



An  
Bord  
Pleanála

## Inspector's Report ABP-300894-18

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<b>Development</b>	Extension and alterations to dwelling.
<b>Location</b>	Cova, Thormanby Road, Baily, Howth, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F17A/0697
<b>Applicant(s)</b>	Fiona and Chicko Mifsud.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Brian Gillespie & Pascal Letellier.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	30 <sup>th</sup> April 2018.
<b>Inspector</b>	Karen Kenny

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## 1.0 Site Location and Description

- 1.1. The site is located between Thormanby Road and Carrickbrack Road in Howth. This is an established residential area located to the south of Howth Summit.
- 1.2. The site is a rectangular site with a stated area of 0.3109 hectares. Development in this area fronts onto Thormanby Road to the east. There is a detached dwelling on the site that is single storey in character with a large dormer on the front elevation. There is a shed to the rear of the site. The dwelling is setback within the site by approximately 70 metres and a single storey extension to the side of the main dwelling extends along the north western site boundary. Ground levels rise steeply between Thormanby Road and the Carrickbrack Road to the rear. The dwelling is c. 10 metres above the level of Thormanby Road and there is a rear garden area to the rear of the dwelling that cuts into the slope of the site. Alongside Thormanby Road, the appeal site is bounded by a low wall and hedge while there is a high boundary to the Carrickbrack Road.
- 1.3. The site is bounded by residential properties to the north (Four Winds) and south (St. Benedict's). The dwelling to the north is a detached two storey dwelling, while the dwelling to the south is a single storey dwelling with a dormer level. Dwellings in the area are typically detached and set within large sites. While the area is characterised development of varying styles, more recent upgrades or replacements in the area have adopted a contemporary architectural style.

## 2.0 Proposed Development

- 2.1. Permission is sought to alter and extend the existing dwelling on site. The development would represent a comprehensive redesign and refurbishment of the existing dwelling and comprises the following elements:
  - Replacement of existing front, rear and side elevations to provide new contemporary elevations,
  - Alterations to the internal layout at ground and first floor levels,

- Ground floor extension on the south-eastern side of the dwelling (c. 30 square metres),
- Addition of a new first-floor level through the extension of the existing dormer level (c. 146 square metres).
- Revised fenestration with larger window opens at ground and first floor levels and an extended balcony,
- Removal of the existing pitched roof and the provision of a mono pitched roof over the extended dwelling. The parapet height at the front (highest point) would be c. 8.1 metres above ground level, while the parapet height to the rear would c. 6 metres above ground level.
- Replace existing septic tank and percolation area and install a new proprietary waste water treatment system and SUDS drainage.
- A single storey flat roof element along the north-western site boundary is to be retained in situ.
- External finishes consist of rendered wall finishes on all elevations, glazed fenestration and pressed metal capping at parapet level.

2.1.1. The application is accompanied by a Site Suitability Assessment Report.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission subject to conditions. Condition no. 6 requires the applicant / developer to submit a Tree Protection System for trees that are identified within the Howth SAAO. The hedge along the southern boundary is to be retained.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer's Report includes the following considerations.

- The site is zoned RS Residential.

- The site is within the area of the Howth SAAO, which provides guidance in relation to new buildings.
- SAAO Map B identifies mature trees for protection that are located along the shared boundary with 'Four Winds' the adjoining dwelling to the north.
- The proposal integrates appropriately with the character of the area due to the large site, setback from the road and the presence of other modern houses in the area.
- It is considered that the proposal would not have any significant negative impact on the residential amenity enjoyed by neighbouring residents.
- The proposed development is not intensifying the residential use of the site and as such the request for the Transportation Planning Section for sightline drawings is considered overly onerous. Issues raised by the Parks Section in relation to the protection of existing planting can be addressed by condition.

### 3.2.2. Other Technical Reports

Roads Transportation Section: Existing sightlines impeded by hedgerow. A sight line drawing should be provided showing improved sightlines to the north.

Parks Planning Section: Howth SAAO Map B identifies mature garden trees on property boundary. As the development is in close proximity to these boundary trees a Tree Survey Report is required.

Water Services: No objection.

### 3.3. Prescribed Bodies

Irish Water: No objection.

### 3.4. Third Party Observations

One submission was received and considered by the Planning Authority. The issues raised are similar to the issues raised in the grounds of appeal, as set out below.

## 4.0 Planning History

- 4.1.1. There is no recent planning history pertaining to the appeal site or the immediately adjoining sites.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan. The following sections of the Fingal County Development Plan 2017-2023 are considered to be relevant:

- The site is zoned RS “provide for residential development and protect and improve residential amenity” under the Fingal County Development Plan 2017-2023. The residential zoning at this location is subject to a local objective ‘to provide for residential development at a density of 1 dwelling per hectare’.
- 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 extension will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Factors such as overshadowing, overbearing and overlooking impacts are referenced, along with proximity, height and length along mutual boundaries.
- The site is within the Special Amenity Area Order within an area described as ‘Residential Area’. The SAAO states that development shall be at a density of 1 dwelling per hectare at this location
- Sheet No.10 Baldoyle / Howth: Views along Thormanby Road in the vicinity of the site are listed for protection.

## 5.2. Natural Heritage Designations

None.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third-party appeal has been received from the residents of the adjoining property to the north east of the site. The grounds of appeal can be summarised as follows:

- The single storey extension on the shared property boundary required planning permission when constructed but does not have the benefit of same. The fact that it exists and that a lapse of time inhibits enforcement proceedings does not mean that it represents good planning. This should be rectified with the redevelopment of the house.
- The site is in the Howth SAAO and is in an area where there are protected views and prospects, tree conservation objectives and density controls. The character and pattern of development in the area is dominated by large houses on large plots. Question proposal to build on a neighbours boundary when adequate land is available.
- The Fingal County Development Plan 2017 to 2023 requires a minimum separation distances of 2.3 metres between new dwellings. Given the density control of one house per hectare question logic of allowing a house on the boundary of a site. The minimum separation that should be permitted is two metres between the house and the boundary. This is the case for every other re-developed house within this area. The boundary should be natural to ensure the protection of the land character within the Howth SAAO.
- This issue is exacerbated by the proposed new storey that will come close to the boundary. Concern about potential dominance and the impact of this aspect of the design on appellant's house and back garden.
- The height of the ridge line is proposed to be increased. Request that the Board consider whether the increased height is appropriate.



- Request that the Board consider the visual impact of the proposal from outside the front of the appellants dwelling – especially to the extent it results in overlooking from the front.

## 6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- The extension / alterations are justified on the basis of the energy rating and layout of the existing dwelling.
- The single storey extension to the side of the subject dwelling has been present on the subject site for a great number of years (1960's at earliest). There are no planning records readily available for the subject site and the applicant is not fully aware as to the specific date of construction of the single storey part of the dwelling. In any case, the development is protected under the statutes of limitations as per Section 157 of the Planning and Development Act 2000 (as amended).
- No works are proposed to the existing boundary wall save for the addition of a simple parapet weathering feature. There is no material change to the length and / or height of this section of the structure and no impacts arise.
- With regard to the scale and design, the proposed development works are modest. The contemporary elements are based on a best practice approach to refurbishing a traditional two storey dormer type residential dwelling.
- It is not considered that the development will cause loss of visual amenity to the neighbouring property or to the area surrounding Thormanby Road or Carrickbrack Road.
- The development remains predominantly within the established envelope of the existing dwelling. The development is not a new dwelling and as such the policies and objectives of the Development Plan regarding separation distances cannot be applied.
- The development complies with relevant policies and objectives for residential development and extensions in the Development Plan.

- There is no reasonable substance for the grounds of appeal in relation to the proposed increase in height. The development will result in a maximum increase of 1.572 metres at the highest point along the front elevation and an increase of 0.2 metres along the rear extension. The adjoining 'Four Winds' property is 2.4 metres higher than the proposed maximum height.
- Permission is sought to amend the existing balcony that is located on the front elevation of the dwelling at first floor level. The amended balcony would not result in any detrimental overlooking of the neighbouring property as it is located to the front and does not overlook private open space.

### 6.3. Planning Authority Response

- The application was assessed against the policies and objectives of the Fingal Development Plan 2017-2023 and existing government policy and guidelines. The proposal was assessed having regard to the development plan zoning objective, the Howth SAAO as well as the impact on adjoining neighbours and the character of the area.
- Having reviewed the grounds of appeal, the Planning Authority remains of the opinion that the proposed development will not detract from adjoining residential amenity, subject to compliance with the conditions.
- The Board is requested to uphold the decision of the Planning Authority and in the event that the decision is upheld, it is requested that condition 9 is included in the determination.

### 6.4. Observations

None.

## 7.0 Assessment

- 7.1.1. A third-party appeal has been received in relation to the decision of the Planning Authority to grant permission. The proposed development seeks permission for the alteration and extension of an existing dwelling on land that is zoned for residential

development and is therefore acceptable in principle. Furthermore, Development Plan standards in relation to internal space, private open space and car parking are met. I consider, therefore, that the main issues for consideration in the appeal relate to the matters raised by the appellants, namely:

- Development on Shared Boundary
- Scale, Height and Visual Impact
- Impact on Residential Amenity
- Appropriate Assessment Screening

## **7.2. Development on Shared Boundary**

- 7.2.1. The grounds of appeal state that the single storey extension on the shared property boundary does not have the benefit of planning permission and that this can be rectified with the redevelopment of the house. The appellants argues that a greater separation should be provided off the boundary given the site context and the character of the area. The submission refers to Objective DMS29 of the Development Plan which requires a separation distance of 2.3 metres between new dwellings. It is argued that the proposed first floor will come out close to the boundary and exasperates the issue. The appellants express concerns about the potential dominance and the impact of this aspect of the design on their property.
- 7.2.2. The applicant's response states that the single storey extension to has been present for a great number of years, referencing the 1960's at earliest. The response states that there are no planning records readily available for the site but that in any case the development would be protected under the statutes of limitations set out in Section 157 of the Planning and Development Act 2000 (as amended). The response also states that no works are proposed to the existing boundary wall save for the addition of a simple parapet weathering feature. The applicant's submission contents that there is no material change to the length and / or height of this section of the structure and therefore that no impacts arise.
- 7.2.3. I note the appellants concerns in relation to the proximity of the existing single storey element to the north-eastern site boundary. I would also note that the proposed development represents an extensive redesign and refurbishment of the existing

structure. Notwithstanding this, permission is sought to alter the existing structure and not to replace it. The section along the shared property boundary is existing and established and it is not proposed to alter this section of the existing structure. I therefore consider this aspect of the development to be acceptable.

### **7.3. Scale, Height**

- 7.3.1. The grounds of appeal highlight that the ridge line of the dwelling would be increased and asks the Board to consider whether or not the increased height is appropriate. The applicant's response states that the works are modest and that the development will not cause loss of visual amenity to the neighbouring property or the area. The applicant argues that there is no reasonable substance for the grounds of appeal in relation to building height. The response highlights the fact that development will result in a maximum increase of 1.572 metres at the highest point along the front elevation and an increase of 0.2 metres along the rear extension.
- 7.3.2. I would concur with the view set out in the Planning Officer's Report. The height of the proposed development would sit below that of the adjoining property 'Four Winds' and having regard to the pattern of development in the area which includes two storey dwellings and dwellings of contemporary architectural design, I consider that the scale, height and design of the proposed development integrates appropriately with the character of development in the area.

### **7.4. Visual Impact and Impact on the Residential Amenity**

- 7.4.1. The grounds of appeal request the Board to consider the Visual impact of the proposal on the appellants dwelling and the extent to which it would result in overlooking. The appeal submission makes specific reference to the proximity of the proposed first floor extension to the site boundary and to the potential for overlooking arising from the proposal to extend an existing balcony on the front elevation at first floor level.
- 7.4.2. In terms of visual impacts, I am satisfied that the design and finish integrates appropriately with existing development and that the overall scale and massing of the development is appropriate to the site and to its context. I would note that the development at first floor level maintains a separation of over 8 metres from the

appellants dwelling. I consider that the development would not be unduly overbearing or intrusive when viewed from surrounding properties and that it would not give rise to undue overshadowing of the appellants property to the north.

- 7.4.3. In relation to overlooking I would concur with the view set out in the Planning Officers Report. Having regard to the fact that there is an existing balcony on the front elevation of the dwelling and the level of separation between the proposed extended balcony and the neighbouring dwellings, in addition to its position to the front of private garden areas, I am satisfied that the development would not impact on the amenities of adjoining property's due to overlooking.

## 7.5. Other Issues

- 7.5.1. There are protected trees along the shared site boundary to the north of the property. In the event of a grant of permission I would recommend that a condition is included in relation to the protection of these tree during the construction phase of the development, similar to condition no. 6 of the notification to grant permission.
- 7.5.2. Permission is sought to replace an existing septic tank and percolation area and install a new proprietary waste water treatment system. Details of a site suitability test were submitted with the application. The site is located on a poor aquifer, with a groundwater protection response of R2<sup>1</sup>. The tests identified a T value of 45 and a P value of 38, indicating that a secondary treatment system would be acceptable. The site assessment recommends that a tertiary sand filter with gravel infiltration bed percolation area is installed. While the level of treatment proposed is high based on the characteristics of the site, I consider it an appropriate response given the density of housing in the area. I am satisfied, that the proposed treatment system is suitable and that it meets the requirements of the EPA Code of Practice for Wastewater Treatment & Disposal Systems Serving Single Houses (2009) in terms of separation distances, depth of subsoil and the design of the system.

## 7.6. Appropriate Assessment Screening

- 7.6.1. 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 on zoned lands in Howth 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. A Tree Protection strategy shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Tree and hedge planting within the site that are identified on Map B of the Howth Special Area Amenity Order (SAAO) shall be retained and protected during the construction phase of the development.

**Reason:** To protect trees during the construction period.

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 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.

5. 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.

6. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

**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.

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Karen Kenny  
Senior Planning Inspector  
16<sup>th</sup> May 2018