



An
Bord
Pleanála

Inspector's Report ABP-301679-18

Development

The demolition of the existing single storey kitchen and garage to the side of the house, area 30sq.m., the construction of an extension, area 274sq.m., to the front, side and rear of the existing house, 2 storeys to the front and 3 storeys to the rear, including a mezzanine within a double height, half sunken, ground floor, the construction of a single storey garage, 37sq.m., to the front of the existing house, the addition of timber fencing to the top of the existing perimeter walls to a total height of 1.8m incorporating new matching gates, a new pedestrian gate to access the rear garden from Trees Avenue.

Location

39 Trees Road Lower, Mount Merrion, Blackrock, Co. Dublin, A94 F2N0.

Planning Authority

Dún Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D18A/0210

Applicant(s)	Eddie Fitzgerald
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Eddie Fitzgerald
Observer(s)	None.
Date of Site Inspection	18 th August, 2018
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located within an established residential area, approximately 440m southwest of the N11 (Stillorgan) National Road, in the suburb of Mount Merrion, Blackrock, Co. Dublin, where it occupies a corner plot at the junction of Trees Road Lower with Trees Avenue. The surrounding area is predominantly characterised by a combination of detached and semi-detached two-storey housing dated from the early-mid 20th Century, although there are several examples of more recent construction within Trees Avenue. The site itself has a stated site area of 0.083 hectares, is rectangular in shape and is presently occupied by a two-storey, semi-detached dwelling house with single storey annexes to the side of same and a hipped roof detail.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of the existing single storey kitchen and garage extensions to the side of the dwelling house and the subsequent construction of a substantial, contemporarily designed, two / three-storey, split-level extension (floor area: 274m²) to the front, side and rear of the house in addition to a single storey double-bay garage (floor area: 37m²) to the front of the property. External finishes will include a plaster render, pressed metal capping, a selected window system, horizontal cedar timber, and brickwork to match existing. It is also proposed to erect timber fencing to the top of the existing perimeter walls to a total height of 1.8m with a matching electrically operated sliding gate at the vehicular entrance. A new pedestrian access gate to the rear garden area will also be opened onto Trees Avenue.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 26th April, 2018 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 3 No. reasons:

- The extension of 274sqm to the front, side and rear of the existing house would, by reason of its height, design, scale and materials proposed appear dominant in relation to the existing house and would result in it being visually obtrusive and overbearing when viewed from the public road and would, therefore, fail to accord with the policy objectives contained in Section 8.2.3.4(i) of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. The proposed development would seriously injure the visual amenities and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.
- Having regard to the character of the area and to the proposed height and materials to the existing perimeter walls, it is considered that the proposed timber fencing would detract from the character of the streetscape and would be detrimental to pedestrian safety, therefore, failing to accord with Section 8.2.4.9 of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. The proposed development would therefore be seriously injurious to the visual and residential amenity of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.
- Having regard to the location, size and proposed materials of the single storey garage it is considered that that proposal would detract from the character and visual amenity of the area, would set a poor precedent along this section of streetscape and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Refers to the prominent corner location of the application site and states that the overall design, height and scale of the proposed extension would not be subordinate to the main dwelling house and would have a significant visual impact on the character of the surrounding streetscape. The remainder of the report notes that the proposed development will not have a detrimental impact on the residential amenity of neighbouring properties by reason of overlooking or overshadowing, however, it does raise concerns as regards the appropriateness of the timber fencing and further

states that the inclusion of the electronic sliding gate would be contrary to the provisions of the Development Plan.

3.2.2. Other Technical Reports:

Transportation Planning: No objection, subject to conditions, including a requirement to replace the proposed 'New electric sliding gate' with a manual sliding gate and to omit the proposed 'Timber fence above the boundary wall'.

Drainage Planning (Municipal Services Dept.): No objection, subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A total of 2 No. submissions were received from interested parties and the principle ground of objection contained therein can be summarised as follows:

- The overall design, scale, height and massing of the proposed development is out of character with the surrounding area / streetscape.
- Detrimental impact on the residential amenity of adjacent property by reason of overlooking and overshadowing.
- The proposed three-storey construction will obstruct views towards Howth from within adjacent property.
- The proposed extension will set an undesirable precedent for further such development.
- Concerns as regards any future siting of solar panels etc. given the southern aspect of the dwelling house proposed to be extended.
- The existing overgrown trees on site should be managed / addressed as part of the subject proposal.

4.0 Planning History

4.1. On Site:

None.

4.2. On Adjacent Sites:

PA Ref. No. D03B/0560. Was granted on 28th October, 2003 permitting Gerard Kelly permission for the demolition of existing side garage and shed, with new double storey extension to both side and rear of existing double storey house with new conservatory added to tile rear, modifications to the front facade and associated site works. All at No. 2, Trees Avenue, Blackrock, Dublin.

PA Ref. No. D07A/0979 / ABP Ref No. PL06D.225793. Was refused on appeal on 22nd April, 2007 refusing G. and D. Maguire permission for i) Demolition of existing garage at number 2 Trees Avenue ii) Construction of a two-storey extension to the side of number 2 Trees Avenue and a single storey extension to the rear iii) Conversion of the attic floor of number 2 to contain two bedrooms and a bathroom with dormer windows to the front and rear. iv) Adjustment of boundary lines around 2 and 4 Trees Avenue v) Demolition of existing three-bedroom detached dwelling at number 4 Trees Avenue vi) Construction of a new two-storey plus attic floor five bedroom detached dwelling within new site boundary at number 4 Trees Avenue. All at numbers 2 and 4 Trees Avenue, Mount Merrion, Co. Dublin.

- The proposed development, by reason of the scale and bulk of the proposed house number 4 and the proposed extensions to house number 2, which includes front and rear dormers and alterations of the roof profile, and the limited separation distance proposed between the houses, would be out of character with the existing properties and the established pattern of development in the area, would be visually obtrusive on the streetscape and would, therefore, be contrary to the proper planning and sustainable development of the area.
- It is considered that the proposed development which envisages the creation of an access driveway abutting the adjoining boundary of number 6 Trees Avenue, would, by reason of noise, nuisance and disturbance generated by vehicular traffic, particularly at night, seriously injure the residential amenities

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

PA Ref. No. D07A/0980 / ABP Ref. No. PL06D.225794. Was refused on appeal on 22nd April, 2008 refusing Darren Maguire permission for i) Creation of new vehicular entrance off Trees Avenue to access new house site behind numbers 2 and 4 Trees Avenue ii) Construction of new two-storey plus attic floor detached dwelling to the rear of numbers 2 and 4 Trees Avenue. All at the rear of numbers 2 and 4 Trees Avenue, Mount Merrion, Co. Dublin.

- It is considered that the proposed backland development, by reason of its scale, bulk, height and location in proximity to site boundaries, would be overbearing and visually obtrusive to the neighbouring residential properties, would be out of character with the established pattern of development in the area and would seriously injure the residential amenities of the neighbouring properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- It is considered that the proposed development, which envisages the creation of an access driveway abutting the adjoining boundary of number 6 Trees Avenue, by reason of noise, nuisance and disturbance generated by vehicular traffic, particularly at night, would seriously injure the residential amenities of neighbouring residential properties and would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. D09A/0224. Was granted on 21st May, 2009 permitting G. & D. Maguire Ltd. retention permission to previously approved planning permission reg ref D03B/0560. Retention permission sought for the development which consists of the following; Omission of new two storey side extension to house (not built), new pedestrian gate and wall, relocation of ground floor disabled toilet into former kids den, new utility store off kitchen, tiled roof to sunroom with associated block work rising walls. Ground floor elevational changes consist of the following; window to former kids den, now wc, changed to two smaller windows. Insertion of a window to replace double doors and insertion of a single door to former window, all to kitchen. New porch canopy over front door. Omission of door and window and insertion of 1 no. double doors to former window, all to living room. First floor elevational changes

consist of; new fixed opaque window on north elevation to bedroom 3: omission of roof parapet detail to south elevation and internal changes to first floor layouts. All at No. 2 Trees Avenue, Mount Merrion, Co. Dublin.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. D06A/0686. Was granted on 19th June, 2006 permitting Paul and Marian Mackle permission for the demolition of non-habitable rear lean to, garage/store and side chimney to semi-detached house at No. 37, Trees Road, and subsequent erection of 71 sq.m single storey extension to front, side and rear; also pitched roof and lieu of flat roof and front, additional and altered windows, and boundary wall to Trees Avenue raised by 225 mm and capped. All at No. 37, Trees Road Lower, Mount Merrion, Co. Dublin.

PA Ref. No. D08A/0676. Was granted on 5th August, 2008 permitting Darren and Anne Marie Maguire permission for demolition of existing garage, partial demolition of rear wall of existing dwelling, redesign of front elevation including two new gables over windows, with a new two-storey bay window to front and redesign of existing porch with associated repair to existing roof, construction of a new two storey extension to the rear and side of existing house, consisting on ground floor of study, family room, utility and disabled toilet, kitchen, dining and living areas, conservatory with surrounding terrace, consisting at first floor of 4 bedrooms, 2 bathrooms and ensuite, new chimney, new driveway and associated landscaping, redesign of elevations and new roof to the existing shed located to the rear of the site, boundary treatment and all associated site works. All at No. 4, Trees Avenue, Mount Merrion, Co. Dublin.

D13A/0247. Was granted on 8th July, 2013 permitting Maurice & Mary Roche permission for a development consisting of demolition of existing 2 storey dwelling house and construction of new replacement 2 storey 4 bedroom house with garden store in rear garden, new widened entrance gates and piers, all associated site works and services, including landscaping and boundary treatments. All at No. 4, Trees Avenue, Mount Merrion, Blackrock, Co. Dublin.

5.0 Policy Context

5.1. Development Plan

5.1.1. Dún Laoghaire Rathdown County Development Plan, 2016-2022:

Land Use Zoning:

The proposed development site is located in an area zoned as 'A' with the stated land use zoning objective '*To protect and-or improve residential amenity*'.

Other Relevant Sections / Policies:

Chapter 8: Principles of Development:

Section 8.2: Development Management:

Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 2.0km northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 2.1km northeast of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 7.9km east of the site.
- The Dalkey Island Special Protection Area (Site Code: 004172), approximately 7.8km east-southeast of the site.
- The North Bull Island Special Protection Area (Site Code: 004006), approximately 7.0km northeast of the site.
- The North Dublin Bay Special Area of Conservation (Site Code: 000206), approximately 7.0km northeast of the site.

N.B. This list is not intended to be exhaustive as there are a number of other Natura 2000 sites in excess of the aforementioned distances yet within a 15km radius of the application site.

6.0 The Appeal

6.1. Grounds of Appeal

- With regard to the scale of the proposed development, consideration must be given to the uniqueness of the application site. In this respect it should be noted that the subject site encompasses a corner property with a side garden area 9m in width between the gable elevation of the two-storey portion of the existing dwelling house and the boundary wall which results in a site that is much larger than those of adjacent properties. Sites of this size and proportion are regularly the subject of proposals for the provision of additional dwelling houses, which are encouraged by current development plans.

The submitted proposal has been purposely designed to stand separate from the existing house and as such does not impact on the surroundings any more than the construction of a separate dwelling house.

- Mount Merrion was originally laid out in the 1940s as a new upmarket suburb on the outskirts of Dublin City and with the growth of the city it is now an even more desirable area and it is only natural that new residents would wish to rejuvenate and upgrade the existing dwelling house as appropriate to the neighbourhood.
- The design and materials are intentionally contemporary as noted in the Design Statement. Moreover, although aesthetics can be subjective, it is submitted that this is a proper approach to new development (i.e. where new construction is legible without undermining the integrity of the existing structure) which is vindicated by contrary examples in the neighbourhood.
- The size of the application site and its corner location allows the proposed extension to be positioned far enough away from the boundary walls with adjacent property and the dwelling house on the opposite corner in order to

avoid any overlooking. This has been acknowledged in the report of the case planner.

- With regard to the proposal to erect timber fencing along the perimeter of the site, it should be noted that many of the neighbouring properties have enclosed their front garden areas with walls, hedging and fencing for privacy. In this regard it is submitted that the choice of fencing is an immediate solution which does not require waiting for a hedge to grow. Furthermore, the detail and choice of material for the proposed fencing will serve to integrate well with the proposed garage.
- The safety concerns raised in the planner's report are unwarranted as the roadway is located 8m from the boundary wall and is separated from same by a pedestrian footpath and grass verge. This will ensure that adequate sightlines are maintained.
- In the event the Board deems the proposed fencing unsuitable, the applicant is amenable to the omission of same by way of condition.
- The proposed garage has been designed to integrate with the new fencing along the perimeter of the property and thus will have the appearance of a 'floating roof'. This will ensure that the garage does not visually impact on the surrounding area.
- The separation distance between the roadway and the front boundary wall will ensure that the garage will not impinge on safety standards. However, in the event the Board were to agree with the concerns of the Planning Authority on the matter, the applicant is agreeable to the exclusion of the garage by way of condition.
- The guidance set out in Sections 8.2.3.4(i) & 8.2.4.9 of the Development Plan is of a general nature and individual projects should still be assessed on their own merits. In this respect it is submitted that the subject proposal is of a high architectural standard which has been developed for a young family and is suited to this well-established residential neighbourhood. The proposed development will enhance and rejuvenate a semi-derelict property and will provide for modern accommodation appropriate to a growing family.

6.2. Planning Authority Response

- States that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- Overall design and layout
- Impact on residential amenity
- Appropriate assessment
- Environmental impact assessment (screening)

These are assessed as follows:

7.2. **Overall Design and Layout:**

7.2.1. Following a review of the available information, it is clear that the key issue in respect of this appeal concerns the overall design and architectural treatment of the proposed development having regard to the site location on a prominent corner plot at the junction of Trees Avenue and Trees Road Lower in an established residential area where the prevailing pattern of development is dominated by conventional detached and semi-detached housing. In this respect I would advise the Board that the overall design ethos and aesthetic adopted for the proposed development is undoubtedly contemporary and, therefore, careful consideration must be given to the

suitability of any such proposal having regard to the site context and the applicable provisions of the Development Plan.

- 7.2.2. The proposed development involves the construction of a substantial two / three-storey, split-level extension to the front, side and rear of the existing dwelling house in addition to a single storey double-bay garage to the front of the property. It is also proposed to erect timber fencing to the top of the existing perimeter walls in order to achieve a total height of 1.8m and to install a matching electrically operated sliding gate at the vehicular entrance. The rationale for the proposal has been set out in the 'Planning Report' which accompanied the initial application and this has been supplemented further by the 'Design Statement' contained in the grounds of appeal. In essence, the case has been put forward that the proposed extension has been designed as a contemporary structure juxtaposed with the existing house in order to follow the accepted architectural practice whereby new construction should be distinguishable from, yet compatible with, the original property. Further support has been lent to the submitted design by reference to the site context, including its overall size and corner location in an established residential area, in addition to the applicant's desire to renovate the property in order to provide for more contemporary / modern living standards.
- 7.2.3. In contrast to the foregoing, the Planning Authority has determined that the proposed extension will be visually obtrusive and overbearing when viewed from the public road and that the proposed garage and the timber fencing will also detract from the established character and visual amenity of the surrounding streetscape.
- 7.2.4. Whilst I would acknowledge that the interpretation of more contemporary designs is somewhat subjective and that concerns are typically raised as regards the relationship of the proposal with neighbouring properties and whether it is in keeping with the overall character of the surrounding area, including the established pattern of development, in my opinion, the introduction of such additions to the urban grain can potentially make a positive contribution to the built form and serve to enliven an area architecturally. However, it is necessary to achieve a suitable balance between the insertion of any such contemporary construction and the established character of an area and in this respect I am inclined to conclude that the subject proposal, by reason of its overall design, layout and scale, represents an excessively dominant insertion into the streetscape which would detract from the visual amenity of the

area. In this regard I would have particular concerns in relation to the construction of the proposed garage element forward of the building line and the proposal to erect timber fencing atop the perimeter walling which would be somewhat alien to the area. In addition, the overall massing of the proposed extension when viewed from vantage points situated along Trees Avenue and on the approach from the northeast along Trees Road Lower would likely be unduly visually obtrusive given the prevailing character of the area.

- 7.2.5. In the event that the Board does not concur with the foregoing conclusion, I would nevertheless suggest that any grant of permission for the proposed development should omit the timber fencing and the matching sliding gate, in addition to the single storey garage, on the basis that these aspects of the proposal would detract from the visual amenity and prevailing character of the surrounding streetscape.

7.3. **Impact on Residential Amenity:**

- 7.3.1. Having reviewed the available information, and in light of the site context, including its location within a built-up suburban area, in my opinion, the overall scale, design, positioning and orientation of the proposed development, with particular reference to the separation of same from adjacent dwelling houses, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by reason of overlooking or overshadowing / loss of daylight / sunlight.
- 7.3.2. In support of the foregoing, I would draw the Board's attention in the first instance to the positioning of the proposed construction relative to (and away from) the adjacent properties at No. 41 Trees Road Lower and No. 2 Trees Avenue and to the presence of the intervening public road between the application site and the existing residence at No. 37 Trees Road Lower. Moreover, it is apparent that adequate cognisance has been taken of the need to avoid the undue overlooking of neighbouring dwelling houses through the internal configuration of the proposed extension and the associated positioning of fenestration having regard to the available separation distances. For example, the series of 3 No. first floor windows within the rear (north-western) elevation of the proposed extension will serve 2 No. wardrobe areas and an ensuite bathroom and could be glazed in obscure glass without detriment to the amenity of these rooms whilst any potential for overlooking of the adjacent property at No. 2 Trees Avenue would be further mitigated by the separation distance

available (c. 20m) and the positioning of the windows in question relative to the forward building line of that property. In addition, the window within the southwestern elevation of the extension which will serve the first floor master bedroom has been purposively positioned at an increased height relative to floor level in order to avoid undue overlooking of the private garden area of the adjacent property at No. 41 Trees Road Lower, although it would also be feasible to restrict the opening of this window to a top-hung pivot and to glaze it in obscure glass without any significant loss of amenity to the bedroom given presence of further fenestration within the streetside elevation of the construction. Furthermore, any potential overlooking of the property at No. 37 Trees Road Lower is mitigated by the separation distance involved and the presence of the intervening public road whilst it is also of relevance to note that the first floor window within the gable end of that dwelling house (i.e. the window orientated towards the proposed extension) seemingly serves a stairwell and thus would not normally warrant the same degree of protection as would be afforded to bedroom / living area.

N.B. In the interests of clarity, I would advise the Board that there would appear to be a discrepancy in the submitted plans as the rear elevation of the proposed extension includes fenestration serving the ground floor & mezzanine levels which has not been detailed on the corresponding floor plans.

- 7.3.3. Whilst I would acknowledge that there may be some concerns that the proposed development will have a detrimental impact on the residential amenity of nearby dwelling houses by reason of the obstruction (in part) of views that may presently be available from those properties, it is of the utmost relevance to note that any such views are not of public interest nor are they expressly identified as views worthy of preservation in the relevant Development Plan. They are essentially views enjoyed by a private individual from private property. A private individual does not have a right to a view and whilst a particular view from a property is desirable, it is not definitive nor is it a legal entitlement and, therefore, I am of the opinion that the proposed development would not seriously injure the amenities of property in the vicinity simply by interfering with their views of the surrounding area.

7.4. **Appropriate Assessment:**

- 7.4.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.5. **Environmental Impact Assessment (Screening):**

- 7.5.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 **Reasons and Considerations**

1. Having regard to the pattern of development in the area, it is considered that the proposed extension, by reason of its design, scale and massing, would be out of character with the established streetscape and would seriously injure the amenities of the area by reason of visual obtrusion. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

18th September, 2018

