



An
Bord
Pleanála

Inspector's Report ABP-300625-18.

Development	Demolition of extensions, garage and chimney and construction of extension to rear and side.
Location	6 Connolly Avenue, Malahide, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F17A/0622.
Applicant(s)	Niall & Sinead O'Mahony.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Ian Boyle.
Observer(s)	None.
Date of Site Inspection	24 th April 2018.
Inspector	Karen Kenny.

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1.0 Site Location and Description

- 1.1. The appeal site is located on the southern outskirts of Malahide. It is within a residential cul-de-sac known as Connolly Avenue that is accessed from Kinsaley Lane.
- 1.2. Connolly avenue is characterised by low density residential development. There are single storey cottages along the cul-de-sac that date from the 1930's (approx.). Many of the cottages have been modified and / or extended and a number of infill dwellings have been constructed in the side and rear garden areas of the original cottages.
- 1.3. The subject site contains a semi-detached cottage with hipped roof over. The site, with a stated area of 0.054 hectares, is irregular in shape with a large garden area to the rear. The original cottage has been extended to the side and rear and there is a single storey garage to the rear of the dwelling. The western and southern boundaries comprise a low block wall, while the eastern boundary comprises hedge planting and shrubbery. There is an attached single storey cottage to the east of the site and an access lane bounds the site to the west.

2.0 Proposed Development

- 2.1. Permission is sought to demolish existing extensions to the side and rear of the original cottage, to construct a single storey extension to the side and rear and to widen the existing vehicular access.
- 2.2. The extension has a stated floor area of 148.2 square metres, while the completed dwelling has a stated floor area of 198.9 square metres.
- 2.3. The extension comprises two pitched roof blocks that run parallel to the original cottage. The blocks reflect the profile and scale of the cottage and are linked to by flat roof elements.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to conditions. The following conditions are of note:

- Condition no. 2: Revised drawings to be submitted, omitting pitched roof over kitchen / dining / living block and replacing it with a flat roof or sloped roof profile of a maximum roof height of 3.5 metres.
- Condition no. 3: Revised drawings to be submitted showing the set back of 1.4 metres off the eastern boundary increased to 1.8 metres.
- Condition no. 4: Kitchen window on western elevation to be omitted and replaced with a high-level window, living room window on eastern elevation to be omitted and relocated to the southern elevation, and glazed hallway window on eastern elevation to be omitted.
- Condition no. 6: 1.8 meter high solid boundary to be provided along the entire eastern boundary.
- Condition no. 7: Vehicular entrance to be a maximum of 4 metres wide and front boundary wall not to exceed 900mm.
- Condition no. 9: Noise insulation to be provided to an appropriate standard having regard to the location of the site in Outer Airport Noise Zone.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's Report includes the following considerations:

- Development accords with RS zoning objective.
- Development results in a visual improvement to the existing cottage and the design and finish integrates appropriately with the established character of the area and will not negatively impact on the visual amenities of the area.
- Site is of sufficient size to cater for the level of development proposed.

- Considered that the design is not overbearing or overly dominant.
- To address concerns raised regarding visual impact, set back, overshadowing and overlooking of adjoining properties, the report recommends alterations to the design of the extension.
- The report notes that the transportation section seek additional information in relation to technical details. Considered that requirements can be overcome by condition.

3.2.2. Other Technical Reports

Transportation Section: Further information sought in relation to sightlines and recommended that width of entrance should be restricted to 4 metres.

Water Services: No objection.

3.3. Prescribed Bodies

Irish Water: No objection.

DAA: Development is in the Outer Airport Noise Zone. Full assessment of noise environment recommended and appropriate noise mitigation to ensure that internal noise levels are appropriate for habitable rooms.

3.4. Third Party Observations

One no. third party submission was received from the residents of the neighbouring property to the east and considered by the Planning Authority. The issues raised can be summarised as follows:

- Contravention of Development Plan policy relating to extensions.
- Scale of extension is excessive. Size, height and setback would result in unacceptable visual impact and overshadowing of private open space of adjoining property and impact on amenity.
- Windows would result in overlooking.

- No consent to demolish garage / shed that is associated with adjacent property.
- Clarification required in relation to boundary treatment and total floorspace.
- Planning history and previous planning consents seek to protect residential amenity.

4.0 **Planning History**

None.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan. A number of Development Plan objectives are relevant:

- The site is zoned RS “provide for residential development and protect and improve residential amenity” under the Fingal County Development Plan 2017-2023.
- Objective PM46 encourages sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.
- Chapter 12 sets out Development Management standards. Section 12.4 states that ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space. Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation), and impacts on residential amenity.

5.2. **Natural Heritage Designations**

None.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Appeal relates to condition no. 3 of the notification to grant permission. Condition appears to have been erroneously worded. The condition states that the minimum set back to the eastern boundary of 1.4 metres be increased to 1.8 metres. The minimum setback is 0.44 metres. Consider that a minimum setback of 1.8 metres along the eastern boundary is reasonable and that this is what was intended.
- Modifications to the original proposal required by the notification to grant permission are welcome and generally appropriate. In the event that the Board consider the application de novo, request that the concerns raised in the appellant's submission to the Planning Authority are given due consideration. The appellants are in favour of condition no. 2 being retained.

6.2. Applicant Response

The applicant's response can be summarised as follows:

- Design considered the angled nature of the rear garden and proximity to adjoining properties.
- The staggered footprint results in a number of setbacks from the adjoining eastern boundary.
- The extension does not exceed the ridgeline and thus, minimises the impact when viewed from the front.
- Extension would increase separation distance between dwellings relative to the existing situation.
- Condition no. 2 seeks to omit pitched roof over kitchen / dining / living block. Planning Authority's rationale relates to concerns raised in a third party. This block is located at the furthest point from the adjacent property and the

pitched roof would not give rise to overshadowing or visual impact beyond the current situation.

- Condition no. 3 relates to setback off eastern boundary. Applicant's interoperation is that this condition refers to the middle block which has a setback of 1.4 metres off the eastern boundary and not the rear block referenced in the grounds of appeal. The increased setback to 1.8 metres would seriously compromise the development. A solid boundary wall of up to 2 metres will be constructed along the shared eastern boundary and it is considered that the separation of 1.4 metres is satisfactory. Request that the condition is omitted. However, if it is not omitted request that clarification is provided.
- Condition no. 4 relates to window openings. The applicants have concerns with regard to the rationale for omitting and relocating windows, and the impact of same on the functionality and usability of the areas that they serve. The window on the western elevation faces a laneway and is over 7 metres from the boundary wall of the adjacent property no. 6a. The living room window on the eastern elevation is 2-3 metres from the shared boundary and a solid boundary is to be provided along the eastern boundary. No overlooking would therefore occur. The glazed hallway window on the eastern elevation is setback by 1.7 metres from the shared eastern boundary and a solid boundary is to be constructed between the two properties.
- Accept proposal to provide a permanent boundary along the eastern boundary and the condition in relation to the width / design of the vehicular entrance and front boundary wall.
- The proposal to remove structures off the shared boundary is a civil matter.

6.3. Planning Authority Response

The 1.4 meter separation was not referenced in error. Condition no. 3 refers to the master bedroom extension which has a proposed separation distance of 1.4 metres from the eastern boundary. The layout was assessed as being an acceptable response to site constraints subject to amendment.

6.4. Observations

An observation has been received from the Dublin Airport Authority (DAA). The DAA requests that a similar condition to condition no. 9 of the notification to grant permission is applied, which requires noise insulation to an appropriate standard.

7.0 Assessment

7.1.1. A third-party appeal has been received in relation to condition no.3 of the notification to grant permission. I would note that the appeal submission and the applicant's response to same, addresses a wider range of issues on the basis that the Board may consider the appeal 'de novo'. The option is open to the Board to use its discretionary powers under Section 139 of the Planning and Development Act 2000 (as amended) and to confine its considerations to Condition no. 3 only. In this instance the Board would issue a direction to the Planning Authority to retain, remove or amend the Condition No. 3. However, having regard to the range of issues raised in the appeal submission and in the applicant's response in relation to the impacts on the amenities of adjoining properties, the impact of the modifications set out in the notification to grant permission and the extent of overlap between these issues, I recommend that the application is considered 'de novo'.

7.1.2. I consider that the relevant issues in determining the appeal are as follows:

- Visual Impact
- Impact on Residential Amenity
- Appropriate Assessment Screening

7.2. Visual Impact and Impact on the Residential Amenity

7.2.1. This appeal relates to a semi-detached cottage. The original semi-detached cottage (c. 1930's) has a hipped roof and a footprint of approximately 50 square metres. Permission is sought to remove later extensions and to construct a single storey extension to the side and rear. The extension, with a stated floor area of 148.2 square metres, comprises two rectangular pitched roof blocks that are linked by flat roof sections.

- 7.2.2. The appeal relates to condition no. 3 of the notification to grant permission. The appeal submission refers to ambiguity in the wording of the condition. They request that the wording is amended to ensure that the 'kitchen / dining / living' block to the rear is setback off the eastern boundary by a minimum of 1.8 metres to address concerns in relation to overlooking, overshadowing and visual impact. However, the applicant contends that the condition refers to the middle block and not the rear block. The response of the Planning Authority confirms that the intended purpose of the condition was to set the middle block back by a further 0.4 metres to 1.8 metres. The applicant in response to the condition, states that the extension is designed to respond to the site context and that no undue impacts would occur.
- 7.2.3. The appeal site is positioned to the west of the appellants dwelling. The extension is single storey. The pitched roof sections have a stated ridge height of 5.3 metres, while the flat roof sections have a stated parapet height of 3.5 metres. The extension is set off the eastern boundary by a minimum of 1.4 metres for the most part, save for a single pinch point to the rear, where the setback narrows to c. 0.8 metres. I would note that the submitted site layout plan refers to a 0.44 metre setback in error. In terms of overshadowing, I am of the opinion, having regard to the orientation and design of the extension, that an adequate set back is proposed from the adjacent residential property to the east, and that it would not give rise to undue overshadowing of that property.
- 7.2.4. In relation to overlooking and the conditions of the notification to grant permission that require the applicant to omit or alter windows, I would concur with the applicant's response. The provision of a solid boundary of 1.8 – 2.0 metres along the full extent of the eastern boundary (as required under condition no. 6) would offset any potential for undue overlooking from the ground level windows. I would also agree that the separation of over 7 meters between the western elevation and the opposing dwelling to the west, is adequate to mitigate against any potential for overlooking of properties to the west from ground level windows.
- 7.2.5. In terms of visual impacts and impact on the character of the area, while the extension is substantial in its footprint relative to that of the original cottage I am satisfied that the design and finish integrates appropriately with the existing cottage and that it would not impact negatively on the visual amenities of the area. I am also satisfied that the overall scale and massing of the development is appropriate the

site and to its context and that the development would not be unduly overbearing or intrusive when viewed from surrounding properties.

7.3. Other Issues

- 7.3.1. The appeal site is within Dublin Airport's Outer Noise Zone. Objective DA07 of the Development Plan seeks to strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone. The DAA recommend that a condition is attached in the event of a grant of permission requiring noise insulation to an appropriate standard. In the event that the Board is minded to grant permission, I recommend that a condition be included to this effect.
- 7.3.2. I would note that the Report of the Transportation Section sought further information in relation to sightlines from the vehicular entrance. Having regard to the fact that there is an existing vehicular entrance at this location and that the site is located along a narrow cul-de-sac where vehicle speeds are low I consider the available sightlines to be adequate. A condition is included within the notification to grant permission (Condition no. 7) stating that the vehicular entrance shall not exceed 4 metres in width and that the front boundary wall shall not exceed 900 mm. In the event that the Board is minded to grant permission I would recommend that a condition is attached to this effect.
- 7.3.3. The drawings and details submitted with the application and in response to the request for additional information, are considered to satisfactorily address surface water drainage, foul drainage and water supply. Matters of details can be agreed with the Planning Authority prior to the commencement of development, and I would recommend a condition to this effect.

7.4. Appropriate Assessment Screening

- 7.4.1. Having regard to the minor nature of the development and its location in a serviced urban area, 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

8.1.1. I recommend that permission be granted subject to the conditions set out below.

9.0 Reasons and Considerations

9.1.1. Having regard to the location of the site within Malahide and the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not conflict with the objectives of the Fingal Development Plan. The proposed development would, therefore, be in accordance 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, 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) A high solid boundary of not less than 1.8 metres in height shall be provided along the entire eastern boundary of the site.
 - (b) The vehicular entrance shall be 4 metres in width and the front boundary wall shall not be higher than 0.9 metres in height.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 residential amenity and traffic safety.

3. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

4. The proposed dwelling shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within the Outer Airport Noise Zone.

Reason: In the interest of residential amenity.

5. 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.

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.

Karen Kenny
Senior Planning Inspector
24th April 2018