



An
Bord
Pleanála

Inspector's Report ABP-301759-18

Development

Permission for the demolition of a front porch, relocation of the front door, construction of a ground floor extension to the side,

Location

2 Saint Brendans Terrace, Tibradden, Rathfarnham, Dublin 16

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D18B/0123

Applicant(s)

Gerry & Fiona Cunney

Type of Application

Permission

Planning Authority Decision

Grant subject to 6 no Conditions

Type of Appeal

Third Party

Appellant(s)

Breda Browne

Observer(s)

None

Date of Site Inspection

17th July 2018

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.706 ha comprises a semi-detached cottage on St Brendans Terrace which is accessed off Mutton Lane in Tibbradden. St Brendan's is a cul de sac with single storey detached and semi-detached dwellings either side. The rear garden is elevated from the street level. Parking and vehicular access is provided to the side and rear of the dwelling. The access is shared with the neighbouring property to the south of the appeal site. A set of photographs of the site and its environs taken during the course of the site inspection is attached.

2.0 Proposed Development

- 2.1. The application submitted to Dun Laoghaire Rathdown County Council (DLRCC) on the 16th March 2018 was for permission for the demolition of a front porch (2sqm), relocation of the front door, construction of a ground floor extension to the side (12sqm), a new pitched roof with roof lights on the existing rear extension, to convert the attic to storage space with provision of a shower room, roof lights to the front, dormer roofs to the rear and internal alterations.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. DLRCC granted permission subject to 6 no generally standard conditions

3.2. Planning Authority Reports

- 3.2.1. Planning Reports
- 3.2.2. The **Case Planner** considered the elements of the scheme and recommended that permission be granted subject to 6 no conditions. The notification of decision to grant permission issued by DLRCC reflects this recommendation.
- 3.2.3. Other Technical Reports
- 3.2.4. **Surface Water Drainage** – No objection to the scheme subject to conditions relating to surface water, SuDS and hardstanding areas.

3.2.5. **Housing Maintenance** – A hand written note on the Case Planners report states that there is no objection from Housing Maintenance.

3.3. **Prescribed Bodies**

3.3.1. No reports received.

3.4. **Third Party Observations**

3.4.1. There is one observation recorded on the planning file from Breda Browne (appellant in this case). The issues raised relate to the impact of the scheme on their property and that reference to a “shared side passage” is inaccurate as no such rights exist.

4.0 **Planning History**

4.1. There is no evidence of any previous planning appeal on this site.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The operative Development Plan is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**. The site is zoned Objective “B” where the objective is *to protect and/or improve rural amenity and to provide for the development of agriculture*. Guidance and standards for additional accommodation in rural areas is set out in Section 8.2.3.6 of the Plan.

5.2. **Natural Heritage Designations**

5.2.1. The site is not located within a designated Natura 2000 site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal has been prepared and submitted by Breda Browne, No 1 St Brendans Terrace (next door to the appeal site). The issues raised may be summarised as follows:

- **Access Arrangements** – The access arrangements proposed rely on alleged rights to a “shared access” i.e. a section of the appellant’s property (site layout drawings and property folio accompanying the appeal refer). No such rights exist to any sharing of the appellant’s property within the property folio. There is insufficient access to accommodate safe vehicle movements.
- **Turning** - There are no proposals to show how any vehicle would achieve the required turning movements from the public road given the extensive parking practise on St Brendans Terrace. Has not been demonstrated how this can be achieved without encroaching on the alleged rights to the shared area which do not exist.
- **Car Parking** – There are no practical proposals to show how any vehicles can be self-contained within the legal boundaries of the redline boundary of the site.
- **Residential Amenity** – Number of windows proposed on the south elevation that would overlook the appellant’s property.
- **Inaccurate Statements** – The use of the first floor is proposed as storage and described as an attic in the planners report and yet several new dormer windows and a new bathroom is proposed. Submitted that this area will be bedrooms unless conditioned otherwise.
- **Services** – Submitted that a revised arrangement for power supply, sewerage and other services will be required for the appeal site and the appellant’s site. No such proposals have been included in the application and no permission given for same.

6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by Peter Brennan on behalf of the applicant and may be summarised as follows:

- **Legal Rights** - The applicant's claim no rights over the entrance driveway beyond the boundary as demarcated on plans submitted.
- **Parking** – There will be no further increase in vehicles serving the residents of the appeal site because of the proposed extension and as such, the existing parking arrangements will continue. The appeal site sits on a large site with vehicle access along an existing driveway to the rear and vehicle parking within the site curtilage to the side accessed through the existing entrance. This is satisfactory to park two cars. Additional vehicles could be accommodated at the rear of the appeal site if extra car parking was required.
- **Access Arrangement** – A survey carried out on the 15th June 2018 has confirmed that the distance from the furthest most south gable wall of the appeal site to the shared boundary is 3.45m and the existing gates access the rear garden of the appeal site is 2950mm. Submitted that both are adequate width for a vehicle. Further the separation distance between both properties is 6019mm.
- **Shared Access** – The applicants are happy to construct a wall on the shared boundary or alternatively a temporary hoarding could be erected during the construction phase to ensure no traffic, construction or otherwise impedes the appellant's property.
- **South Facing Windows** – There are no windows proposed on the south gable of the extension. There are two roof lights on the vaulted roof at ground floor to the rear of the property facing south in order to provide light. The base of the roof lights are 3850mm above ground level rendering it impossible to overlook adjoining properties.
- **Attic** – The applicants have no requirement for additional first floor bedrooms and would go through the normal planning process if they did.
- **Drainage** – A detailed survey of existing drainage provision at the site was carried out. It is proposed to discharge the surface water and the foul sewage through the existing drainage network north of the appellants

dwelling and to comply with the SUDs requirements as outlined in the planning condition attached. No permission from the appellant is required. The ESB meter box will be relocated from the south gable of the existing dwelling to the south side of the proposed extension and will not impact on the appellant's property.

6.3. **Planning Authority Response**

- 6.3.1. DLRCC refers to the previous planners report and state 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.

6.4. **Observations**

- 6.4.1. No observations recorded on the appeal file.

6.5. **Further Responses**

- 6.5.1. The following responses are recorded on the appeal file:

6.6. **Breda Browne** – Following discussion with the applicant the appellant is happy to agree that the applicant construct / reinstate the boundary wall between the two properties and that this will resolve the problem on a permanent basis.

6.7. **DLRCC** – No additional comments.

7.0 **Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Residential Amenity
- Access & Car Parking
- Other Issues

8.0 Principle

- 8.1. Under the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 the site is wholly contained within an area zoned Objective “B” where the objective is to protect and/or improve rural amenity and to provide for the development of agriculture and where residential development is open for consideration subject to compliance, with the relevant policies, standards and requirements set out in plan. Residential extensions and alterations to an existing dwelling for residential purposes is therefore considered a permissible use. Accordingly I am satisfied that the principle of an extension to an existing dwelling at this location is acceptable at this location.
- 8.2. With regard to the design and scale of the proposal I am satisfied that the extension is a modest size that respects the character, scale, and proportions of the parent dwelling while protecting the visual amenities of the area.

9.0 Residential Amenity

- 9.1. The appellant’s property is located to the south of the appeal site. Save for the two roof lights on the vaulted rear roof there are no windows proposed on the south gable of the extension. I am satisfied that the design, scale, form and positioning of the proposed extension strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwelling to the south, that it will not result in any significant over shadowing of adjoining properties and that it will not result in any unreasonable loss of natural light or overlooking to neighbouring residential properties.
- 9.2. Overall I am satisfied that the development represents an appropriately scaled and ancillary residential extension which will not give rise to any undue impacts on the amenity of any adjacent properties.

10.0 Access & Car Parking

- 10.1. Significant concern is raised in the appeal with regard to the “shared” access to the site, car parking provision within the site, construction traffic and associated turning movements.

- 10.2. While I am satisfied that there is adequate width to access the appeal property to carry out the proposed development works, I would draw attention to Section 34(13) of the Planning Act that states, that a person is not be entitled solely by reason of a permission to carry out any development. Therefore, should planning permission be granted and should the appellant or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant.
- 10.3. With regard to parking and general access to the appeal site I accept the applicant's statement that there will be no further increase in vehicles serving the residents of the appeal site and that the existing parking arrangements within the curtilage of the site and to the rear of the dwelling will continue. I note the S131 response from the appellant who states that following discussion with the applicant they are happy to agree that the applicant construct / reinstate the boundary wall between the two properties and that this can be done at the time of construction. I consider this to be a reasonable proposal and recommend that should the Board be minded to grant permission that a condition be attached requiring the details of same to be agreed.

11.0 Other Issues

- 11.1. **Infrastructure Services** - I am satisfied that this matter can be dealt with by way of suitably worded condition whereby 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.
- 11.2. **Attic Use** – The plans submitted with the application indicate that the attic is to be used for storage. In the interest of clarity I am satisfied that this matter can be dealt with by way of condition whereby the development shall be carried out and completed in accordance with the plans and particulars lodged with the application.
- 11.3. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. Section 10 Exemptions and Reduction of the scheme states that the first 40 square metres of any residential extension, shall be exempt from the contribution scheme.

Accordingly, the proposed development, as recommended falls under the exemptions listed i.e. less than 40sqm. The scheme is exempt from the payment of a Section 48 Development Contribution.

- 11.4. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development, a rear extension to an existing dwelling, within an established urban area, and its distance to the nearest 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.

12.0 Recommendation

- 12.1. It is recommended that permission be **granted** subject to conditions for the reasons and considerations set out below.

13.0 Reasons and Considerations

- 13.1. Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and its zoning for residential purposes, to the location of the site in an established residential area and to the nature, form, scale and design of the proposed development, 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the

development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. A permanent boundary wall shall be constructed along the shared access arrangements between No 2 Saint Brendans Terrace and No 1 St Brendans Terrace. The wall shall not exceed 1.2 meters in height and shall terminate at the front building line of both houses. Revised drawings showing compliance with this requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

3. The external finishes of the proposed extension, including roof tiles/slates, shall be the same as those of the existing dwelling in respect of 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. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 order to safeguard the residential amenities of adjoining property in the vicinity.

Mary Crowley

Senior Planning Inspector

18th June 2018