



An
Bord
Pleanála

Inspector's Report ABP-301555-18

Development

Development to consist of demolition of full width of rear return and erection of flat roofed extension to rear and side plus removal of roof-lights and provision of new attic dormer window to rear pitch of main roof plus hard and soft landscaping and all associated site work.

Location

18 Milford, Malahide, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F18B/0026

Applicant(s)

Alison Kealy and Aongus Dunphy

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

Third Party

Appellant(s)

Patrick McGrane

Observer(s)

Peter and Cathy Donohoe

Date of Site Inspection

17th November 2018

Inspector

Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.032 ha, is located at No. 18 Milford, Malahide, Co. Dublin. The appeal site comprises a semi-detached two storey house and its associated open space in the north western corner of a residential estate known as Milford. The existing house has a stated gross floor space of 147 sq m with finishes comprising brick with a contrasting band at first floor level and a projecting window with slate-style cladding on the front elevation. The side and rear elevations comprise painted render.
- 1.2. The site is located to the west of an internal estate road, and its north west facing rear garden backs onto a stream and associated open area connecting to Malahide Estuary. Due to the site topography, No. 18 Milford is located at a slightly lower level than No. 17, and the rear garden also falls slightly from east to west.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - The demolition of an existing rear return (21 sq m) and the erection of a flat roofed extension to the rear and side (56 sq m);
 - The removal of rooflights and the provision of a new attic dormer window to the rear pitch of the main roof; and
 - Hard and soft landscaping and all associated works.
- 2.1.1. The planning application was accompanied by an architect's report.

3.0 Planning Authority Decision

- 3.1. **Decision**
 - 3.1.1. Fingal County Council decided to grant permission, and the following summarised conditions are noted:
 - **C2:** Amendments to proposed dormer window.

- **C4:** Any attic floorspace which does not comply with Building Regulations in relation to habitable standards shall not be used for human habitation.

3.2. Planning Authority Reports

3.2.1. The Planning Officer's report can be summarised as follows:

- Proposed development is acceptable within the zoning objective.
- Sufficient private open space would be retained.
- Finishes should harmonise with existing dwelling.
- Projection of 4m beyond the rear building line would not have a significant undue impact on residential amenities in terms of overshadowing or overbearance.
- No. 17 is at a higher level, which will mitigate any overbearance.
- Overshadowing of No. 17 would not be a significant issue due to orientation.
- Aerial photographs indicate that other houses in Milford have similar sized extensions.
- Proposed extension to the side of the dwelling would not give rise to undue visual impact when viewed from the road.
- Dormer would not accord with Objective DMS41 and would be a visually dominant feature on the roofslope which would be highly visible from the High Amenity lands to the rear, which are subject to a Specific Objective for a cycle/pedestrian route.
- In order to be subservient, the dormer structure should be reduced in width to 3m and in depth to 2.5m, and the window reduced to 1m width x 1m height.
- Subject to suitable SuDS, the proposed development would not be likely to have a significant effect on a European Site.
- With regard to the issue regarding the distance between No. 17 and the application property, all works are indicated within the red line of the site. A person shall not be entitled solely by reason of a permission to carry out any development.

- Subject to minor amendments, the proposed development would integrate appropriately with the surrounding character of the area and be consistent with the proper planning and sustainable development of the area.

3.3. **Other Technical Reports**

3.3.1. **Water Services:** No objection, subject to conditions.

3.4. **Prescribed Bodies**

3.4.1. **Irish Water:** No objection.

3.5. **Third Party Observations**

3.5.1. Three third party observations were submitted. The issues raised were generally as per the appeal and the observation on the appeal.

4.0 **Planning History**

4.1. **Appeal Site**

4.1.1. I am not aware of any planning history on the appeal site.

4.2. **Surrounding Area**

4.2.1. **Reg. Ref. F08B/0020:** Retention permission granted for first floor extension to rear of 11 Milford.

5.0 **Policy Context**

5.1. **Fingal Development Plan 2017-2023**

5.1.1. The appeal site is zoned 'RS' to provide for residential development and protect and improve residential amenity. The lands to the rear (west) of the appeal site are zoned 'HA', to protect and enhance high amenity areas.

- 5.1.2. Section 12.4 sets out design criteria for residential development. It states that “the need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area”.
- 5.1.3. With regard to ground floor rear extensions, it states that these 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.
- 5.1.4. With regard to dormer extensions, it states that these will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions (whether for functional roof space or light access) shall generally not form a dominant part of a roof. Consideration may be given to dormer extensions proposed up to the ridge level of a house, but in all cases no dormer extension shall be higher than the existing ridge height of the house. The proposed quality of materials/finishes for dormers will be considered carefully as this can greatly improve their appearance. The level and type of glazing within a dormer structure should have regard to existing window treatments and fenestration of the dwelling.
- 5.1.5. The following Objectives are noted:
- **DMS41:** Dormer extensions to roofs will only be considered where there is no negative impact on the existing character and form, and the privacy of adjacent properties. Dormer extensions shall not form a dominant part of a roof. Consideration may be given to dormer extensions proposed up to the ridge level of a house and shall not be higher than the existing ridge height of the house.
 - **DMS42:** Encourage more innovative design approaches for domestic extensions.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is immediately south east of lands which form part of the Malahide Estuary SPA and SAC (Site Codes 004025 and 000205, respectively). Malahide Estuary is also a pNHA.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal was lodged by Patrick McGrane, who resides at 19 Milford, the adjoining property to the north of the appeal site. The issues raised can be summarised as follows:

- No objection to reasonable extension.
- Loss of sunlight and daylight.
- Devaluation of property.
- Loss of enjoyment of garden.
- Overlooking of private open space from dormer window. Houses are semi-detached and were not designed so that one house would be invasive on its neighbour.
- There are no other dormer windows in the estate.
- Noise and disturbance impacts, as appellant works nights.
- Appropriate Assessment is required as area is in a SPA.

6.2. Applicant Response

- 6.2.1. A response to the appeal was submitted on behalf of the applicants by Michael B. Doyle Architects. The issues raised can be summarised as follows:

- There are currently three roof windows in the rear roof of No. 18, affording views to the north west and over adjoining lands.
- No new issues raised in appeal beyond those considered by Planning Authority.

- Neither No. 18 nor No. 19 are overlooked to the rear and will not become overlooked due to the SPA.
- The proposed extension is a reasonable extension.
- The Board is asked to consider a modification to the south west side of the flat roof where a parapet is proposed over the window to the utility area, instead of a gutter eaves. This is in common best interests and to improve the appearance of the side extension when viewed from the road.
- Nos. 18 and 19 are not typical of other houses within Milford, as they have the longest back gardens and are among the least encroached upon and overlooked houses in the estate.
- There will be no more or less compromise of privacy than may currently apply as a result of the dormer window. The same view is had from existing first floor windows as from the proposed dormer. Only an altered angle of view is provided.
- The proposed single storey extension will reduce views into the neighbouring property.
- Appellant's concerns with regard to overlooking are exaggerated.
- A 150mm step-up in the floor within the dormer area is required due to the presence of structural steel. This raised floor will naturally accommodate a desk, which will prevent persons from being present at the window plane and minimise overlooking. The main visual interest is the distant view.
- With regard to Condition 4, the objective of the applicants is to realise a habitable bedroom at attic level. There is adequate height and joist strength in the attic to create a habitable room.
- The applicants seek to make a house with a dysfunctional, compromised and pinched layout into a better-appointed, more comfortable and functional family home.
- Revised proposals for the dormer window, meeting building regulation requirements are submitted with the response. The width of the dormer has been reduced to 3m as required by condition 3(b). The projection off the main

roof is c. 2.9m rather than the 2.5m required by condition 3(a) in order to comply with escape requirements. In respect of condition 3(c) it is not proposed to reduce the glazing to 1m², as this would make the room dark and less welcoming, without reducing the prospect of potential overlooking.

- Should the Board require a desk across the width of the dormer to ensure a remove from the window plant, this could be accommodated.
- The Board is also asked to give consideration to glazing on the flank walls of the dormer.
- Condition 3 gives disproportionate weight and deference to neighbouring considerations, rather than the applicants' aspirations and is unduly restrictive.
- Neighbouring houses are peppered with random rooflights to the rear, while the front elevations have a collective unity. Proposed development will not change this.
- Proposed dormer is consistent with Objective DMS41.
- Proposed dormer will have little or no impact on the privacy of their neighbours but will make a radical difference to the applicants' use and enjoyment of their home.

6.2.2. Revised drawings were submitted with the applicant's response.

6.3. **Planning Authority Response**

6.3.1. Planning Authority Response to Third Party Appeal

6.3.2. The Planning Authority response can be summarised as follows:

- Matters raised in the appeal have been addressed in the assessment of the planning application.
- The development is in accordance with the proper planning and sustainable development of the area.
- The Board is asked to uphold the decision of the Planning Authority and to include a Section 48 development contribution.

6.3.3. Planning Authority Response to Applicant Response

6.3.4. The Planning Authority response to the applicants' response can be summarised as follows:

- Revised parapet wall to the single storey side extension is acceptable.
- Revised width of the proposed dormer window is acceptable.
- The projection off the rear roof slope is 2.9m and not 2.5m as required by the condition. The Planning Authority has no significant objection to this.
- The scale of the window has not been reduced. It would give rise to increased perception of overlooking and is not acceptable.
- The Board is asked to reduce the scale of the window within the dormer structure.

6.4. **Observations**

6.4.1. A third party observation was received from Peter and Cathy Donohoe, who reside at 17 Milford, the adjacent property to the south of the appeal site. The issues raised can be summarised as follows:

- Plans are basic and lack information.
- Increased wind tunnel effect as a result of extension.
- Excessive size and height of extension and proximity to side boundaries.
- Impact on wildlife sanctuary.
- Visual impact.
- Devaluation of property.
- Dormer window would have a domino effect for other neighbours.

6.4.2. A number of photographs were submitted with the observation.

6.5. **Further Responses**

6.5.1. Appellant Response to Applicant Response

- Appellant's only concern is with regard to the dormer window.

- Proposed changes would greatly impact on his privacy and daylight and sunlight.
- If appellant wished to convert his attic then the redesigned dormer window would invade privacy due to the side window looking into his property. Existing roof windows could be viewed from dormer window.
- The suggestion that a desk could be placed in the window to prevent overlooking is ludicrous as no condition could ensure same.
- Appellant would have no objection to a high level window 1.8m above FFL.

6.5.2. Observer Response to Applicant Response

- Sewer and drainage issues in the estate.
- It is an exaggeration to refer to the extension as a modest objective.
- Overlooking.
- Imposing concrete structure at odds with the surrounding environment.
- Development would be more suitable for a building on its own land, not in an estate.
- Observer takes issue with description of houses as dysfunctional, compromised or having a pinched layout.
- Lack of consultation prior to planning application.

7.0 **Assessment**

7.1. I consider that the key planning issues arising are as follows:

- Residential amenity.
- Other issues.
- Appropriate Assessment.
- Environmental Impact Assessment.

7.2. Residential Amenity

- 7.2.1. Having regard to the layout of the Milford estate, the resultant orientation of the houses, separation distances, and the design of the proposed development, I consider that the only residential dwellings with the potential to experience significant negative impacts arising from the proposed development are the adjoining house to the north (the appellant's property) and the adjacent house to the south (the observers' property).
- 7.2.2. Having regard to the single storey nature of the proposed extension, I consider that the only potential for additional overlooking or loss of privacy arises from the proposed dormer window on the rear roof slope.
- 7.2.3. While the semi-detached linear arrangement of two storey houses in Milford unavoidably results in some level of existing overlooking and loss of privacy, I consider that the elevated nature of a dormer window has the potential to exacerbate such impacts, or the perception of such, particularly when the extent of glazing proposed is significant.
- 7.2.4. The applicants have submitted revised drawings of the dormer, which reduces its width and projection from the roof plane when compared to that originally proposed. I consider this reduction in size to be appropriate in the interests of maintaining a suitably subservient relationship between the dormer and the roof structure in accordance with Objective DMS41. However, I consider that the proposal to increase the width of the glazing and to provide additional glazing in the side 'flank' walls of the dormer structure would result in it being unduly prominent and would intrude on the privacy of adjacent properties within this relatively densely developed suburban estate. While the applicants' agent considers that excessive regard has been had to the neighbouring properties rather than the applicants' desires, I note that the 'RS' zoning objective seeks to protect and improve residential amenity, and any extensions or alterations in such areas should seek to minimise impact on neighbouring properties.
- 7.2.5. If the Board is minded to grant permission, I recommend that a condition be included requiring the glazing within the dormer structure to be reduced to 1.5m width x 1m in height, which I consider would result in a more balanced solid-to-void ratio than the

1m x 1m sought by the Planning Authority, and the omission of the glazing in the side walls of the dormer structure.

- 7.2.6. With regard to the potential for overbearing and overshadowing/loss of sunlight and daylight impacts arising from the proposed single storey rear extension, I note that it will replace an existing single storey projection to the rear of the house. Its height (3.45m) will be similar to this existing element, although its length will be c. 5m greater and it will also be c. 1.4m wider, extending into the side passageway between the existing house and the neighbouring house (No. 17).
- 7.2.7. The width of the proposed extension is considerable and it will extend across the entire width of the appeal site. This, together with its greater length than the existing return, will result in the extension being somewhat visually intrusive, particularly in respect of No. 17 Milford. I note, however, that No. 17 has a slightly higher ground level which will slightly mitigate this impact, and having regard to the single storey design of the proposed extension and the c. 16m length of the rear garden of No. 17, I do not consider that the proposed development would be so overbearing or visually obtrusive as to warrant refusal of planning permission.
- 7.2.8. With regard to overshadowing and loss of sunlight/daylight, the observers' house (No. 17) is south of the proposed extension, and I do not consider that any significant overshadowing or loss of sunlight/daylight to habitable rooms would occur. There would be potential for limited additional overshadowing of the observers' rear garden, however having regard to the single storey nature of the proposed development, the orientation of the properties and the c. 16m length of the observers' rear garden I consider that any such impact would be limited both in terms of magnitude and duration, and I do not consider that an unacceptable impact would arise. With regard to the appellant's property (No. 18), this would have greater potential to experience a degree of overshadowing or loss of sunlight/daylight to its rear projecting element which would be north east of the proposed extension. Again, having regard to the single storey nature of the extension and the generally high level of amenity enjoyed by residents of Milford I do not consider that this impact would be so significant as to warrant refusal of planning permission.
- 7.2.9. In conclusion, having regard to the suburban context of the appeal site and surrounding area and the semi-detached nature of the houses in the Milford estate, I

consider it reasonable to assume that rear/side extensions may result in some additional overshadowing or loss of sunlight/daylight. In this instance, I consider that the additional overshadowing and loss of sunlight/daylight which would result from the proposed development would not be excessive within such an environment. Therefore, subject to a suitable condition in relation to the dormer window, I do not consider that the proposed development would have an unacceptable impact on residential amenities, and I do not recommend that planning permission be refused on this basis.

7.3. Other Issues

7.3.1. Use of Attic as Habitable Floor Space

7.3.2. Condition 4 states that floorspace which does not comply with Building Regulations in relation to habitable standards shall not be used for human habitation. The applicants' agent states that the proposed development is intended to facilitate the use of the attic level for habitation and that it complies with relevant Building Regulations.

7.3.3. While it appears that a reasonable quality of habitable accommodation and headroom would be provided at attic level, I note that the applicants will be obliged to comply with Building Regulation requirements, regardless of what Conditions may or may not be attached to a grant of permission. Given that the applicants have indicated their intention to utilise the attic level for habitation, and noting that a person shall not be entitled solely by reason of a grant of permission to undertake any development, I consider Condition 4 to be an unnecessary re-statement of the applicants' obligations under separate regulatory codes.

7.3.4. Development Contribution

7.3.5. The Planning Authority's response to the appeal asks the Board to include a Section 48 development contribution, should their decision be upheld. I note, however, that no such condition was included in their decision, with the proposed development being deemed exempt.

7.3.6. Having regard to the provisions of the Fingal Development Contribution Scheme 2016-2020, which provides an exemption for the first 40 sq m of domestic extensions, and which makes an allowance for a reduction in respect of demolition

work, I note that the net increase would be less than 40 sq m, and therefore no development contribution is payable.

7.4. Appropriate Assessment

7.4.1. The appeal site is immediately south east of lands which form part of the Malahide Estuary SPA and SAC (Site Codes 004025 and 000205, respectively) and both the appellant and observers contend that the proposed development will impact on the SPA.

7.4.2. Having regard to the nature and scale of the proposed development, which comprises an extension to an existing house in a serviced and zoned long-established residential estate, and subject to the use of standard good practice construction methods, I am satisfied that no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

7.5. Environmental Impact Assessment

7.5.1. Having regard to the nature of the proposed development, which comprises an extension to and alteration of an existing dwelling and the developed suburban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Fingal Development Plan 2017-2023 it is considered that, subject to compliance with the conditions set out below, the

proposed development would not seriously injure the residential or visual amenities of the area or property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by the drawings submitted to the Board on the 6th day of June 2018, 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) The window in the proposed dormer structure shall be reduced in size to not more than 1.0m in height x 1.5m in width and the triangular glazed elements in the side walls of the dormer structure shall be omitted.

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 visual and residential amenity.

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

Reason: In the interest of visual amenity.

4. 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.

5. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: in the interests of residential amenity and proper development.

6. 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.

Niall Haverty
Planning Inspector

19th November 2018