



An  
Bord  
Pleanála

## Inspector's Report ABP-300992-18

### Development

re. Demolition of single storey extension and one of the existing chimney breasts, construction of a single and 2-storey extension with 2 new rooflights to the side slope of the existing roof and 6no. new rooflights to the proposed extensions, associated elevational changes, construction of wheelie bin enclosure to the front of the property, and all associated site works.

### Location

1 Larch Grove, Ranelagh, Dublin 6.

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

Web1585/17

### Applicant

Simon Hore

### Type of Application

Permission

### Planning Authority Decision

Granted, with Conditions.

### Type of Appeal

1no. Third Party

### Appellants

Colin Daly

<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	10 <sup>th</sup> June 2018
<b>Inspector</b>	L. W. Howard

## 1.0 Site Location and Description

- 1.1. The application site is located within an established residential precinct, Larch Grove, a short cul-de-sac, located just off and to the east of Sandford Road, within Ranelagh, South Dublin City.
- 1.2. The application site – No.1 Larch Grove comprises the western half of a pair of 2-storey semi-detached houses, which face generally south onto Larch Grove. A further two pairs of 2-storey semi-detached houses (ie. a total of six / 6no.) exist along the northern frontage of Larch Grove.
- 1.3. Larch Grove roadway is bound on its southern side by the wall enclosing the rear garden of a property with frontage onto Sandford Road.
- 1.4. No.1A Larch Grove is located directly adjacent and to the west of the application site – No.1. A 2-storey dwellinghouse exists on No.1A, a narrow plot of constrained proportion, which shares a party wall with the application site – No.1, to the east.
- 1.5. No capacity for onsite carparking exists on the application site. Limited on street carparking is available along Larch Grove, a cul-de-sac, confined to the northern frontage. On street carparking is prohibited along the southern side of Larch Grove.

## 2.0 Proposed Development

- 2.1. Proposed development comprises –
  - demolition of the existing single storey extension and one of the existing chimney breasts
  - construction of a single and 2-storey extension to the rear and side of the existing house
  - 2no. new rooflights to the side slope of the existing roof, and
  - 6no. new rooflights to the proposed extensions
  - associated elevational changes
  - construction of a 1.1m high wheelie bin enclosure to the front of the property, and all associated site works.
- 2.2. Detailed clarification regarding the substance, composition and spatial arrangement of the proposed development on the application site, is provided by –

- the applicant as part of the planning application documentation and mapping / drawings (received by the Planning Authority dated – 23/11/2017), and subsequently in the ‘Response Submission’ to the 3<sup>rd</sup> Party Appeal, received by the Board dated 29/03/2018, and
- the Planning Authority in the Planning Officers ‘planning report’ dated 25/01/2018.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Decision to grant planning permission, subject to 6no. Conditions

3.1.2. Having regard to the 3<sup>rd</sup> party grounds of appeal, the following are considered noteworthy :

C2 full details of materials, colours and texture of all external finishes, to be submitted to and agreed in writing by the Planning Authority

**Reason :** in the interests of orderly development and visual amenity of the area.

C3 specifications regarding foul and storm / surface water drainage.

**Reason :** to ensure a satisfactory standard of development.

C4 specifications regarding days and hours of site and building works.

**Reason :** to safeguard the amenities of adjoining residents.

C5 compliance with specified noise control standards.

**Reason :** to safeguard the amenities of adjoining residents

C6 mitigation of negative impact of site development and construction works on the local adjoining road / street network.

**Reason :** ensure local roads / streets kept in a clean and safe condition..

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The key planning issues considered as follows -

### **Site Notice**

- Site Notice considered as acceptable, when viewed on the day of site inspection.

### **Site Ownership**

- Site ownership considered as a 'civil matter', and not as a matter addressed under the 'planning code'.
- This issue should be resolved between both parties, under the relevant legislation.

### **The Development Plan**

- Section 16.10.2 addresses 'Extensions and Alterations to Dwellings'.
- Section 16.10.2 provides that planning permission to extend dwellinghouses will generally be granted, provided that the proposed development :
  - has no adverse impact on the scale and character of the dwelling
  - has no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.

### **Urban Design**

- the proposed new 2-storey extension to the side, would extend along the shared boundary with No.1A Larch Grove.
- the overall site orientation is northwest to southeast
- the alterations proposed provide a quality living space at ground floor, and an additional bedroom at 1<sup>st</sup> floor level.
- Overall it is considered that the internal works and proposed new extension –
  - would not have a significant negative impact on the established character and pattern of development to the rear of the property, and
  - would not result in a negative impact on the residential amenity of adjoining properties.
- the proposed 1<sup>st</sup> floor extension, to accommodate an additional bedroom, is considered acceptable in providing a quality living space for family accommodation.

- notwithstanding proximity of the 1<sup>st</sup> floor extension, c.1.39m from the boundary with No1A Larch Grove, consider that the orientation of the site would not result in the loss of residential amenity already enjoyed by No.1A Larch Grove, as the proposed extension is located along the northern façade.
- the extent and nature of the 1<sup>st</sup> floor extension considered as acceptable.
- the modern design approach of the extension is considered to be an acceptable addition to the side and rear of the property, contributing positively to residential amenity.

### **Conclusion**

- Having regard to the nature and scale of the proposed development, the proposed development –
  - would not adversely affect the character and setting of the property,
 and
  - would not seriously injure the amenity of property in the vicinity.
- Subject to compliance with Conditions attached, the proposed development would be in accordance with the City Development Plan and with the proper planning and sustainable development of the area.

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

Engineering Dept. – Drainage Division

No Objection, subject to Conditions

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

3.4.1. Third party submissions noted, as received.

3.4.2. The issues argued include –

- land ownership
- visual, sunlight and daylight impacts
- overbearing
- design

- precedent
- site notice – not visible

#### 4.0 Planning History

None.

#### 5.0 Policy Context

##### 5.1. Dublin City Development Plan (2016-2022)

Relevant provisions include (see copies attached):

##### S14.8 Primary Land-Use Zoning Categories :

Table 14.1 Primary Land-Use Zoning Categories

<i>Land Use Zoning Objective</i>	<i>Abbreviated Land Use Description</i>
Z1	Sustainable Residential Neighbourhoods

##### S14.8.1 Sustainable Residential Neighbourhoods – Zone Z1

Zoning Objective Z1 “To protect, provide and improve residential amenities.

Z1 Permissible Uses – include Residential.

(see copy of pg. 213 attached)

##### S16.10 Standards for Residential Accommodation

##### S16.10.2 Residential Quality Standards – Houses (see copy of pg. 311 attached)

##### S16.10.12 Extensions and Alterations to Dwellings

- the design of extensions to have regard to the amenities of adjoining properties, in particular, the need for
  - light, and
  - privacy

- the form of the existing building to be followed as closely as possible
- new development to integrate with the existing building through use of similar
  - finishes, and
  - windows
- Extensions to be subordinate in terms of scale, to the main unit
- Applications for extensions will only be granted where applicant has demonstrated the proposed development will –
  - not have an adverse impact on the scale and character of the dwelling
  - not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of :
    - privacy,
    - access to daylight and
    - sunlight.

#### Appendix 17 Guidelines for Residential Extensions

The Guidelines provide general advice and design principles for residential extensions (see copy attached).

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

None.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal – Mr Colin Daly (No.1A Larch Grove, Ranelagh, D6) :**

The 3<sup>rd</sup> party grounds of appeal are set out fully in the documentation date stamped 22<sup>nd</sup> February 2018. These may be summarised as follows :

#### 6.1.1. **Ownership**



- the proposed development “includes development and works on lands which are outside of the applicant’s ownership, and which in fact fall under the ownership of ... the owner of No.1A”.
- under Section 22(g) of the Planning and development regulations 2001 (as amend3ed), the written consent of the landowner of No.1 A must be provided as part of the application.
- no consent was provided by the 3<sup>rd</sup> party appellant, in respect of this proposed development.
- the application is therefore considered as invalid.
- accordingly, the proposed development should be refused planning permission.
- further, the proposed development could not be constructed without accessing the No.1A property. No such permission has been given. Therefore, the proposed development would be unimplementable, if granted planning permission.

#### 6.1.2. **Visual, Sunlight and Daylight Impacts**

- Section 17.6 of Appendix 17 to the Dublin City Development Plan 2016-2022 cautions that large rear extensions to semi-detached dwellings can, result in a loss of daylight to neighbouring houses. Further, depending on orientation, such extensions can seriously impact the amount of sunlight received by adjoining properties.
- accordingly, the 2-storey element projecting up to a maximum of 5m from the rear elevation of the applicant’s house, will severely impact on the sunlight and daylight enjoyed by adjacent No.1A.
- No assessment of impacts on existing sunlight and daylight, consequent of the proposed development was included in the application documentation.
- A ‘Sunlight and Daylight Analysis’ report (Integrated Environmental Solutions) included with the 3<sup>rd</sup> party appeal submission. Report assesses the ‘sunlight and daylight’ implications of the proposed development on the existing dwelling at No.1A.
- the report confirms –
  - significant impact on the ‘sunlight and daylight’ enjoyed at No.1A,

- that windows and interiors will be gloomier, and
- that electric lighting will be required more of the time.
- these impacts will be significant and noticeable.
- in regard to ‘daylight impacts’ –
  - *“a large number of windows affected (75% of elevation)*
  - *the loss of light is substantially outside the Guidelines, and*
  - *the affected indoor have a particularly strong requirement for skylight or sunlight (Livingroom’s)”*
- the report confirms the proposed development would exceed the maximum allowable 20% impact on sunlight, which is deemed to be a major adverse impact in line with BRE Guidance.
- contrary to Section 16.10.12 of the City development plan 2016, the proposed design –
  - does not demonstrate due regard to the amenities of adjacent No.1A Larch Grove,
  - would be detrimental to the amenity of this dwelling, and in particular
  - access to sunlight and daylight, due to the 2-storey nature of the extension proposed.
- Section 16.10.12 (and at Section 17.2 within Appendix 17) of the Dublin City Development plan 2016-2022, clearly state that applications for permission to extend dwellings “will only be granted where the Planning Authority is satisfied that the proposal will –
  - Not adversely impact the scale and character of the dwelling, and
  - Have no unacceptable impact on the adjacent amenities, particularly –
    - privacy, and
    - access to daylight and sunlight.
- the proposed development does not comply with these provisions, in that –
  - it would impact the scale and character of the existing dwellinghouse at No.1 Larch Grove, and
  - significantly impact access to sunlight and daylight by adjacent residents of No.1A Larch Grove.
- Integrated Environmental Solutions conclude their report – ,  
 “... the proposed development performs badly against all aspects of the recommendations as laid out in BRE “Site layout planning for Daylight and

Sunlight : A Guide to Good Practice”, with respect to impact on Existing Neighbouring Properties”.

### 6.1.3. Visual Impact

- the proposed development would –
  - be visually overbearing in the context of existing No.1A Larch Grove
  - precipitate significant visual impact when viewed from within the existing dwellinghouse at No.1A.
- the height of the proposed 2-storey element exceeds the ridge height of adjacent No.1A, thereby impacting on sunlight access from even the upper windows in the adjacent existing dwellinghouse.
- the proposed development would –
  - severely injure the amenity enjoyed by the residents of No.1A, and
  - prejudice the enjoyment of No.1A by the owner.
- elevation drawing Figure 4 of existing house No.1A, illustrates the windows which would be blocked by the proposed development
- Figure 5 clearly illustrates the overbearing and incongruous design of the proposed development, as well as the “significant impact” on the adjacent dwelling.
- contrary to Section 17.3 of Appendix 17 to the City Development Plan 2016, the proposed development would unacceptably impact the amenity of adjacent No.1A in terms of –
  - privacy,
  - outlook,
  - daylight, and
  - sunlight.
- Contrary further to Section 17.3, the proposed development was not discussed with the owner of adjacent No.1A prior to lodgement.

### 6.1.4. Design

- Consequent of the proposed development, a reduced area of private open space to the rear of the existing dwellinghouse, will be available. Specifically,

a total private open space of 15m<sup>2</sup>, would result for a 4-bedroom dwellinghouse.

- A proposed development which further reduces an already substandard 19m<sup>2</sup> of private open space for a 4-bedroom dwellinghouse, should not be permitted.
- No precedent exists locally along this row of houses, for a 2-storey extension of the kind proposed.
- Consequently, the proposed development would render the house inconsistent with its surroundings.
- the applicants stated 1.4m set back from the boundary with No.1a, is not considered adequate, particularly when having regard to –
  - the additional window proposed at 1<sup>st</sup> floor level on the eastern façade, and
  - the height and scale of the 2-storey element of the proposed extension.
- note the application ‘covering letter’ states this additional window to be of ‘obscure glass’ in order to prevent overlooking (the window will be for a bathroom)
- reference Section 17.4 of Appendix 17 which states that “windows overlooking adjoining properties (such as in a side wall) should be avoided
- Clarify that the proposed development includes for the re-ordering of the 1<sup>st</sup> floor internal layout

Consequently, the existing window in the east façade will no longer serve a bathroom (as it does presently), and will become a bedroom window. At present the window is frosted / opaque. However, were this to be altered, the existing window would directly overlook adjacent No.1A. The resulting loss of ‘privacy’ due to this direct overlooking would be contrary to the City Development Plan 2016 requirement that new extensions, or alterations of dwellinghouses – “*should have regard to the amenities of adjoining properties, and in particular the need for light and privacy*”.

- due to the level of setback proposed, the new window proposed at 1<sup>st</sup> floor level will also rely upon the 3<sup>rd</sup> party appellant’s lands at No.1A, for access to sunlight and daylight, and will prejudice the development potential of the 3<sup>rd</sup> party appellant’s own property.

### 6.1.5. Conclusion

- having regard to all of the above, the proposed development at No.1 Larch Grove should be refused permission, due to the “the significant negative impact which would result upon the neighbouring property – No.1A Larch Grove.
- the proposed development would not be in accordance with the proper planning and sustainable development of the area, because –
  - it conflicts directly with the policies and guidance set out in the Dublin City Development plan 2016,
  - it would be contrary to the Z1 Zoning Objective, and its objective – “to protect, provide and improve residential amenities”, and
  - in the process of enhancing the residential amenity of No.1 Larch Grove, the proposed development would significantly and irrevocably damage the residential amenity of No.1A Larch Grove.
- the proposed development would significantly impact on the sunlight and daylight access of the adjacent dwelling at No.1A, to a degree
  - that will be noticeable, and
  - that will impact on the amenity of this dwelling.
- the proposed development would represent a visually obtrusive and dominant form of development, leading to profound negative impact on the amenities of adjacent No.1A Larch Grove.
- request that the Board Refuse planning permission for the reasons set out above.

## 6.2. Applicants Response

### 6.2.1. 3<sup>rd</sup> party appellant – Colin Daly (No.1A – Larch Grove)

#### Site Specific Characteristics

- Contextualise No.1A Larch Grove as follows –
  - a very unusual property with uncommon ‘site specific characteristics’
  - located in a backland position

- is very different in design compared to other dwellings along the street
- is effectively shoehorned into its site without any front or back garden
- is located on a very small 'wedge shaped triangular site.
- the unusual nature of the 3<sup>rd</sup> party appellants property is a primary consideration in this 3<sup>rd</sup> party appeal.

### **Ownership**

- the applicant is the full owner of the application site – No.1 Larch Grove.
- Proposed works are to be fully contained within the applicant's property.
- Construction works are straight forward, and are to occur without impact on adjoining properties.
- No consent is required for any of the necessary construction works.
- Request the Boards concurrence that property ownership issues are civil law matters, and not planning matters. These issues argued by the 3<sup>rd</sup> party appellant are not within the remit of the Board, for the determination of this 3<sup>rd</sup> party appeal.

### **Nature and Extent of Works**

- Improvements to the applicant's house are required regarding –
  - dampness at ground floor, and
  - defective mechanical heating system
- the proposed development enables –
  - refurbishment and modernisation
  - with consequent improvement to the order, layout and function of the space.
  - a more open plan layout at ground floor level in line with modern standards
- Extent of works required are completely domestic in nature, and shall improve the dwellinghouse.
- the majority of works are internal alterations to the existing floor space, as follows –
  - ground floor –           new utility room  
  wc  
  bike store room, and

- extension to the kitchen / living room
- 1<sup>st</sup> floor – a bedroom.
- the new works do not increase the number of bedrooms in the house.
- the total increase in new floor area proposed is 22m<sup>2</sup>
- the proposed increase in site coverage “is minuscule”

### **Overshadowing**

- this is the main argument made against the proposed development.
- note the 3<sup>rd</sup> party appellant submission of completed ‘Sunlight Analysis’ by Integrated Environmental Solutions, in accordance with BRE 209 Site Planning for Daylight and Sunlight : A Guide to Good Practice.
- request the Boards concurrence that the BRE Guidance, referenced states that “site specific characteristics” shall be taken into account, when carrying out impact assessments.
- emphasise the Guidelines recommend that if the development “wholly lies due north (as in this case), then sunlight loss need not be analysed”. Therefore, assert this is “a fundamental flaw” in the 3<sup>rd</sup> party appellant’s arguments against the proposed development.
- the 3<sup>rd</sup> party appellants analysis fails to acknowledge that No.1A Larch Grove “is a completely unorthodox dwelling”, constructed on a site with unusual site specific characteristics.
- request the Boards concurrence that the 3<sup>rd</sup> party appellant should have had regard to the ‘site specific characteristics’ of No.1A Larch Grove, in the ‘sunlight analysis’ assessment.
- if such regard had taken place, the impacts on daylight and sunlight would be considered acceptable in this urban context and given the existing site specific characteristics.

### **Overlooking**

- The privacy of adjoining properties is not adversely impacted, by way of overlooking, consequent of the proposed development.
- Point out that the kitchen window is positioned at a high level, to ensure privacy and avoid overlooking.
- the proposed bathroom window shall be obscured glazing.

- the proposed works are considered as acceptable, and do not adversely impact on the privacy of adjoining properties.

### **Design / Open Space**

- the proposed works –
  - do not increase the number of bedrooms
  - do not result in overdevelopment of the site.
- plot ratio and site coverage are marginally increased, within the acceptable ranges permitted in the Dublin City Development Plan 2016 Standards.
- the proposed design of the ground floor level and the 1<sup>st</sup> floor level extensions are considered as acceptable.
- the application site has a front and back garden. The total area of open space is considered as satisfactory. Request the Boards regard to the numerous public parks within walking distance of the application site.
- applicant makes “offer” of a minor design alteration whereby the overall footprint of the extension is reduced, by deleting 60% of the ‘bike storage’ room.
- this design alteration is offered for the Boards consideration.
- this minor change means the proposed floor area at ground floor is virtually identical to the existing footprint at this location (note location of existing shed).

### **Visual Impact**

- the proposed development would –
  - be visually overbearing in the context of the existing dwelling on No.1A,
  - precipitate a significant visual impact when viewed from within the dwelling on No.1A Larch Grove
- having regard to the “permitted” floor plans under **3325/11**, distinguish the following –
  - the bedroom dormer windows of No.1A face the Sandfor44d Road. There should be no possible view of No.1 Larch Grove from these windows.
  - the high level window at 1<sup>st</sup> floor should only serve the bathroom of No.1A. This is a non-habitable room, and not a ‘living space’.



- the design approach of the proposed extension considered as acceptable, contributing positively to the residential amenity of the house, and the area generally.
- proposed works at ground floor level, are very similar to the existing footprint (noting the proposal to reduce the bike store room).
- the overall increase in floor area at 1<sup>st</sup> floor level is also minor, and well set back from the No.1A Larch Grove.
- the works have no adverse impacts on the adjoining property.
- the orientation of the proposed development to adjacent No.1A, would not result in the loss of residential or visual amenity, because the proposed works are located directly north of No.1A, and replace existing floor area for the most part.
- the proposed development is visually compatible with adjoining properties, and the streetscape.
- the proposed use of materials and finishes, are appropriate to the site, and are in keeping with the context and character of the area.

## **Conclusions**

- request the Board uphold the decision of the Planning Authority to grant planning permission, subject to Conditions.
- the issues argued by the 3<sup>rd</sup> party appellant do not warrant a decision to refuse planning permission. The 3<sup>rd</sup> party appellants property – No.1A Larch grove has unusual ‘site specific characteristics’, which is the primary planning consideration in the appeal.
- the proposed design of the extension is considered acceptable, contributing positively to the residential amenity of the house and to the streetscape.
- the proposed extension is fully compliant with the Dublin City Development Plan 2016-2022.
- the applicant “offers to make a minor design alteration to reduce the bike store room by 60%”. Request the Board to consider this design amendment.
- having regard to the nature and scale of the proposed development, the proposed development would not adversely affect the character and setting of the property, and would not seriously injure the amenity of property in the vicinity.

### 6.3. **Planning Authority Responses**

6.3.1. None.

### 6.4. **Observations**

6.4.1. None

### 6.5. **Further Responses**

6.5.1. **3<sup>rd</sup> Party Appellant – Response to the Applicants response to the 3<sup>rd</sup> Party Appeal Submission**

#### **Site Specific Characteristics**

- Notwithstanding the unusual nature of the 3<sup>rd</sup> party appellants property at No.1A Larch grove, this property is nonetheless an existing residential dwelling, the amenity of which merits protection to the same degree as a dwelling of any size or shape, ‘unusual’ or not.
- Both No.1A and No.1 Larch grove are located on lands zoned ‘Z1’, with the stated Objective “to protect , provide and improve residential amenities”.
- The proposed development fundamentally conflicts with this Objective, as it would significantly impact on the amenity of No.1A.
- the proposed development fails to respond to the specificity of the application site, thereby risking significant impact on No.1A.
- the ‘unorthodox’ design of No.1A cannot be relied upon to excuse this significant impact, rather the failure to bring forward site-specific design for the proposed development which adequately responds to its surroundings and protects the amenity of neighbouring property, is to blame.
- Confirmation that the development of No.1A was certainly completed in accordance with its planning permission.

#### **Ownership**

- Documentary evidence submitted (ie. ‘freehold land registry title) clarifying encroachment of the application site (red line site boundary), onto the adjoining No.1A Larch Grove.
- The applicant has not provided relevant evidence of title.
- Emphasise –

- it would not be possible for the applicant to implement the proposed development without entering into and receiving consent from the owner of No.1A Larch Grove.
- the cleaning and upkeep of the proposed development would likely require access to the 3<sup>rd</sup> party appellants property – No.1A.

### **Nature and Extent of Works**

- despite the applicants attempts to the contrary, the proposed development will comprise a significant 2-storey side and rear extension to the property, which will significantly impact on the amenity of No.1A Larch grove.

### **Overshadowing**

- note applicant's argument that –
  - due to the 'unorthodox' nature and design of No.1A, and the site-specific characteristics associated with this dwelling, the sunlight and daylight impacts of the proposed development should be considered as acceptable, and
  - that sunlight loss need not have been analysed in the current case as the development 'wholly lies due north'.
- 3<sup>rd</sup> party appellant's response –
  - the proposed development is not due north of No.1A Larch Grove. Rather, it is located primarily to the east and north-east of the No.1A Larch Grove property. The 'site location map' submitted distinguishes this proximity and orientation.
  - the 'Integrated Environmental Solutions' report, objectively demonstrated significant adverse impacts from the proposed development across all relevant indicators of sunlight and daylight access.
  - whether the 3<sup>rd</sup> appellant's dwelling at No.1A is 'unusual' or 'unorthodox' or not, the proposed development will significantly curtail the sunlight and daylight access of this existing dwelling, severely impacting its residential amenity.
  - rather, the 'site specific nature' of the location under consideration, applies to the proposed development in this case.

No.1A is an existing residential dwelling.

The proposed development should respond to the site specific of its location.

The site-specific characteristics cannot be relied upon to seek permission for a development, which will severely curtail the amenity of an existing dwelling.

- The onus of responding to the site-specific characteristics inherent in the location of the application site and its neighbouring property, rests squarely on the applicant in this case.

“The ‘unorthodox shape, size or design of No.1A Larch Grace cannot be relied upon by the applicant, to give *carte blanche* to implement a development which will be injurious to the amenity of the 3<sup>rd</sup> party appellants property”.

- the proposed development has been demonstrated to have an objectively significant negative impact on the sunlight and daylight enjoyed by No.1A Larch Grove, and it is considered that this alone, merits refusal of the proposed development.

### **Overlooking**

- Contrary to the applicant’s opinion, the proposed development would have a significant impact on the privacy of the neighbouring No.1A.
- the proposed development includes the re-ordering of the 1<sup>st</sup> floor internal layout. Thereby, the existing window in the east façade will no longer serve a bathroom (as it does presently). Rather, it will become a bedroom window.
- at present, this window is frosted / opaque. As a bedroom window, this will change, directly overlooking adjacent No.1A.
- the resultant loss of privacy due to this direct overlooking would be contrary to the Development Plan 2016 requirement that new extensions and / or alterations of dwellings “should have regard to the amenities of adjoining properties and in particular the need for light and for privacy”

### **Design / Open Space**

- post-development, there will be very minimal rear garden space.

- the proposed extension will result in a reduced area of private open space to the rear of the dwelling.
- specifically, a total area of 15m<sup>2</sup> private open space will result for a 4-bedroom dwellinghouse
- a proposed development, which further reduces an already substandard – 19m<sup>2</sup> private open space provision for a 4-bedroom house, should not be permitted.
- the parks referenced by the applicant, are both over 400m from the application site. These are not considered relevant in assessing the adequacy of the private open space which will remain, should the proposed development be completed.
- the minor design alteration offered by the applicant, will not materially improve the impact of the proposed development on adjacent No.1A. This design alteration is considered insufficient to merit a grant of planning permission in this instance.

### **Visual Impact**

- Dispute the applicant's opinion that no significant visual impact on No.1A Larch Grove will result.
- the development would significantly impact on the outlook from the ground floor windows of No.1A, with a greatly increased sense of enclosure.
- Section 17.3 of Appendix 17 of the Dublin City Development Plan 2016 –
  - Ensure any extension development does not unacceptably affect the amenities of neighbouring properties, including – privacy, outlook, daylight and sunlight.
  - Advises discussion with neighbours prior to submitting a application for planning permission.
- the proposed development would unacceptably impact upon the amenity of adjacent property No.1A in terms of privacy, outlook, daylight and sunlight.

### **Conclusions**

- the proposed development should be refused, having regard to the significant negative impact which would result on the neighbouring property No.1A Larch Grove.

- the Board “invited to refuse planning permission” for the reasons advocated in this response submission, and in the 3<sup>rd</sup> party appeal submission dated 22<sup>nd</sup> February 2018.

## **7.0 Assessment**

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed development
- Visual Amenity Impact : Townscape / Streetscape
- Residential Amenity Impact
- Site Boundary : Encroachment / Land – Legal Issues
- Appropriate Assessment.

### **7.2. Principle and Location of the proposed development**

- 7.2.1. The application site is zoned “Z1 – Sustainable Residential Neighbourhoods”, with the objective to protect, provide and improve residential amenity. The applicable zoning matrix designates residential land use as being permitted in principle within the zone. The “Z1 – Residential” zoning objective therefore seeks to ensure that any new development within existing neighbourhoods has minimal impact on, and enhances existing residential amenity.
- 7.2.2. The challenge, having regard to the proposed architectural and planning design, and the relevant requirements of the Dublin City Development Plan 2016-2022, is to ensure the proposed rear and side domestic single and 2-storey extension development, has no disproportionate adverse impact on the existing residential development and associated amenity along Larch Grove generally, and no unacceptable impact on the amenities enjoyed by the adjacent neighbours specifically, including that owned and occupied by the 3<sup>rd</sup> party appellant – No.1A Larch Grove.

### 7.3. Visual Amenity Impact : Townscape / Streetscape

- 7.3.1. I have taken note of the established, contextual scale and pattern of residential development comprising the local streetscape along Larch Grove, passed the application site. As one moves along Larch Grove, no reasonable visibility is possible of the rear of any of the houses, and including and specifically the rear of No.1, the application site.
- 7.3.2. From the rear, intervisibility is restricted to the rear elevations and rear yards / gardens of surrounding properties, of which there are only few and which appear generally compliant with Dublin City Development 2016-2022 Standards. However, whereas from the Larch Grove frontage, visibility of the proposed side extension is confined to the gap between Nos'. 1 and 1A, visibility of the proposed extension is open and greater at the rear, effecting multiple properties, albeit from their rear yards. Noteworthy in my view, is the existing close proximity and tight configuration of available space between the rear yard / garden of the application site No.1, the side elevation wall of the 2-storey dwellinghouse to the north which is up against the northern boundary wall of the application site, and the east facing side elevation of the adjacent 2-storey dwellinghouse to the west, at No.1A Larch Grove, and into which the proposed 2-storey extension element to the rear, is intended to be inserted.
- 7.3.3. 'Fig.4 – Side Elevation of No.1A facing the Boundary with No.1', included by the 3<sup>rd</sup> party appellant both in the original 3<sup>rd</sup> party submission to the Planning Authority, and the current 3<sup>rd</sup> party appeal documentation, enables a good understanding of the threat of potential negative amenity impact consequent of a new 2-storey extension being constructed in immediate proximity to what are understood as living rooms at ground floor level and bedroom at 1<sup>st</sup> floor level.
- 7.3.4. In my view, a key criterion for assessment of potential negative impact is the dependency of accurate drawings and dimensions. These would include in this instance, the set back of the 2-storey extension element from the shared boundary with adjacent No.1A, the height and the projected length of the 2-storey extension beyond the existing rear / north facing façade at No.1. Whilst independent references to 'dimensions' and 'distances' have been made by each of the applicant and the 3<sup>rd</sup> party appellant, I have had specific regard to the site layout drawings and elevations as submitted by the applicant. Having regard to each of these drawings

and maps as submitted, there would appear to be a clear discrepancy between the 'scales' notated with each of these drawings, and the 'measurements / dimensions' shown indicating the lengths, widths, heights etc., of the different elements comprising the drawings.

- 7.3.5. Whilst accurate, reliable verification of the relevant dimensions comprising the drawings has not been possible, I have proceeded on the basis of rough calculations / estimations, as reasonable, on the information available. Whilst this practical approach has enabled reasonable progress in my own assessment, I believe the applicant has not been assisted in this regard. In the absence of such discernible evidence, a moot point exists as to whether the applicant has satisfactorily demonstrated that the application site can satisfactorily accommodate the proposed development, in compliance with the relevant provisions of the Dublin City Development Plan 2016-2022.
- 7.3.6. In my view, having regard to the design references made by the applicant towards contextualising adjacent No.1A Larch Grove to the west, as a very unusual property with uncommon 'site specific characteristics' both in terms of site size and shape, and the architectural design response, height, configuration and massing within the "wedge-shaped" No.1A site boundaries,
- I believe the proposed extension and specifically the 2-storey element to the rear thereof, will be disproportionately visually prominent or overbearing to adjacent and nearby residents, when viewed from the rear. I share the arguments made by the 3<sup>rd</sup> party appellant against the proposed development, in this regard. In my view, the most serious negative impact will be on the amenities currently enjoyed by the 3<sup>rd</sup> party appellant to the rear, north eastern corner of the No.1A property.
- 7.3.7. I acknowledge that very limited visibility of the proposed domestic extension development will be possible from the public realm. As discussed and clarified above, the proposed domestic extension development to the side and rear of No.1 Larch Grove, is sufficiently visible both from the front and certainly to the rear, to warrant due diligence in compliance with the provisions of the City Development Plan 2017-2022. Having regard to the information available, I do not believe that this has been satisfactorily demonstrated by the applicant.
- 7.3.8. A consequent visual impact must logically and reasonably be expected of any domestic extension development on the application site. This cannot be avoided, subject to compliance with the Dublin City Development Plan 2016-2022. In my



view, application of the provisions of the City Development Plan 2016-2016-2022, should be towards positively enabling reasonable domestic home improvements, whilst protecting residential amenities both of individual property owners, as well as collectively within the neighbourhood. This outcome is the reasonable expectation of the 'Z1 – Sustainable Residential Neighbourhoods' Zoning Objective. In my view, this has not been successfully demonstrated by the applicant in compliance with the provisions of the City Development Plan 2016-2022.

7.3.9. Having regard to all of the above, I believe the proposed domestic 2-storey extension to the rear, with a ground floor level side extension, all at No.1 Larch Grove –

- will be disproportionately visually overbearing and obtrusive to adjacent and nearby residents,
- consequent of the visually intrusive impact, would disproportionately impact the established character and associated amenity enjoyed within the Larch Grove residential precinct generally, and of adjacent properties specifically,
- has not demonstrated satisfactory compliance with the relevant provisions of the County Development Plan 2017-2023, and

would therefore be contrary to the proper planning and sustainable development of the area.

#### 7.4. Residential Amenity Impact

7.4.1. Having regard to all of the information available, and to my own observations at the time of site visit (see attached copies of photographs), I am of the view that the proposed domestic side and rear extension development at No.1 Larch Grove, will have a significant, disproportionate negative impact on the prevailing residential amenity. In this regard, I have given consideration to potential threats to residential amenity as follows :

- **Visual Obtrusion** : See as discussed at 7.3 above. In my view, this negative visual externality impact, is sufficient to substantiate a refusal reason in its own right. In addition, I believe the burden of negative visual externality would be significantly greater on the 3<sup>rd</sup> party appellant adjacent and to the west at No.1A Larch Grove, than on the other properties in the vicinity.

- **Loss of Natural Light or Overshadowing :** Loss of natural light consequent of overshadowing, is a concern argued by the 3<sup>rd</sup> party appellant, located to the west of the application site. Section 16.10.12 – ‘Extensions and Alterations to Dwellings’ and Section 17.6 – ‘Daylight and Sunlight’ of Appendix 17 – ‘Guidelines for Residential Extensions, all of the Dublin City Development Plan 2016-2022, specifically advocate against the loss of residential amenity consequent of overshadowing, when facilitating residential extension type development.

Located to the north of the applicant’s existing 2-storey semi-detached house and projecting out c.5.0m from the rear elevation, I believe that the proposed rear extension is to the east and north-east of the 3<sup>rd</sup> party appellant at No.1A Larch Grove. Having regard to the information available, I do not agree with the applicant’s statement that the proposed rear extension would be located to the north of No.1A, and therefore without threat to No.1A in respect of negative ‘sunlight’ and ‘daylight’ impacts. In my view the applicant mistakenly references the BRE “Site Layout Planning for Daylight and Sunlight : A Guide to Good Practice”, with respect to impact on Existing Neighbouring Properties. Contrary to the applicant’s arguments submitted in response to the 3<sup>rd</sup> party appeal, I believe that the threat of loss of both direct sunlight and natural light consequent of overshadowing, would be clearly noticeable and is a significant threat to residential amenity currently enjoyed at No.1A. This significant negative impact would be contrary to Zoning Objective ‘Z1 – Sustainable Residential Neighbourhoods’, the objective of which is “to protect, provide and improve residential amenities”, Section 16.10.12 – ‘Extensions and Alterations to Dwellings’ and Section 17.6 – ‘Daylight and Sunlight’ of Appendix 17 – ‘Guidelines for Residential Extensions, all of the Dublin City Development Plan 2016-2022. In this regard, I therefore do not agree with applicant’s statement that there is “a fundamental flaw” in the 3<sup>rd</sup> party appellant’s arguments against the proposed development.

Accordingly, I have had regard to the 3<sup>rd</sup> party appellants ‘Sunlight and Daylight Analysis’ report (c/o Integrated Environmental Solutions) conclusions as reasonable that the 2-storey high rear extension projecting c.5m beyond the rear elevation would –

- significantly impact on the ‘sunlight and daylight’ enjoyed at No.1A,

- that windows and interiors along the east facing elevation of the 3<sup>rd</sup> party appellant's dwellinghouse at No.1A will be gloomier, and
- that consequently electric lighting will be required more of the time to illuminate rooms along this side of the house.

I interpret that the report submitted demonstrates further that the negative impact would be significantly greater through the winter months.

I note and reference the conclusion to the 3<sup>rd</sup> party appellant's Sunlight and Daylight Analysis report as follows –

*"... the proposed development performs badly against all aspects of the recommendations as laid out in BRE "Site layout planning for Daylight and Sunlight : A Guide to Good Practice", with respect to impact on Existing Neighbouring Properties".*

In fact, I believe that consequent of the significant overshadowing of the 3<sup>rd</sup> party appellants rear living quarters at No.1A Larch Grove, the loss of residential amenity would be disproportionate, and sufficiently substantive so as to warrant consideration as a reason for refusal of planning permission. I believe this to be the case and recommend accordingly.

- **Overlooking / Privacy Loss :** Having reference to what I understand are the plans and drawings of proposed 'Ground Floor Plan @1:100' and 'First Floor Plan @1:100' and associated drawings represented on Drawing No.PL003 – 'Proposed Plans Sections & Elevations', I believe no threat exists at ground floor level, to surrounding residential amenity, of privacy loss consequent of overlooking.

At 1<sup>st</sup> floor level, no window openings are proposed in the northern elevation wall of the rear extension. Notably, this wall is up against the shared boundary with the adjacent property to the north, and more specifically against the side elevation wall of the 2-storey dwellinghouse to the north.

Two window openings are proposed in the east facing elevation. I note that one is proposed with 'obscure glazing' and the second is set obliquely facing onto the rear elevation of the applicant's house. This window is notated as a 'fire escape window'. No threat to adjacent privacy is apparent consequent of the placement of these windows and the proposed use of mitigating materials.

Two window openings are shown at 1<sup>st</sup> floor level in the west facing side elevation. These windows face towards the 3<sup>rd</sup> party appellants property – No.1A Larch Grove. Unfortunately, without floorplans of the existing 2-storey semi-detached house on site, it is not possible to accurately discern which of these windows in the proposed development plans and drawings are new. Having regard to my observations at the time of site visit (see attached photographs), I believe the northern of the two windows shown is new, with the southern window currently forming part of the existing house at No.1 Larch Grove. This understood existing window is shown as part of a bedroom. Similarly, I believe it is reasonable to assume that this is an existing bedroom. Therefore, I do not believe that the 3<sup>rd</sup> party appellant will be any worse off, regarding threat to privacy, than is currently the case. Notwithstanding, I noted at the time of site visit that the outlook from this window appears generally onto the blank side elevation wall of the No.1A dwellinghouse.

With respect to the northern, new window, I note this window as part of the new bathroom proposed at 1<sup>st</sup> floor. In my view, any threat to adjacent privacy consequent of overlooking could reasonably and easily be addressed by way of 'obscure glazing' of this window. I note that the 'First Floor Plan @1:100' has not been notated accordingly. This could be addressed by way of a suitable Condition, should the Board be mindful to grant planning permission.

Accordingly, on the information available, I believe no serious threat to adjacent privacy would result, consequent of the proposed development.

- **Noise** : No increase at all above that currently characterising domestic residential use of the application site, must reasonably be anticipated.
- **Private Amenity / Leisure Space** : Section 16.10.2 – 'Residential Quality Standards – Houses' emphasises 'private open space' as an important element of residential amenity. Private open space for houses is usually provided by way of private gardens to the rear or side of a house. A minimum standard of 10m<sup>2</sup> of private open space, per bedspace, will normally

be applied, with up to 60-70m<sup>2</sup> of rear garden area considered as sufficient for houses in the city.

Consequent of the proposed development, I note a reduced area of private open space to the rear of the existing dwellinghouse, will be available. Specifically, a total private open space of 15m<sup>2</sup>, would result for the 4-bedroom dwellinghouse. This 15m<sup>2</sup> is a reduction in private open space, from the already substandard 19m<sup>2</sup> private open space currently on site.

The resultant 15m<sup>2</sup> is clearly 45m<sup>2</sup>, or approximately 75% short of the Standard required by Section 16.10.2 to serve the 4-bedroom house, once completed. Noting this serious shortfall in the quantity of onsite private open space provision, no obvious qualities to this space are clearly apparent, which would enable flexibility in consideration of adequacy of 15m<sup>2</sup> on its own. In this regard I have also noted that no private open space exists to the front, and the applicant's domestic requirements for onsite leisure / recreation space.

On its own, I have regard to this shortfall in onsite private open space as serious and indicative of potential overdevelopment of the site. In combination with the negative visual impacts and overshadowing impacts discussed above, I consider this shortfall to be sufficient to be considered as a refusal reason for the proposed development. I recommend accordingly.

- **In Situ 'Views' / 'Outlooks'** : No designated views exist with respect to the collection of domestic dwellinghouses comprising Larch Grove.
- **On-Site Car Parking** : At present, no onsite car parking space exists. No increased need for such space is generated by the proposed development.
- **Access and Traffic Safety** : No.1 Larch Grove is already served with access onto the local public road network. No additional traffic generation will result from the proposed development

7.4.2. I do acknowledge the potential for negative impact of construction activity on contextual residential amenity locally, whilst site works and construction activity are on the go. However, I consider that these impacts are only temporary, are to

facilitate the completion of the proposed development, and certainly cannot be regarded as unique to this development. Further, I consider that given these impacts are predictable and to be expected, they can be properly and appropriately minimised and mitigated by the attachment of appropriate supplementary Conditions to a grant of permission, should the Board be mindful to grant permission, and deem such mitigation of negative impact necessary.

7.4.3. Accordingly, having regard to the above assessment, and specifically my references regarding disproportionate negative visual impact, loss of both direct sunlight and natural daylight due to overshadowing, and considered overdevelopment of the site having regard to the significant shortfall in onsite private open space, I believe the proposed domestic side and rear extension development is not satisfactorily compliant with the 'Z1 – Sustainable Residential Neighbourhood' Zoning Objective, and accordingly for these 'refusal reasons' would be contrary to the proper planning and sustainable development of the area.

#### 7.5. **Site Boundary : Encroachment / Land – Legal Issues**

7.5.1. I have taken careful note of the arguments made by the 3<sup>rd</sup> party appellant, in respect of land / legal matters relating to

- argued works on lands outside of the applicant's ownership, and which in fact are under the ownership of the 3<sup>rd</sup> party appellant (ie. No.1A Larch Grove)
- that no consent has been provided by the 3<sup>rd</sup> party appellant, thereby rendering the application invalid, and
- consent has not been granted by the 3<sup>rd</sup> party appellant, to the applicant, allowing for access onto and over No.1A in order to physically enable construction operations.

7.5.2. I have also had regard to the response by the applicant stating that

- proposed works are to be fully contained within the application site – No.1 Larch Grove,
- that construction works are straight forward, and are to occur without impact on adjoining properties, and
- accordingly, no consent is required for any of the necessary construction works.

- 7.5.3. However, having regard to the arguments raised against the proposed development by the 3<sup>rd</sup> party appellant, I have had regard to the application for planning permission on its planning merits alone, as set out in the above discussions. I am inclined to the view that any decision on the planning application does not purport to determine the legal interests held by the applicant, or any other interested party in relation to boundary demarcation in this instance, and the consequent impact, or not, on the proposed development.
- 7.5.4. I would also draw attention to Section 34(13) of the Planning and Development Act, 2000 as amended, which relates as follows: “A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”. In this regard, I reference the explanatory notes which read as follows – “This subsection ... makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate”. Consequently, I understand that any legal obligations on the applicant, to ensure that the legality of landownership and user privileges enjoyed by the 3<sup>rd</sup> party appellant in particular are not compromised, are covered.
- 7.5.5. Accordingly, I do not believe these arguments by the 3<sup>rd</sup> party appellant against the proposed development to be reasonable and substantive grounds for refusal.

## 7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway to any 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. I recommend that planning permission be Refused for the Reasons and Considerations set out below.

## 9.0 Reasons and Considerations

1. The proposed residential extension development, by reason of its design, scale, bulk and height, would constitute a visually discordant feature, out of character with the established, uniform pattern of residential development in the vicinity, and would set a precedent for further inappropriate development in the vicinity of the site. The proposed development would, by reason of visually overbearing, obtrusive and intrusive impact, therefore, seriously injure the visual amenities of the area, contrary to the relevant provisions of the Dublin City Development Plan 2016-2022, and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the pattern of development in the area and to the design and scale of development proposed, it is considered that the proposed 2-storey extension to the rear, by reason of its design, scale, bulk and proximity to site boundaries, would seriously injure the residential amenities and depreciate the value of the adjoining property to the west, by reason of visual overbearing and obtrusion, and overshadowing. The proposed development would, therefore, be contrary to the applicable 'Z1 – Sustainable Residential Neighbourhoods' zoning objective, and to the proper planning and sustainable development of the area.
3. Having regard to the limited size of the application site and the scale of development proposed, it is considered that the proposed development would result in an unsatisfactory standard of residential amenity for future and existing occupants of the house, and result in overdevelopment of the site by reason of inadequate provision of sufficiently sized, good quality onsite private open space. As proposed, the under provision of onsite private open space would be contrary to Section 16.10.2 of the Dublin City Development Plan 2016-2022, which specifies the provision of up to 60m<sup>2</sup>-70m<sup>2</sup> of rear garden area as sufficient for houses in the City. The proposed development would, therefore, be contrary to the applicable 'Z1 – Sustainable Residential Neighbourhoods' zoning objective, and to the proper planning and sustainable development of the area.



4. Having regard to the deficiencies in the submitted plans, where the scale appears to be inaccurate, the Board is not satisfied that the application site can satisfactorily accommodate the proposed development. In the absence of such discernible evidence, it is considered that the proposal would represent a substandard form of development which would therefore, seriously injure the amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

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L. W. Howard  
Planning Inspector

29<sup>th</sup> June 2018