



An
Bord
Pleanála

Inspector's Report PL06D.248774

Development	Retention of single storey extension to rear, widened vehicular entrance to front, and rooflight to east elevation.
Location	3 Linden Lea Park, Stillorgan, Co. Dublin.
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D17A/0332
Applicant(s)	Jim & Angela Bradley
Type of Application	Retention permission
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	Jim & Angela Bradley
Observer(s)	Alan & Dulce O'Driscoll
Date of Site Inspection	13 th September 2017
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located a short distance to the south east of the Stillorgan Shopping Centre on the southern side of the residential cul-de-sac known as Linden Lea Park, which is accessed off Glenalbyn Road. To the west of this cul-de-sac is Pairce de Burca Kilmacud Crotker GAA Ground, which is accessed off a lane known as Glenalbyn that parallels Linden Lea Park to the south. Trees line the northern side of this lane where it abuts the ends of the rear gardens to Nos. 1 and 3 (the site) Linden Lea Park.
- 1.2. The site itself is of regular shape and it extends over an area of 0.037 hectares. This site accommodates an "L" shaped, semi-detached bungalow, which is sited centrally within the site and raised up above the level of the adjacent cul-de-sac. This bungalow is accompanied by front and rear gardens and it is served by a combined vehicular and pedestrian access off Linden Lea Park. The adjoining bungalow is to the east at No. 1 Linden Lea Park and the entire cul-de-sac is composed of semi-detached bungalows of a similar form and design to this pair, except for a new dwelling house that has been constructed more recently to the east of No. 1.
- 1.3. The bungalow on the site has been largely renovated. A single storey extension, which is the subject of this application, has been substantially completed to the rear. The original bungalow has a floor space of 110 sqm and the said extension has a floor space of 26 sqm. The adjoining bungalow at No. 1 has a conservatory to the rear. This conservatory and the accompanying rear garden are at a lower level than the site.

2.0 Proposed Development

- 2.1. The proposal is for the retention of the following items:
- 2.2. The aforementioned single storey rear extension. This extension is of rectangular form under a flat roof with a parapet wall to its exposed edges. It is sited in a position wherein it abuts the existing wall along the common boundary with Nos. 1 and 3. Its elevations to the rear garden at No. 3 are largely glazed and it is proposed to finish each elevation in nap render, which would be painted to an agreed colour.

- 2.3. The aforementioned combined vehicular and pedestrian access, which has been widened to 4.1m.
- 2.4. A roof light, which has been installed in the east facing roof plane over the front portion of the original bungalow. This roof light is intended to serve a shower room.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was refused for the following reasons:

1. *Having regard to the pattern of development in the vicinity of the subject property including the garden size to the adjacent dwelling house, it is considered that the development proposed for retention, by virtue of its excessive height and position along a party wall with No. 1 Linden Lea Park is overbearing and obtrusive when viewed from No. 1 Linden Lea Park and is seriously injurious to the residential and visual amenities of property in the vicinity, contrary to the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, and contrary to the proper planning and sustainable development of the area.*
2. *The excessively wide vehicular entrance to the subject dwelling house is considered to be detrimental to the visual amenities of the area, contrary to the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, and contrary to the proper planning and sustainable development of the area.*

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

See reasons for refusal.

3.2.2. Other Technical Reports

- **Transportation Planning:** Further information requested concerning the reduction of the vehicular entrance to a width of 3.5m in compliance with Section 8.2.4.9 of the CDP.
- **Surface Water Drainage:** No objection, subject to condition.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

See under observers.

4.0 **Planning History**

Enforcement enquiry 68/17.

5.0 **Policy Context**

5.1. **Development Plan**

Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 (CDP), the site lies within an area that is the subject of Zoning Objective A, “To protect and/or improve residential amenity.” Sections 8.2.3.4 (i) and 8.2.4.9 (i) and (ii) address extensions to dwellings and vehicular entrances and hardstanding areas, respectively.

5.2. **Natural Heritage Designations**

None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicants begin by drawing attention to the following matters:

- Five examples of larger rear extensions to dwelling houses on Linden Lea Park are cited, all of which received planning permission.
- The subject rear extension would be exempted development, but for the fact that its height rose to 3050 mm during the construction phase, due to the quest to ensure a continuous internal ceiling height and comply with Building

Regulations with respect to insulation, structure, and falls to remove rainwater from the flat roof. Nevertheless, they consider that this extension is appropriate to its location and it does not unduly impact upon neighbouring properties.

- Key points from the case planner's report are highlighted and relevant Sections of the CDP are cited.

The following are the applicants' grounds of appeal:

In relation to the first reason for refusal:

- Concern is expressed that the Planning Authority's first reason for refusal fails to reflect a balanced assessment of the subject rear extension. In this respect, particular attention is drawn to the comparable rear extension, which was permitted at No. 17 Linden Lea Park.
- The subject extension only exceeds the eaves height of the single storey dwelling house by 425 mm, thereby attracting the need for express planning permission. If this extension were to have a pitched roof rather than a flat one, then it would be possible for its exempted development status to be restored and yet the impact upon the neighbouring property at No. 1 Linden Lea Park would be much greater.
- The applicants' shadow analysis demonstrates compliance with the BRE's document entitled "Site Layout Planning for Sunlight and Daylight – A Good Practice Guide" (2011).

In relation to the second reason for refusal:

- While the vehicular entrance is 4.1m wide, given that the site's frontage is 11m, it does not dominate the same.
- Precedent for a vehicular entrance of this width is provided by the one at the nearby residential property known as Moyvalley on Glenalbyn Road (permitted application D10A/0477). (The CDP then operative contained the same requirement that vehicular entrances be no more than 3.5m wide).

6.2. Planning Authority Response

Reliance is placed upon the case planner's report, as no new matters are raised by this appeal.

6.3. Observations

The observers reside at No. 1 Linden Lea Park.

- They draw attention to the height of the subject rear extension above the ground level of their rear garden, i.e. 3650 mm. They also draw attention to the fact that, notwithstanding the impact of this extension upon their residential property, no reduction in this impact is being proposed.
- They discuss the other rear extensions on Linden Lea Park cited by the applicants and they contend that their comparableness is limited due to differences in siting, size, height, and design from the subject one.
- The subject extension exceeds the eaves height by 640 mm rather than 440 mm as stated by the applicants.
- Attention is drawn to the following factors:
 - The shallowness of the rear garden at No. 1 and the excessive size of the subject extension relative to the rear garden at No. 3.
 - The difference of 520 mm in the levels of rear gardens at Nos. 1 and 3 in favour of the latter.
 - The presence of trees to the south of the rear garden at No. 1 and the overshadowing caused thereby to this garden. Such overshadowing has increased, due to the subject extension, as illustrated by the observers' shadow analysis.
- A comparison is drawn between the boundary wall between Nos. 1 and 3 and the subject extension. The former, although 2150 mm in height, allowed sunlight to penetrate the observers' sunroom to a greater extent than the latter now does. The amenity of this sunroom and the rear garden has been compromised thereby and their residential property devalued.

- If any rear extension to the dwelling house at No. 3 were to be set back from the common boundary with No. 1, then the severity of the impact upon amenity could be ameliorated.

6.4. Further Responses

None.

7.0 Assessment

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

- (i) The need for planning permission,
- (ii) Visual and residential amenity,
- (iii) Access,
- (iv) Water, and
- (v) AA.

(i) The need for planning permission

7.1.1 The applicants and the observers have set out their own accounts as to how the single storey rear extension came to be recognised as one that is not exempted development.

7.1.2 I recognise that, as the rear eaves line to the applicants' bungalow is exceeded by the extension, under Item 4(c) of Class 1 of Part 1 of Schedule 2 to Article 6 of the Planning and Development Regulations, 2001 – 2015, such exceedance breaches the limitation or condition encapsulated in this Item and so planning permission is required. As the extension is substantially complete, retention permission is the appropriate type of permission.

7.1.3 I recognise, too, that the widening of the existing access to the site off Linden Lea Park and the insertion of a rooflight in, effectively, a front roof plane to the bungalow are works that are not exempted development under the

aforementioned Regulations and so they are correctly included in this application for retention permission.

7.1.4 I conclude that the works which are the subject of this application for retention permission are not exempted development and so the inclusion of each of them in the current application is necessary in a bid to regularise the unauthorised development that has occurred.

(ii) Visual and residential amenity

7.2.1 Under Section 8.2.3.4 of the CDP, “Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries, and quantum of usable rear private open space remaining.”

7.2.2 The single storey rear extension is of rectangular form under a flat roof with a parapet wall to its exposed edges. This extension is sited in a position that abuts the wall along the common boundary between the site (No. 3 Linden Lea Park) and the observers’ residential property (No. 1). The submitted plans show that it would have a depth of 5000 mm and a height of 3050 mm, of which 425 mm would be above the upper line of the eaves level to the pre-existing bungalow. On the observers’ side of the said wall, the height of the extension would present as 3570 mm, due to the lower depth of the rear garden by 520 mm. The height of the wall above this level is 2100 mm and so the height of the exposed elevation is 1470 mm over 5000 mm. (This wall has a total length of 9000 mm).

7.2.3 The rear elevations of the bungalows at Nos. 1 and 3 face slightly to the east of due south. The bungalow at No. 1 has a rear conservatory, which is sited c. 3000 mm from the wall along the common boundary with No. 3. As this wall and the exposed eastern elevation of the single storey rear extension at No. 3 are effectively to the west of this conservatory, the lighting of this conservatory and its adjoining patio and the lighting of a pair of glazed double doors to a living room in the rear elevation of the bungalow are affected by the presence of this extension. Likewise, the outlook from these spaces is affected by it.

7.2.4 The Planning Authority’s first reason for refusal refers to the size of the observers’ rear garden, the proximity of the single storey rear extension to this garden, and its height. This reason states that this extension is overbearing and

obtrusive when viewed from No. 1 and so seriously injurious to visual and residential amenity.

7.2.5 The applicants have responded to the said reason for refusal by drawing attention to other rear extensions that have been permitted to bungalows on Linden Lea Park, in particular the one at No. 17. They contend that these extensions are comparable to the one which is the subject of the current application/appeal. They also draw attention to versions of their extension which would be exempted development and they contend that these would have a similar or greater impact upon the observers' amenities.

7.2.6 The observers dismiss the aforementioned comparability contention of the applicants. I have examined the rear extension at No. 17 and I note that it was permitted for construction in a position abutting the wall to the common boundary with No. 19 and I note, too, that its depth along this wall is 3014 mm and its height coincides with the existing eaves. The extension is accompanied by a dormer extension to the rear roof plane, which extends over the ground floor extension to a depth of c. 1000 mm. Accordingly, there are similarities and dissimilarities between this extension and the one now proposed for retention. The resulting impacts upon, in this case, morning lighting to and outlook from No. 19 are probably not as great as those that arise at No. 1, although any comparison is complicated by a measure of first floor overlooking that occurs from the dormer extension.

7.2.7 Both the applicants and the observers have submitted lighting studies.

- The former draws a comparison between the overshadowing that arises from the rear extension "as built" and that which would arise from a flat roofed version of this extension, the height of which would coincide with the eaves of the pre-existing bungalow and so it would have exempted development status. This study concludes that the difference in overshadowing between these two extensions is/would be insignificant. It is also accompanied by a commentary on the lighting of No. 1, which concludes that, under the BRE document entitled "Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice (2011)", lighting is compliant with advice set out in this document both with and without the extension insitu.

- The latter draws a comparison between the overshadowing that arose in the absence of the extension and the overshadowing that arises now from this extension. An increase in the overshadowing of the rear conservatory at No. 1 is thereby identified from mid-afternoon on during the Spring and Autumn Equinoxes and to a lesser extent during the Summer Solstice.

7.2.8 I consider that the former comparison is of limited value as any proposal requiring planning permission falls to have its impacts assessed in their totality rather than disaggregated between notionally exempted development portions and non-exempted development portions of the proposal. I consider that the latter comparison indicates that lighting of the conservatory is being affected, although not to such an extent as to infringe the BRE's advisory document. The question thus arises as to whether this impact is so significant as to warrant objection to the subject extension. The observers clearly consider that it does. In this respect, I note that their rear garden is relatively small and that its lighting is already affected by trees beyond its rear boundary, which are outside the observers control. I note, too, that, while these trees may be cut back from time to time, the extension is a permanent structure.

7.2.9 Clearly, in a suburban context the reasonable expectations of householders to extend their dwelling houses need to be balanced against the reasonable expectation of neighbours to maintain their amenities. In the current case, the applicants' extension is not disproportionate to either their existing bungalow or their rear garden. While the observers' conservatory functions as a living room, I consider that its status should be distinguished from that of a living room in the main body of the bungalow for amenity purposes, as it is customary for conservatory's to be used on a less than year round basis. That said its amenity is disproportionately affected by the lighting it receives. From the evidence before me, such lighting has always been affected by the adjacent wall along the common boundary and it is now affected to a greater extent by the extension. The pair of glazed doors to the living room are likewise affected to a greater extent and the accompanying western side of the patio.

7.2.10 By way of mitigation, the applicants could finish the extension in self-colouring render, in a bid to maximise upon the opportunity to reflect light. However, such mitigation would not undo the identified increase in overshadowing and

the related issues of obtrusiveness and sense of overbearing and enclosure that results from the expanse of the eastern elevation protruding above the common boundary wall. The observers have intimated that, if the extension were set back from this wall, then the impacts upon lighting and, by the same token, obtrusiveness, overbearing, and enclosure would be capable of being mitigated. Such an option could have been explored, but for the fact that this is a retention situation.

7.2.11 I consider that, on balance, the impacts upon the amenities of No. 1 are of such an order that objection to the proposal is warranted. I also consider that the alternative approach identified by the observers would potentially achieve the mitigation that is needed.

7.2.13 The roof light in the eastern plane to the front roof of the applicants' bungalow has, due to the shape and elevated position of this bungalow and the proximity of the adjoining one to the east, very limited visibility from street level. Accordingly, this rooflight has no appreciable affect upon the streetscape and so visual amenity is unaffected. I, therefore, raise no objection to its proposed retention.

7.2.13 I conclude that the extension, due to the impacts that it has upon the lighting to and outlook from the property at No. 1 Linden Lea Park, has a seriously injurious affect upon the visual and residential amenities of this property and so objection to it is warranted.

(iii) Access

7.3.1 The combined vehicular and pedestrian access to the site has been widened to 4.1m. It thus exceeds the maximum width of 3.5m cited under Section 8.2.4.9 of the CDP, which has been established in the interest of public safety.

7.3.2 The Planning Authority's second reason for refusal refers to the said increase in width. However, exception is taken to this increase on visual amenity grounds rather than public safety grounds. The applicants have responded by stating that within a frontage of 11m, an opening of 4.1m is not excessive. They also cite a precedent for a wider than 3.5m access on the nearby Glenalbyn Road.

7.3.3 I consider that the access should be assessed in the first instance within the context of Linden Lea Park. No evidence has been presented by the applicants to indicate that there are any examples of oversized accesses along this cul-de-sac. Likewise, no evidence has been presented to justify a departure from the maximum in terms of the road layout and associated vehicular manoeuvres. I, therefore, consider that the maximum should be respected, primarily on public safety grounds. I consider that the widened access is not particularly injurious to the streetscape. However, it would, if permitted, risk the establishment of an adverse precedent for the remainder of the cul-de-sac, which cumulatively would lead to such injury. The restriction of the width to 3.5m could be conditioned.

7.3.4 The submitted plan of the front garden of the site shows the provision of an extensive drive and minimal planted beds. Under the aforementioned Section, a minimum of a third of such gardens should be maintained as grass or landscaped. Likewise, drives should be constructed in accordance with SuDS, surface water run-off should be intercepted before it reaches the road, and, where gravel is used to surface drives, a means of retaining the same should be specified. The applicants should comply with these requirements by means of a condition, too.

7.3.5 I conclude that, subject to certain revisions to the site access and associated works to the front garden, access arrangements to the site would be capable of compliance with relevant advice set out in the CDP.

(iv) Water

7.4.1 The site is served by the public mains water supply and sewerage system. Surface water from the single storey rear extension and accompanying patio would discharge to a soakaway in the rear garden.

7.4.2 The OPW's draft preliminary flood risk assessment maps and its flood maps website do not identify a flood risk attendant upon the site on Linden Lea Park.

(v) AA

7.5.1 The site is neither in nor near to a Natura 2000 site. This residential site is on a serviced urban one and the relevant proposed retention works are for a single

storey rear extension, a rooflight, and a widened access only. Accordingly, Appropriate Assessment issues would not arise.

7.5.2 Having regard to the nature and scale of the proposal, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That the proposal, on balance, be refused.

9.0 Reasons and Considerations

Having regard to the siting of the single storey rear extension in a position abutting the common boundary wall with the rear garden to No. 1 Linden Lea Park, the height and depth of its eastern elevation that is visible above this wall, the lower level of this rear garden and its relative smallness, and the proximity of both a pair of glazed doors to the living room in the bungalow at No. 1 Linden Lea Park and a conservatory to the rear of this bungalow, the Board considers that this extension proposed for retention has resulted in a significant increase in the overshadowing of No. 1 Linden Lea Park and its visibility from within this residential property is such that it appears obtrusive and overbearing resulting in a heightened sense of enclosure to outlooks from within this property. Consequently, it is seriously injurious to the visual and residential amenities of No. 1 Linden Lea Park and, as such, it is contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

15th September 2017