect the existing dual frontage aspect of the building;
- Does not take into account the gradient difference (0.5m) between rear gardens of No.29 and 31 The Walk;

- The light gap between 31 and 33 The Walk is an integral and deliberate part of the design to balance the large bulky build form and would be permanently lost if the development is permitted, negatively impacting on No.29;
- No extensions have been built on any of the other 3 storey buildings.

The appeal was supported by a **shadow analysis** prepared by RME Digital Solutions. It considered the impact of the proposed extension on the appeal site would have on No.29 (appellant's property) on June 21 (summer solstice) and March 21 (spring Equinox). It concluded that the proposed ground floor extension would increase the shadow fall on the amenity areas of the garden and living quarters of No.29.

## 7.2. Applicants response to third party appeal

7.2.1. The Applicants response is summarised under:

- No overlooking will result from the proposed extension due to the positioning of the window on the east elevation and the height of the existing boundary fence between No.31 and No.29. Similarly, no overlooking will occur at the rear of the proposed extension;
- Gradient difference between No.31 and No.29 The Walk is negligible;
- Extension is based on family need;
- No internal mezzanine floor is proposed or possible as single storey only proposed.

7.2.2. The applicant's appeal response was accompanied by a **Planning Appeal Response** by Brady Shipman Martin which included the following:

- It would not be possible to see into the rear garden of No.29 from the extension;
- From the location in the garden of No.29, the extension cannot obstruct any sunlight than is already obstructed by No.46 and the buildings of Parkview;
- Proposal will enhance views from the public street by replacing views of back gardens with building fabric that match the streetscape to the front of the buildings;

- Applicant has complied with Condition No.14 of PL06F.123998 by seeking planning permission;
- Development would not contravene Objective OS 35, OS 36 or OS 37 of the Fingal Development Plan;
- Visual impact would be slight in magnitude and positive in nature.

7.2.3. An **assessment of daylight, sunlight and overshadowing** is also included which is stated to have been carried out in accordance with the methodology set out in BRE 209, 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' 2nd Edition 2011. The following conclusions on this aspect were presented:

- The stepped building line affords the applicants an opportunity to provide additional living space for their family without impacting unduly on any of their neighbours;
- The potential visual impact of the proposed extension on the public space and on the appellant's property would be negligible in the context of the existing built environment;
- The potential impact on daylight, sunlight and overshadowing would be imperceptible by reference to the recommendations of the BRE 2009 guidelines.

### 7.3. **Planning Authority Response**

7.3.1. The Planning Authority's response provides a summary of the third party appeal points and also references the inspector's assessment under PL06F.245578. The following points are also put forward:

- While depth of the extension will increase from 5.24m to 6.4m, it is considered that the proposal will not have a significant additional adverse impact in terms of overshadowing over and above that which would arise should the approved extension be constructed;
- Given the variation in building lines, the proposed extension will project only 3.7m beyond the rear elevation of No.29 The Walk and would not adversely impact in terms of overshadowing or give rise to overlooking on No.29 or properties to the rear within the Biscayne estate;



- Shadow analysis does not include images of the existing on site situation and is deficient in this regard;
- Planning Authority remains of the view that the proposal is acceptable.

#### 7.4. Observations

7.4.1. A joint observation was received from Liam Liston and James Wardick with addresses at No.141 and 142 Biscayne, located directly north of the rear garden in which the extension is proposed. Their concerns which relate to the current proposal are summarised under:

- Proposed development will encroach significantly more towards the rear boundary wall dividing No.31 The Walk and 141 and 142 Biscayne and is not within the spirit of the direction given by An Bord Pleanála under PL06.245578;
- The extensive glazing proposed will be over-imposing and cause overlooking and overshadowing onto No.141 and No.142 Biscayne and a loss of privacy and such as will be unacceptable;
- Will result in further heat loss from reduced sunshine onto house.

#### 7.5. Further responses

7.5.1. Following circulation of the applicant's response to the third party appeal and the observations received from residents within the Biscayne residential estate, further responses were received by the Board, the main new points raised which are set out under.

##### Patricia McGovern Further Response

- Concurs with submission from Liam Liston & Edward Wardick regarding the negative impact which the current proposal would pose in relation to shadow and diminished sunlight;
- In relation to the response from the applicant, states that No.46 The Walk does not in any way obstruct or impact daylight access through the gap between 31 and 33 The Walk.

### Planning Authority Further Response

- Notes responses but remains of the view that the development is appropriate and would not detract from adjoining residential and visual amenity on neighbouring properties over and above that approved under F15B/0172 / PL06F.245578.

### Liam Liston Further Response

- As garden level is higher in No.31 than No.29, any construction above the fence between both properties would be bound to have a material impact on sunlight entry into the garden of No.29.

### Applicant's Further Response

- Adjoining properties, No.s 33 and 35 would be positioned closer to the rear boundary than the appeal property even with the extension added;
- Applicant has taken into full consideration An Bord Pleanála decision PL06F.245578 which stated that the site has potential to absorb a single storey extension. The increase in ground floor area in the current proposal is to compensate for the loss of first floor living area.

## **8.0 Assessment**

### **8.1. Introduction**

8.1.1. I have read and considered the contents of the planning application, grounds of appeal, responses and relevant planning policy. I have also attended the site and environs. The following assessment covers my considerations on the key planning issues which arise in this case and also encapsulates my *de novo* consideration of the application. I consider the key issues in determining the application and appeal before the Board are as follows:

- Zoning Objective
- Residential Amenity

- Visual Amenity
- Other

I have outlined my considerations on these issues the following sections of my assessment.

## 8.2. Zoning Objective

- 8.2.1. Within the current Fingal Development Plan 2011-2017, the site is located within an area which is zoned as '**RS - provide for residential development and protect and improve residential amenity**'. I am satisfied that the proposed development for a residential unit on residential zoned lands is acceptable in principle. Notwithstanding the suitable zoning objective, my assessment also considers matters of residential and visual impacts which are the main issues raised in the grounds of the appeal and which I outline in the following sections of my assessment.

## 8.3. Residential Amenity

- 8.3.1. The main points raised in the appeal relate to impact on adjoining residential amenity, particularly on No.29 The Walk as raised by the appellant but also No.141 and No.142 Biscayne to the rear, as raised by the observers. Issues of overlooking, overbearing and overshadowing have been referenced.
- 8.3.2. I firstly note that the extension would be single storey, positioned north of the existing host dwelling to a depth of 6.5m. No. 31 itself is positioned forward (south) of No. 29 (appellant's property) and as such the extension would extend c.3.7m beyond the rear façade of this adjoining property. The structure would have an asymmetrical low pitched roof with an eaves height of c.2.43m and a ridge height of 3.7m above ground floor which itself appears to be c.0.5m above the adjoining floor level of No.29.
- 8.3.3. In terms of **overlooking**, the most sensitive elevation is that of the eastern side, adjoining the appellant's property. However, having regard to the solid timber boundary fence and the alignment of both properties, potential for overlooking will be minimal in my view. Based on my site inspection, it remains uncertain whether or not it would be possible that there may be a slight view from the corner window over the

fence given the difference in garden levels and the increase in elevation at finish floor level. Therefore, I recommend that any glazing between the area below eye level - 1.7m (over internal finished floor level) and above the top of the dividing boundary of the new finished floor level should be fitted with obscure glazing and I have included a condition to this effect in my recommended schedule of conditions. I have no concerns about the narrow high level window as it is above eye level – 1.7m above internal floor level, where overlooking is not an issue. Subject to the attachment of the recommended condition, I consider that overlooking issues onto the eastern private garden would not arise.

8.3.4. Having regard to the separation distance between the rear of the extension and the houses to the rear in Biscayne (No.141 and 142), which I have scaled on the site location map as c.20m at the closest point of the added conservatory of No.141, no overlooking issues arise in respect to the window on this elevation. Having regard to the position of the windows on the west elevation at c. 2.7m above the finished floor level, well above eye level and the position of the adjoining property itself, no overlooking issues can arise.

8.3.5. In terms of **sunlight and overshadowing**, I firstly note that the extension would be positioned to the north of the host house. The main impact which could arise would be that from the west in the evening time. An assessment of daylight, sunlight and overshadowing is included in the applicant's submission which is stated to have been carried out in accordance with the methodology set out in BRE 209, 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' 2nd Edition 2011. The target under these guidelines is for 2 hours over at least 50% of the garden on 21<sup>st</sup> March. The applicant's model revealed that there is already an impact from House No.33 which though further west is a two storey house. It further shows that that 72.7% of the garden receives more than the required 2 hours of sunlight and that this would only reduce to 72.4% when the extension is in place, which I agree would be imperceptible. I have taken into account the applicant's shadow study, in which I note that it does not show the current shadows cast to allow for a comparison, nor does it include the 2 storey property, No.33 which I consider would be required to complete the study. Neither does it clearly state what methodology was used or what standards were applied. Overall, noting the modest scale and the

position and orientation of the proposed extension, I consider that the development would not give rise to unacceptable overshadowing issues.

8.3.6. On matters of **overbearing**, I consider that the single storey extension is modest in scale and would not be injurious to neighbouring residential amenity with regard to overbearing issues.

8.3.7. In conclusion, I consider that the proposed development, if permitted, subject to an appropriate condition regarding obscure glazing which I have referred to above, would not give rise to unacceptable residential amenity impact on the appellant's property to the east or other properties in its immediate vicinity.

#### 8.4. **Visual Amenity**

8.4.1. In terms of **visual amenity**, I consider that the design would not detract from the visual amenities of the area when viewed from the public domain, namely through the gap between No.31 and No.33. The proposed extension would involve the replacement of the timber fence with a masonry wall and new glazing added would match the existing glazed elements below ridge level of the host house. I note the walls are proposed to be finished in smooth render to match the existing façades and that Timber/Aluminium composite windows are proposed, all of which I consider would assist the extension to integrate with the host house. I also consider the visual impact on the adjoining property would be low given the existing screening from the boundary fence and the modest single storey building form proposed. In conclusion, I consider the development would not give rise to any adverse visual amenity impact on either neighbouring properties or on the wider residential area.

#### 8.5. **Other**

##### 8.5.1. Development Contributions

Under Section 10 (i)(a) of the Development Contribution Scheme 2016-2020 for Fingal, being the current operable scheme, the first 40 sq.m of domestic extensions are exempt from the requirement to pay development contributions, therefore as the area proposed is 40 sq.m in this case and it is evident that there are no other extensions constructed, no Section 48 development contributions are applicable to the proposed development.

### 8.5.2. Appropriate Assessment

Having regard to the modest nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location together with its separation from any designated 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.

## 9.0 Decision

9.1. I recommend that **permission** should be **granted** based on the reasons and considerations set out below.

## 10.0 Reasons and Considerations

10.1. Having regard to the residential zoning objective for the subject site, to the nature and scale of the development and to the planning history context, it is considered that, subject to conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the drawings received by the planning authority, except as may otherwise to 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 the 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. Prior to the commencement of the development, a 3d drawing showing the position of the extension, finished floor levels, garden levels, glazing positions and height of the boundary treatment in context with the house to the east (No.29) shall be submitted to the Planning Authority for agreement. Any glazing below the height of 1.7m over internal finished floor level which results in a view above the eastern site boundary shall be glazed with obscure glass.

**Reason:** To prevent overlooking of adjoining property to the east and protect residential amenity.

3. Water supply and drainage arrangements, including 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.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity

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 or public holidays. Deviation from these times shall 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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Patricia Calleary

Senior Planning Inspector

05 December 2016