



An  
Bord  
Pleanála

## Inspector's Report PL06D.248035

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<b>Development</b>	Construction of first floor rear extension, internal alterations, and attic conversion to storage use with roof lights to front, side, and rear roof planes.
<b>Location</b>	8 Birchfield Avenue, Goatstown, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D16B/0480
<b>Applicant(s)</b>	Allan & Debbie Chapman
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 6 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Grannie Slattery
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> May 2017

**Inspector**

Hugh D. Morrison

## 1.0 Site Location and Description

- 1.1. The site is located on the Birchfield Estate, which is accessed off Birches Lane (R826), which forms part of one of the routes between Goatstown in the east and Dundrum in the west. This Estate is composed of two storey semi-detached dwelling houses some of which were built with single storey returns and some of which have been the subject of single storey rear extensions. Its planning history indicates that four dwelling houses have received permission for first floor rear extensions. (During my site visit, I observed that one has been constructed at No. 20 Birchfield Heights).
- 1.2. The site itself is rectangular in shape and it extends over an area of 0.021 hectares. This site rises to the rear and it presently accommodates a two storey semi-detached dwelling house with a full-width single storey rear extension. The appellant's dwelling house lies to the rear and in a slightly offset position in relation to the applicants' dwelling house. This dwelling house, too, has a full-width single storey rear extension.

## 2.0 Proposed Development

- 2.1. The proposal would entail the following elements:
  - A first floor rear extension that would be constructed over part of the existing single storey rear extension and which would have a gross internal floorspace of 12 sqm,
  - Associated internal alterations to the layout of the first floor of the existing dwelling house. These would affect a floorspace of 22.5 sqm, and
  - The conversion of the attic to provide a storage space of 8 sqm, which would be lit by roof lights on each of the three roof planes.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was granted, subject to 6 conditions, the second and third of which require, variously, the omission of the proposed lower rear roof light and the

specification of opaque/frosted glazing to the windows serving bedroom no. 2, the en-suite to bedroom no. 1, and the bathroom.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

See decision.

#### **3.2.2. Other Technical Reports**

Surface Water Drainage: No objection.

### **3.3. Third Party Observations**

See grounds of appeal.

## **4.0 Planning History**

PAC 313/16 occurred on 10<sup>th</sup> August 2016.

## **5.0 Policy Context**

### **5.1. Development Plan**

Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 (CDP), the site is shown as lying within an area that is subject to the Zoning Objective “A”, “To protect and/or improve residential amenity.” Section 8.2.3.4(i) of the CDP addresses extensions to dwellings.

### **5.2. Natural Heritage Designations**

None

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant resides in the dwelling house at No. 5 Birchfield Heights, which is sited to the south of the application site. The following grounds of appeal are cited:

- The proposed first floor extension would contain a bedroom window in its rear elevation that would overlook the appellant's dwelling house and rear garden, thereby resulting in a loss of privacy to rear bedrooms, a kitchen/dining/living room extension, and the said garden.

The approach of the Planning Authority in this case is contrasted with the approach taken in the case of D15B/0146 and D16B/0014. This latter case concerned a dwelling house at No. 34 Hazel Avenue, Kilmacud, Stillorgan, Co. Dublin and entailed the construction of a two storey rear extension, amongst other things. Under the first application, this proposal was refused, on the grounds that first floor windows would be 8.5m from the rear boundary and so they would result in overlooking and a loss of privacy to the residential property to the south. Under the second application, a single oriel/angled first floor window was specified with a 10.6m clearance distance to the nearest boundary and a 22m separation distance between this window and any corresponding ones. This application was permitted. In the light of these applications there is precedent for requiring garden depths of 11m and separation distances of 22m in accordance with Paragraph 8.2.8.4(ii) of the CDP. Likewise, in the case of the current application.

- Attention is drawn to different measurements of the depth of the rear garden, i.e. 7.195m, 7.313m, and 8.915m. Attention is also drawn to the dimensions cited by the case planner for the proposed first floor extension of 3.3m x 4.4m, which give an area of 14.52 sqm rather than 12 sqm, as cited in the application.
- The appellant has a similar ground floor extension to that of the applicants'. She anticipates that, if she were to propose a first floor extension, then this would be unacceptable so close to the applicants' one. Thus, the currently

proposed extension curtails the development potential of her dwelling houses and thus its value.

- The submitted plans do not depict the array of ground floor extensions between Birchfield Avenue and Birchfield Heights. The proposed first floor extension would be the first example of such an extension within this visual envelope and as such it would establish an adverse precedent.

Other first floor examples exist in the estate. However, they are not comparable, i.e. those at Nos. 13, 17, and 20 Birchfield Park and the one at No. 20 Birchfield Heights have longer rear gardens.

- Attention is drawn to the letter from the resident at No. 7 Birchfield Heights lodged at the application stage, which objects on the grounds of overlooking/loss of privacy, and adverse precedent.

The omission of the proposed lower roof light from the rear roof plane is welcomed.

## 6.2. Applicant Response

The applicants have responded to the above cited grounds. They begin by stating that the case cited, at No. 34 Hazel Avenue, was for a full width two storey rear extension, which would have entailed the raising of the existing ridgeline by 1.35m. It was originally refused on the grounds, not only of overlooking, but that it would be overbearing and visually dominant/incongruous and thus out of character with the existing streetscape. That this case should be distinguished from the current one arises from the following considerations:

- If the proposed first floor extension were to have been constructed at the same time as the existing ground floor extension, then it would have been exempted development.
- Paragraph 8.2.3.4 of the CDP addresses first floor extensions and the factors relevant to an assessment of the same, i.e. overshadowing, overbearing, and overlooking.
  - In relation to the first, as the applicants' dwelling house lies to the north of the appellant's, overshadowing would not arise.

- In relation to the second, the proposed first floor extension would be contained within the mass of the existing dwelling house. Furthermore, as the appellant's dwelling house is at a higher level, an overbearing relationship would not result.
- In relation to the third, the separation distances that would be achieved, in conjunction with the aforementioned difference in height, would mitigate any overlooking.
- The said paragraph also addresses private open space and set back from boundaries. In relation to the former, no change would occur, and, in relation to the latter, the distance of 1m would be exceeded.
- The distance between the rear elevation of the proposed first floor and the rear boundary of the residential property in question would be 8.915m. The originally submitted plans did not show this dimension consistently and so this has now been corrected.

The stated dimensions and area of the proposed first floor extension are correct, i.e. the former depict the external dimensions while the latter depicts the gross internal floorspace.

- The corollary of the appellant's concern over the non-depiction of all rear extensions in the vicinity of the site is that this area be surveyed. Such a length would be wholly unreasonable for a domestic extension application. Instead the applicant has submitted the relevant extract from the most up to date Ordnance Survey plan of the area.

### 6.3. **Planning Authority Response**

The grounds of appeal raise no new matters that would justify a change of attitude to the proposal.

### 6.4 **Appellant's response to applicants' response**

- The applicants have failed to acknowledge that each of the three reasons for the refusal of application D15B/0146 were addressed and overcome by the subsequent application D16B/0014.

- The applicants' contention that had they approached the extension of their dwelling house as a single stage development rather than in two stages is challenged by reference to Class 1 of Part 1 of Schedule 2 to Article 6 of the Planning and Development Regulations, 2001 – 2013.
- The topographical relationship between the No. 34 Hazel Avenue and the nearest dwelling house to the south on Kilmacud Road Upper are similar to the relationship between the applicants' dwelling house and the appellant's one in the current case.
- Attention is drawn to the PAC, in which the applicants were advised to depict domestic extensions nearby in the submitted plans.

## 7.0 Assessment

I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties, and my site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Preliminaries,
- (ii) Amenity, and
- (iii) AA.

### (i) Preliminaries

1.1 The appellant and the applicants raise a number of points that relate to the submitted plans, exempted development, and precedent, which I propose to discuss under the above heading of preliminaries.

1.2 The appellant draws attention to apparent discrepancies in measurements cited in the submitted plans and completed application forms. These pertain to the depth of the rear garden and the area of the proposed first floor extension. The applicants have responded by correcting a drafting error and thereby depicting the said depth as consistently 7.195 m. (They have also submitted a cross section of the relationship between the applicants' and the appellant's dwelling houses that shows the rise in levels from the former to the latter (cf. drawing no.



1180-123)). They have also clarified that the cited area is a gross internal figure, rather than a gross external figure.

1.3 The appellant also draws attention to domestic extensions to the rear of dwelling houses in the vicinity of the site which have not been depicted on the submitted plans. The applicants have responded by stating that to depict all of these extensions would require them to go to inordinate lengths and that their reliance upon the relevant extract from the most up to date Ordnance Survey map of the area is a reasonable way to handle this matter.

1.4 I concur with the applicants' position on the foregoing matter. Additionally, I had the opportunity during my site visit to view the area in question and to gain an impression as to the incidence of the said extensions.

1.5 The applicants contend that, if the proposed first floor rear extension had been proposed at the same time as the existing ground floor rear extension, then it would have been exempted development. Class 1 of Part 1 of Schedule 2 to Article 6 of the Planning and Development Regulations, 2002 – 2013, is the relevant Class for assessing whether or not domestic extensions would be exempted development. I have read this Class and on the basis of condition/limitation 6(b) alone I do not consider that under either of the cited scenarios a first floor extension would have been exempted development, i.e. this condition/limitation refers to the need for any first floor window to be not less than 11m from the boundary which it faces, whereas the stated distance would be 8.915m.

1.6 The appellant draws attention to a two storey rear extension to the dwelling house at No. 34 Hazel Avenue, which was originally refused but then permitted, on the basis of a revised design, including a revised first floor window detail in the rear elevation. She considers that, as the original separation distance between the said window and the rear boundary would have been 8.5m and this window was then revised to achieve a separation distance of 10.6m, that this case forms a precedent for the current proposal. The applicants have responded by drawing attention to the fact that there were three reasons for refusal and so the Planning Authority's critique of this case was more extensive than just the question of the appropriate length of any separation distance.

1.7 I have examined the submitted plans. I note that the baseline for the project was that of a dwelling house with no first floor habitable room windows in its rear elevation. Thus, under the proposal, such a window would have been introduced for the first time. I note, too, that in the case of the current proposal, the rear elevation of the applicants' dwelling house has two habitable room windows and so the baseline for the assessment of this proposal is different from that which the appellant has cited. I, therefore, consider that the two cases are distinctive and so the earlier one does not establish a precedent for the current one.

1.8 I conclude that the preliminary matters raised by the appellant and the applicants have either been satisfactorily attended to or they are not relevant to the assessment of the current proposal.

## **(ii) Amenity**

2.1 The appellant expresses concern that the two habitable room windows in the rear elevation of the proposed first floor extension would lead to overlooking of her residential property to the south with a consequent loss of privacy to this property. She considers that any similar proposal to construct a first floor extension over her existing ground floor rear extension would be unacceptably close to the applicants' one and so the development potential and hence value of her property would be impaired by the current proposal. She draws attention to Paragraph 8.2.8.4(ii) of the CDP, which cites the conventional separation distance of 22m between directly corresponding first floor bedroom windows and the corollary of this distance, which is that rear gardens have a depth of 11m.

2.2 The applicants have responded by drawing attention to Paragraph 8.2.3.4 of the CDP, which addresses domestic extensions in conjunction with the criteria of overshadowing, overbearing, and overlooking. They point out that the first of these criterion would not arise, as the appellant's dwelling house lies to the south of the site. The second would not arise either as the design of the proposed first floor extension would be stepped in along its southern and western sides and so it would extend over only part of the existing ground floor extension. While its eaves line would coincide with the existing one, its ridge line would be stepped down from the existing one at a level that would be approximately half way up the rear roof hip. Thus, this extension would be seen against the backdrop of the

existing dwelling house and it would “read” as being subsidiary in scale to this backdrop. Consequently, the proposed first floor extension would not be overbearing.

2.3 The third of the aforementioned criteria is that of overlooking. The applicants consider that the combination of the separation distances that would be achieved and the difference in heights between their dwelling house (FFL c. 77.6m OD) and the appellant’s higher dwelling house (FFL c. 79m OD) would ensure that any overlooking would be mitigated.

2.4 I note from the submitted plans that the existing separation distance between the existing first floor habitable room windows in question is 23.804m and that this distance would tighten to 20.347m, i.e. it would change from being slightly above the minimum to being slight below. I note, too, that similar proposals elsewhere on the Birchfield Estate have entailed separation distances that continue to exceed 22m.

2.5 During my site visit, I observed that the two dwelling houses are slightly offset in relation to one another and that the aforementioned difference in finished floor levels is evident “on the ground”. I judge that these factors do and would continue to mitigate the degree of overlooking that occurs/would occur.

2.6 The case planner states in her report that the 22m figure is relevant to the original layout of housing estates and subsequent first floor extensions are to be assessed on their merits. My understanding of custom and practise within the planning system would support this approach.

2.7 Clearly, in the present case the proposed first floor extension would bring an existing bedroom window closer to the appellant’s residential property. The other existing bedroom window would be retained insitu and its outlook would be curtailed to the south east by the presence of the projecting first floor extension. Accordingly, the degree of overlooking from this window would be reduced. Thus, in the former case there would be the opportunity for increased overlooking and in the latter case there would be the opportunity for decreased overlooking. I, therefore, consider that these factors would balance one another out and so I do not consider that any significant overall increase in overlooking would result from the proposed first floor extension.

2.8 The appellant considers that any equivalent first floor extension in the future over her existing ground floor rear extension would result in an unacceptable relationship with the applicants' extended dwelling house, e.g. a separation distance of c. 17m. However, my observations in the preceding paragraph would suggest that, with good design, this need not necessarily be so. I thus do not accept that the development potential of her property would be jeopardised and its value impaired by the current proposal.

2.7 The Planning Authority's draft permission omits by condition a roof light from the rear roof plane and specifies obscure glazing to the first floor habitable room window in the side elevation of the existing dwelling house. The parties have variously welcomed and not objected to the former condition. The latter condition pertains to an existing window which serves a bathroom and so is obscured glazed. Given that this window would be retained insitu and used to serve a bedroom and given, too, that it would enjoy a very limited outlook, I do not propose to object to this condition.

2.8 I conclude that the proposal would be compatible with the amenities of the area.

### **(iii) AA**

The proposal is for a first floor extension and attic conversion to an existing fully serviced dwelling house in a suburban area. Consequently, no Appropriate Assessment issues would arise.

## **8.0 Recommendation**

That this proposal be permitted.

## **9.0 Reasons and Considerations**

Having regard to the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 and the pattern of development in the area, it is considered that, subject to conditions, the proposal would fulfill the Zoning Objective A for the site and it would adhere to the relevant development management advice for extensions to dwellings set out in Paragraph 8.2.3.4(i) of this Development Plan. This proposal would thus

be compatible with the visual and residential amenities of the area and so it would accord with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 20<sup>th</sup> day of March, 2017, 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 proposed development shall be amended as follows:
  - (a) The omission of the lower roof light on the rear roof plane.
  - (b) The specification of obscure glazing to bedroom denoted as no. 2 and the retention thereafter of such glazing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

3. 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.

4. 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.

5. The 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.

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Hugh D. Morrison  
Planning Inspector

11<sup>th</sup> May 2017