



An  
Bord  
Pleanála

## Inspector's Report ABP-300528-17

### Development

Construction of a first floor en-suite bedroom extension over the existing single storey kitchen extension to the rear of a dwelling house, internal modification works and new door and window openings to the existing side and rear external walls.

### Location

8 Inbhir Ide, Malahide, Co. Dublin.

### Planning Authority

Fingal County Council

### Planning Authority Reg. Ref.

F17A/0665

### Applicant(s)

Niall McDermott & Orla Griffith.

### Type of Application

Permission.

### Planning Authority Decision

Grant

### Type of Appeal

First Party v Condition.

### Appellant(s)

Niall McDermott & Orla Griffith.

### Observer(s)

None.

### Date of Site Inspection

14<sup>th</sup> March 2018.

### Inspector

Patricia Calleary

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## **1.0 Site Location and Description**

- 1.1. The appeal site with a stated area of c.0.03 hectares is located within an established residential area, 'Inbhir Ide' which is c.1 km west of Malahide village centre in north County Dublin. The site is occupied by an end of terrace two-storey, three-bedroom dwelling. The existing dwelling has a single storey rear extension, which extends to a depth of 5m. The rear garden is c.16.5m in length beyond the existing extension.
- 1.2. The dwellinghouses located either side, south east (No. 6) and north west (No.10), are of similar design. No.10 has a single storey extension added to the rear.
- 1.3. Boundaries of the site consist of two-metre-high block walls, timber fencing and mature planting.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise a first-floor extension to accommodate an en-suite bedroom, located over the existing single-storey kitchen extension to the rear. It would have a stated gross floor area (GFA) of 18.5 sq.m and would measure 5m in length and just under 4m in width. The rear wall would coincide with the rear wall of the existing single-storey extension to the rear of the dwelling. It would measure 7m in height and have a part hipped and part pitched roof, visible only to the rear, with eaves matching the existing house. The extension would be separated c. 2.4m from the centreline of the site boundary with the adjoining house, No.6, to the east and it would project c.900mm past the gable of the host house on the west side. The walls would be finished in nap plaster to match the existing house.
- 2.2. Internal modifications and a new patio door and window openings to the existing side and rear external walls are also proposed as part of the development.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority issued a notification of a decision to grant permission subject to nine conditions including Condition No.3 which is the subject matter of this appeal.

Condition No.3 requires the first-floor element of the proposed extension to the rear to be reduced in length so that it would not extend more than four metres beyond the existing rear building line. The condition and reason for its attachment read as follows:

- **C3:** The first-floor element of the proposed extension to the rear of the subject dwelling shall be reduced in depth so that it extends no more than four metres beyond the existing rear building line, when measured externally.

**Reason:** To protect the residential amenity of adjoining properties.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- Development accords with the 'RS' zoning objective pertaining to the site and the site is of a size which can cater for the development;
- Proposed design integrates appropriately with the character of the area and will not negatively impact on the visual amenities of the area;
- Depth of extension is excessive and would be visually over-dominant for the adjoining property to the east. Rear extension should be reduced in depth to 4m. This would accord with an established precedence within the residential area to the south west where a similar extension was conditioned so that it would not project more than 4m beyond the rear building line at first-floor level.

#### 3.2.2. Other Technical Reports

- Not referred

### 3.3. Prescribed Bodies

- Not referred

### 3.4. Third Party Observations

- None

## 4.0 Planning History

### 4.1. Appeal site

- None

#### 4.2. Vicinity

- **F06B/0469** (No.9 Inbhir Ide, 2006). Permission was granted for the demolition of the existing garden shed to the rear and construction of a single storey porch at the front, a two storey extension to the side and rear. Condition No.2 of the permission required the first-floor element of the extension to the rear of the dwelling to be reduced in depth so that it extends no more than 4m beyond the rear building line.
- **F14B/0207** (No.2 Inbhir ide, 2014). Permission was granted (as part of a split decision) for an extension extending the full width of the garden. The first floor extended 2.7m behind the building line of the house.

### 5.0 Policy Context

#### 5.1. Development Plan

5.1.1. The policies and provisions of the Fingal Development Plan 2017-2023 apply. The site lies within an area zoned 'RS' which has a stated aim to 'provide for residential development and protect and improve residential amenity'.

5.1.2. Chapter 3.4 (Sustainable Design Standards) of the Plan is relevant, including the following extracts:

- **Extensions to Dwellings:** The need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.
- **Objective PM46:** Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.
- **Objective DMS42:** Encourage more innovative design approaches for domestic extensions.

## 5.2. Other

5.2.1. 'Site layout planning for daylight and sunlight: a guide to good practice' (BRE 2011).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. An appeal was received from David Byrne representing the first party. The appeal relates solely to Condition No.3 attached to the Planning Authority's decision. The appeal asserts that the condition is unduly restrictive and unnecessary. A summary of the principal planning matters raised is set out below:

- Proposal is designed to build on the external walls of the ground floor extension on two sides, to incorporate a step back 2.4m away from boundary with an adjoining neighbour, as well as a hipped new roof slope to prevent overlooking and overshadowing.
- Neighbours are satisfied with the proposal and no submissions or observations were made on the planning application.
- Pre-planning advice referred to BRE Report 'Report, 'Site layout planning for daylight and sunlight: a guide to good practice' (BRE 2011) including: Sections 2.2.15-2.2.17 and following an assessment of the design, extension was narrowed by 0.4m in width to 2.4m.
- The proposed extension design would not traverse the 45-degree line.
- Reducing the length of the extension at first floor from 5m to 4m would severely compromise the design and would result in the removal of the en-suite bathroom, which would impact on enjoyment of the property and on out future needs.
- Refers to two planning permissions within Inbhir Ide as follows:
  1. **F06B/0469** (No.9 Inbhir Ide) where the extension extends to 5m beyond the existing rear building line at ground and first floor level and 2 metres away from the adjoining property (July 2006);

2. **F14B/0207** (No.2 Inbhir ide) whereby an extension was permitted extending the full width of the garden (2014).

## 6.2. **Planning Authority Response**

6.2.1. The Planning Authority's response to the appeal can be summarised as follows:

- Advice provided during pre-planning consultations is without prejudice.
- F06B/0409 reference in the appeal, relates to an extension which was reduced to 4m in depth by condition and is considered the most relevant to the current proposal.
- F14B/0207 was c.2.7m in depth from the rear building line at first floor.

## 6.3. **Observations**

- None

## 7.0 **Assessment**

### 7.1. **Introduction**

- 7.1.1. This is a first-party appeal which is made only against Condition number 3 attached to the Planning Authority's decision to grant permission. Condition number 3 generally requires revisions to the proposed first-floor extension so that it would not project further than 4m beyond the existing house rear building line. The appellant considers this to be very onerous and one which would compromise their enjoyment of the dwellinghouse in its extended form.
- 7.1.2. Having regard to the nature of the condition which is the subject matter of the appeal and to the absence of third-party submissions, my recommendation is that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted, and therefore the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended. I set out my considerations of the appeal against Condition number 3 accordingly.

## 7.2. Condition number 3 assessment

- 7.2.1. The assessment criteria for extensions are set out under Chapter 3.4 (Sustainable Design Standards) of the current Fingal Development Plan 2017-2023. In recognising the need for people to extend and renovate their dwellings, Fingal County Council policy provides that extensions are considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Objective PM46 also encourages sensitively designed extensions which do not negatively impact on the environment, on adjoining properties or on neighbouring areas. Objective DMS42 encourages more innovative design approaches for domestic extensions.
- 7.2.2. The property comprises an end of terrace two storey dwelling with rear access to the north-west side. The grounds of appeal assert that the extension is designed to minimise any impact of enjoyment of daylight and sunlight on adjoining properties. It is submitted that an assessment of the design was carried out in accordance with 'Site layout planning for daylight and sunlight: a guide to good practice' (BRE 2011), specifically Section 2.2.15 – 2.2.17 and that this led to a reduction in the width of the extension as originally proposed by 0.4m to arrive at a 2.4m separation distances between the line of the proposed extension and the separating boundary with the neighbouring house, No.6.
- 7.2.3. It is evident that the extension which would be largely positioned to the rear of the dwelling, extending c.900mm to its north-west side would integrate well with the host and adjoining properties. This is particularly so when taken into account that it would be finished with similar materials. Accordingly, I am satisfied that the extension would not be injurious to the visual amenities of the streetscape or negatively impact on the environment or neighbouring areas in this regard.
- 7.2.4. The main issue which requires consideration is the impact that the extension might have on the residential amenities of neighbouring properties. This consideration was central to the reason for the attachment of condition No.3 by the Planning Authority. In view of the location in a terraced arrangement, the directly adjoining property to the south-east, No.6, requires particular consideration. It is evident due to the separation between the extension and the property to the north-west, No.10, issues of residential amenity would not arise on this side.



- 7.2.5. In terms of **overlooking**, no windows are positioned on the south-east or north-west elevation of the proposed extension, and, accordingly, no overlooking could conceivably result onto the houses on either side. The extension would project by c.900mm out from the north-western gable of the house and would be positioned behind the rear building line. A very small window would be incorporated into the ensuite which would provide natural light and ventilation. This window would face forward/south west and because of its size and location, it would not result in any overlooking issues onto neighbouring properties. Due to the large garden associated with the property and neighbouring properties and noting the separation distance which exists between the appeal property and properties to the rear of the appeal site and to the mature boundary treatment, no overlooking issues arise on neighbouring properties.
- 7.2.6. In relation to **overshadowing** and **daylight and sunlight** issues, the neighbouring dwelling, No.6 would be the most sensitive of both neighbouring dwellings. In this regard, the provisions of the BRE Report 'Report, 'Site layout planning for daylight and sunlight: a guide to good practice (BRE 2011)' is relevant as in addition to giving guidance on planning developments to make good use of daylight and sunlight, it also determines the impact of new development on adjoining properties. The BRE guide recommends that at least 50% of the area of each amenity space should receive at least two hours of sunlight on 21<sup>st</sup> March. The 50% criterion is also applicable when assessing the impact of a development on an existing neighbouring amenity area. The appellant has presented a drawing demonstrating that the proposed extension would not traverse the 45-degree line.
- 7.2.7. While the application or appeal were not accompanied by any shadow analysis, having regard to the relationship of the proposed extension which would be separated from the boundary of the neighbouring garden associated with No.6 by a distance of 2.4m and given that both houses face north-east, potential for the proposed development to excessively restrict sunlight and daylight to neighbouring properties, including No.6 is limited. While recognising that the proposed extension would to some degree overshadow the garden associated with No.6 in evening time, as the sun path moves to the west, significant overshadowing of the garden of this property would not arise, given the positioning and orientation of the proposed extension relative to the rear garden of No.6. Impacts on the property to the north-

west would be less due to the mature hedgerow and the separation distances which exist.

7.2.8. The proposed development in its original format would not unduly affect third-party amenities via loss of sunlight or daylight, nor would it result in excessive overshadowing of properties, including the adjoining property to the south east.

7.2.9. In terms of the matter of whether or not the extension would be **overbearing**, I do not consider that it would be excessive or overly dominant having regard to the extensive garden length of 16.5m and the separation distance from either adjoining properties, including the separation distance of 2.4m from the boundary of the property to the east.

### 7.3. **Conclusion on condition No.3**

7.3.1. Having regard to the orientation of the site and the design of the proposed extension, and to the separation distance from the proposed extension to neighbouring properties including the most sensitive dwelling, No.6 to the south east, I am satisfied that the proposal would not give rise to any unacceptable negative impact on the residential amenity of this property or other neighbouring properties and would not lie contrary to provisions of Objective PM46 of the Fingal Development Plan 2017-2023. Accordingly, I recommend that the Planning Authority are directed to remove condition no. 3 which I consider is not warranted in this instance.

### 7.4. **Appropriate Assessment**

7.4.1. Having regard to the minor nature and scale of the proposed development, the location of the site in a serviced urban area and the separation distance to the nearest 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.

## 8.0 **Recommendation**

8.1. Having regard to the nature of the condition the subject of the appeal, it is considered that the determination of the relevant application as if it had been made

to the Board in the first instance would not be warranted and it is recommended that based on the reasons and considerations set out below, that the Planning Authority are directed under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to **REMOVE** condition number 3.

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the orientation of the site and the design of the proposed extension, and to the separation distance from the proposed extension to neighbouring properties including the most sensitive dwelling, No.6 to the south east, it is considered that the proposed development would not seriously injure the residential amenity of neighbouring properties and would not lie contrary to Objective PM46 which encourages sensitively designed extensions which do not negatively impact on the environment, on adjoining properties or on neighbouring areas. The proposed development based on the design submitted with the application, would, therefore, be in accordance with the proper planning and sustainable development of the area.

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Patricia Calleary  
Senior Planning Inspector

26<sup>th</sup> March 2018