



An
Bord
Pleanála

Inspector's Report ABP-302257-18

Development	Permission for first-floor extension on top of existing single-storey house.
Location	'Summergrove Orchard', The Hill, Monkstown, Co. Dublin.
Planning Authority	Dún Laoghaire - Rathdown County Council
Planning Authority Reg. Ref.	D18A/0459
Applicant(s)	Ian & Isobel Kenny
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Ian & Isobel Kenny
Observer(s)	David & Lisa Carroll I. & M. O'Gara Sally-Ann Sherry
Date of Site Inspection	1 st December 2018
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.0267ha, is located at the head of a shared driveway, off The Hill, a residential street within suburban Monkstown, Co. Dublin. The access driveway is shared with two other houses – to northeast and southwest. There is an L-shaped, single-storey, flat-roofed house of 94m² on the site – of recent construction. The external finishes comprise granite-faced walls with red-brick quoin detailing, and plastered walls. The house has one on-site parking space. There is pedestrian access from the shared driveway to a courtyard garden on the southwest side of the house. There is pedestrian access from the access courtyard to the garden of ‘Summergrove House’ to the northeast. This house is occupied by the parents of one of the applicants.
- 1.2. To the southwest, the site abuts the curtilage of ‘Leyny Lodge’, a two-storey house – the boundary with which is a granite wall surmounted by a timber fence to eaves height. To the northwest, the site abuts the back-garden curtilage of ‘Tudor House’ – one of a pair of three-storey-plus-attic houses – the boundary with which is a granite wall surmounted by a timber fence to eaves height. One wall of the existing house is constructed immediately inside the common boundary. To the northeast, the site abuts the garden curtilage of ‘Summergrove House’ (two-storey) – the boundary with which is a granite wall surmounted by a timber fence to eaves height. One wall of the existing house is constructed immediately inside the common boundary. The adjoining garden of ‘Summergrove House’ is located 1.5m below the level of the appeal site. To the south, the site abuts the shared driveway – the boundary with which is a granite wall to eaves height. One wall of the existing house, is constructed on the driveway boundary. On the opposite side of the driveway there are school playing fields behind a granite wall and embankment screen planting.

2.0 Proposed Development

- 2.1. Permission sought on 16th May 2018, to extend an existing flat-roofed, single-storey house, by way of first floor extension (stated to be 94m²). External finishes include plaster, recessed wall face with grey larch cladding; and grey, aluminium-clad windows. The parapet height of the proposed roof is approximately 5.85m.
- 2.2. The application is accompanied by the following documentation of note-

- Planning/Design Report – dated May 2018.
- Series of colour photographs of the site and environs.
- Letter from applicants in relation their need for a larger house.
- Doctor’s letter in relation to father of one of the applicants, who resides in adjoining ‘Summergrove House’.

3.0 Planning Authority Decision

By Order dated 10th July 2018, Dún Laoghaire/Rathdown County Council issued a Notification of decision to refuse planning permission for two reasons, which can be summarised as follows-

1. Scale, height and proximity to adjoining property to northwest, would result in development that would be visually overbearing and intrusive, and would set an undesirable precedent. Development would seriously injure the amenities and depreciate the value of property in the vicinity.
2. Development would have a negative impact on the setting and aspect of an adjoining Protected Structure, and the historic pattern of development within the Monkstown Architectural Conservation Area.

4.0 Planning History

Ref. D05A/0903: Permission refused for a one-and-a-half-storey house on this site.

Ref. D06A/1234: Permission refused for a two-storey house on this site.

Ref. D06A/1712: Permission refused to Margaret & P. Don Henihan, for construction of single-storey, courtyard house at ‘Summergrove House’ on 26th January 2007. On appeal by the 1st Party to the Board (**PL 06D.221974**) permission was granted subject to conditions.

Ref. D06A/1712/E: Extension of duration of planning permission granted – until 13th August 2017. This is the house which has been constructed on the appeal site.

Ref. D10A/0539: Permission refused for a two-storey house on this site.

5.0 Policy Context

5.1. Development Plan

The relevant document is the Dún Laoghaire - Rathdown County Development Plan 2016-2022.

- The site is zoned Objective 'A' – To protect and/or improve residential amenity.
- The site is located within the Monkstown Architectural Conservation Area (ACA).
- 'Tudor House' and 'Tudor Hall' are included in the Record of Protected Structures (RPS) – no.s 842 and 838 respectively.
- Section 6.1.4.1 – Policy AR12 in relation to Architectural Conservation Areas states- "It is Council policy to: (i) Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA). (ii) Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area. (iii) Seek a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design."
- Section 8.2.3.4 (i) in relation to extensions to dwellings states, *inter alia*- "In determining applications for first floor extensions the following factors will be considered:
 - Overshadowing, overbearing and overlooking – along with proximity, height and length along mutual boundaries.
 - Remaining rear private open space, its orientation and usability.
 - Degree of set-back from mutual side boundaries.
 - External finishes and design, which shall generally be in harmony with existing".

- Section 8.2.11.2 (iii) in relation to development in proximity to a Protected Structure states, *inter alia*- “Any proposal for development will be assessed in terms of the following-
 - The proximity and potential impact in terms of scale, height, massing and alignment on the Protected Structure, to ensure that harmony produced by particular grouping of buildings and the quality of spaces and views between them is not adversely affected.
 - The quality and palette of materials and finishes proposed”

5.2. Natural Heritage Designations

The site is located neither within nor immediately abutting any natural heritage designation. The closest such is the South Dublin Bay and River Tolka Estuary SPA (Site code 004024) – located some 0.5km to the north-northwest, as the crow flies. There are no surface water connections with the SPA. The South Dublin Bay SAC (Site code 000210) is located slightly further away – at 0.6km to the northwest, as the crow flies.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from Declan Collins, Architects, agent on behalf of the applicants, Ian & Isobel Kenny, received by An Bord Pleanála on 7th August 2018, can be summarised in bullet point format as follows-

- It was not possible to access the curtilage of ‘Tudor House’ or ‘Leyny Lodge’ prior to making the application.
- There is substantial tree screening between all three properties.
- The owners of ‘Tudor House’ have excavated their rear garden – removing approximately 80 lorry-loads of earth – reducing the level by approximately 1.2m. This lends an illusion of height to surrounding structures.
- There is now a natural screen between the appeal site and the garden of ‘Tudor House’.

- The laneway serving ‘Summergrove House’, ‘Leyny Lodge’ and the appeal site, is adequate for the amount of traffic generated. There are never delays.
- The design of the house extension is ‘contemporary’, and there is nothing pastiche about it.
- Aerial photographs show extent of screen planting around houses in the area.
- There will be no overlooking of neighbouring houses to southwest and northwest.

6.1.2. The appeal is accompanied by the following documentation of note-

- Aerial and ground level photographs/photomontages of the site and environs.
- Series of A4 colour photomontages of the appeal site and surrounds.
- Examples of three infill developments in Dún Laoghaire – Rathdown, granted by either the PA or An Bord Pleanála on appeal.

6.2. **Planning Authority Response**

The response of Dún Laoghaire – Rathdown County Council, received by An Bord Pleanála on 14th August 2018, indicates that the PA has nothing further to add.

6.3. **Observations**

6.3.1. There are three observations from-

- David & Lisa Carroll, ‘Tudor House’, received on 31st August 2018;
- Frank Elmes, Architects & Planning Consultants, agent on behalf of I. & M. O’Gara, ‘Leyny Lodge’, received on 31st August 2018;
- Sally-Ann Sherry, ‘Tudor Hall’, received on 3rd September 2018.

6.3.2. The issues raised can be summarised in bullet point format as follows-

- The decision to refuse permission is welcomed; and is consistent with previous decisions.
- The development will have a considerable negative impact on ‘Tudor House’.
- ‘Summergrove House’ is a substantial house.

- The rationale for the development is described as pressure on space to accommodate a growing family. This is not a relevant planning consideration.
- The development of the house on site has not complied with conditions in relation to boundary walls, roofing, chimney height restrictions, and cedar cladding. These failings compromise the character of the ACA and adjoining Protected Structures.
- The Silver birch trees within the garden curtilage of 'Tudor House' have been relied upon to mitigate the impact of the development. They are planted on a narrow, raised bed. They were selected for their decorative function. These are deciduous trees, and so afford little screening in winter.
- The laneway leading to this house is shared by the occupants of 'Leyny Lodge'. There are 3-4 houses using this driveway. Increasing the size of the house will lead to increased vehicular traffic.
- The residential amenity of the occupants of 'Leyny Lodge' will be severely compromised. The site is too small for the development proposed. The Council clearly outlined why such an extension would not be acceptable.
- The applicants were happy to accept a planning decision which allowed them to build a single-storey house.
- The proposed extension would be particularly visible from the shared driveway – to the side of 'Leyny Lodge'.
- The proposed extension will be only 4.8m from the boundary with 'Leyny Lodge', and only 7.3m from the closest part of the house. The new extension will have an overbearing impact on 'Leyny Lodge'.
- The proposed development is out of scale for this site, and constitutes overdevelopment of a restricted site.
- Screen planting on site is not as dense as is made out in aerial photographs submitted by the applicant. When viewed from the ground, the screening is much less.
- The owners of 'Leyny Lodge' object to aerial photographs of their house and garden being put in the public domain, without their consent.

- The infill development examples, submitted as part of the 1st Party appeal are not comparable with the appeal site – and none are located at the head of a private driveway.
- If one of the applicant's wishes to look after her parents, then perhaps they should consider swapping houses. Alternatively, the applicants could perhaps extend their house at ground floor level into the curtilage of 'Summergrove House'.
- The development will result in overlooking of private open space within the curtilage of 'Leyny Lodge', notwithstanding the use of squint windows.
- The development will overshadow 'Leyny Lodge'.
- Drawings submitted are not consistent in relation to the squint windows.
- The development will impinge on the amenity value of 'Tudor Hall' – a Protected Structure. The extension will be over 9.0m above the ground level to the rear of 'Tudor House'. This height would seriously affect winter sunlight.
- The original site of 'Tudor Hall' and 'Tudor House' has been developed as much as it should – with three additional houses within the original curtilage.

6.3.3. The observations are accompanied by the following documentation of note-

- Annotated colour photographs.
- Copy of observation on appeal ref. PL 06D.238117 – from Stephen Little & Associates (dated 25th January 2011).
- Sketch drawings showing proposed extension relative to the rear gardens of 'Tudor House' and 'Tudor Hall'.

6.4. **Further Responses**

The appeal was circulated by An Bord Pleanála to the Development Applications Unit of Department of Culture, Heritage and the Gaeltacht, for comment; on or before 8th October 2018. There was no response received.

7.0 Assessment

The principal issue of this appeal relates to the impact on the residential amenities of surrounding properties; the impact on 'Tudor House', a Protected Structure; and the impact on the Monkstown Architectural Conservation Area (ACA).

7.1. Development Plan

The site is zoned for residential use. There is an existing residential use on site. The proposed development to extend a residential use is in accordance with the zoning.

7.2. Layout & Design

- 7.2.1. There is an existing L-shaped, flat-roofed, single-storey house on this site. Two of the walls of the house are constructed immediately inside the boundary walls with residential properties to the northwest and the northeast. One wall is constructed on the boundary wall with the shared driveway to the south. It is proposed to construct a flat-roofed extension at first floor level, covering almost the entirety of the existing flat-roofed house. The existing house is 94m² – whilst the extension has a stated floor area of 94m² (which must be a mistake; as the floor area of the proposed extension is slightly less than the floor area of the existing house).
- 7.2.2. The northwestern and northeastern elevations of the extension (where the house immediately abuts the garden curtilage of adjoining houses), are blank. In order to lessen the visual impact, sections of the wall have been recessed and timber cladding is proposed. Two squint windows are proposed in the southwestern elevation, in order to avoid overlooking of the garden curtilage of 'Leyny Lodge'. One of the observers has pointed out, correctly, that the drawings submitted are not consistent in relation to these squint windows. However, I would consider that the differences are minor and, in the event of a grant of planning permission, it could be specified which plan was to be followed. Rooflights are proposed for the bathrooms and staircase. I note that there are rooflights in the existing house. A living-room, two bedrooms and two bathrooms are proposed. The living-room will have doors to a small roof terrace on the southern boundary of the property – where it abuts the shared driveway. This terrace will not result in overlooking of any private gardens –

there being school playing fields on the opposite side of the driveway. There are first floor windows addressing the garden of 'Summergrove House', but this house is in the ownership of the parents of one of the applicants, and there has been no objection. The current appeal site was carved from the curtilage of 'Summergrove House'.

7.2.3. I note that the PA has consistently refused permission for a two-storey house on this restricted site. An Bord Pleanála granted planning permission for the single-storey houses on this site – notwithstanding that the PA had refused permission. The site is elevated relative to the position of 'Tudor House' and 'Summergrove House'. 'Leyny Lodge' is located at a slightly higher level.

7.2.4. The principal impact of this development would be on the garden curtilages of 'Tudor House' and 'Summergrove House', where two-storey, blank walls will immediately abut the common boundaries. I would not be concerned in relation to the impact on the amenities of 'Summergrove House', as this house is occupied by the parents of one of the applicants; and there has been no objection received from these occupants. However, the impact on the amenity 'Tudor House' would be severe. The owners of 'Tudor House' have planted a single row of birch trees to help screen the existing house on the appeal site. The first-floor extension proposed would completely dominate the rear garden – particularly in winter when foliage on trees is limited. The proposal by the applicants to recess part of the first-floor wall and clad it in timber would not sufficiently mitigate the overbearing impact this development would have on the rear garden of 'Tudor House'. This house is a Protected Structure. The proposed development would have a negative visual impact on the setting of this house, by virtue of the proximity of the proposed first floor extension to the common boundary, and the inability of the applicants to screen the development from within the appeal site. Instead the applicants rely on screening on the adjoining site, in order to screen the proposed development.

7.2.5. The proposed first floor extension will be set back approximately 4.8m from the boundary with 'Leyny Lodge'. I would note that 'Leyny Lodge' itself is located close to the common boundary with the appeal site, and is a two-storey structure. However, it considerably pre-dates the house on the appeal site. In order to avoid overlooking of the adjoining garden of 'Leyny Lodge', the applicants have proposed two squint windows. There would be limited overlooking from these windows –

within a very narrow angle of visibility. The squint window of the living-room could be omitted, as the room has windows on the other two sides. The squint window for the bedroom could not be omitted. The very need for squint windows at all indicates just how constrained this site is. It has been suggested by an observer that the house could be extended at ground floor level into the garden curtilage of 'Summergrove House'. However, this proposal is not before the Board for consideration, and the garden is outside the red-line boundary of the appeal site.

7.2.6. I would be concerned that a first-floor extension would appear overbearing, when viewed from the curtilage of 'Leyny Lodge'. The existing house on the appeal site sits very well into the site, and is not particularly visible from surrounding gardens. The proposed development would radically alter this situation. The extension would result in overshadowing of the gardens of 'Leyny Lodge', and to a greater extent 'Tudor House'. The drawing submitted as part of the planning application showing 'Contextual Elevation/Section B-B: South West Elevation To Tudor House, does not fully explain the context of siting of 'Tudor House'. The drawing shows a three-storey house, but omits the basement floor which is fully exposed at rear garden level; where the house appears as four-storey. The rear garden of 'Tudor House' has been excavated almost to the basement level of the house – and so the house on the appeal site appears higher when viewed from the basement level at the back of 'Tudor House' and the rear garden serving it.

7.2.7. Section 8.2.3.4 (i) of the Development Plan states, in relation to extensions to dwellings- "In determining applications for first floor extensions the following factors will be considered:

- Overshadowing, overbearing and overlooking – along with proximity, height and length along mutual boundaries.
- Remaining rear private open space, its orientation and usability.
- Degree of set back from mutual side boundaries.
- External finishes and design, which shall generally be in harmony with the existing".

The proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, and permission should be refused for this reason.

7.3. Architectural Impact

- 7.3.1. The site is located within the Monkstown Architectural Conservation Area (ACA). The single-storey house on this site was permitted by the Board, on appeal. It is largely disguised behind high walls and landscaping on adjoining sites. It is not visible from the public road – being located near the head of a long driveway. The proposed development would only impinge on the ACA to the extent that it would impinge on the gardens and settings of adjoining houses within the same ACA. Policy AR12 of the Development Plan states, in relation to Architectural Conservation Areas- “It is Council policy to: (i) Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA); (iii) Seek a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design” The proposed development, arising from the limited extent of the site, its elevation, proximity to other houses, and insufficient site area to screen the first-floor extension from view, would be detrimental to the character and special interest of the area.
- 7.3.2. ‘Tudor House’ and ‘Tudor Hall’ are a pair of three-storey-plus-attic Victorian houses – and both are Protected Structures. The site abuts the rear garden curtilage of ‘Tudor House’ only. The house on the appeal site is located approximately 26.5m from ‘Tudor House’. However, the rear garden of ‘Tudor House’ is at a lower level. The existing house on the appeal site is hidden behind a common boundary wall/fence. The proposed first floor extension would be particularly dominant when viewed from the back of the house and from rear garden. Section 8.2.11.2 (iii) of the Development Plan states, in relation to development in proximity to a Protected Structure- “Any proposal for development will be assessed in terms of the following-
- The proximity and potential impact in terms of scale, height, massing and alignment on the Protected Structure, to ensure that harmony produced by particular grouping of buildings and the quality of spaces and views between them is not adversely affected.
 - The quality and palette of materials and finishes proposed...”

Permission should be refused on grounds of overbearing impact on the setting of a Protected Structure – ‘Tudor House’.

7.4. Other Issues

7.4.1. Water

The existing house is connected to the public watermain and sewer. There is no proposal to alter this. The proposed extension will not result in any increase in hard-surfaced area, which might affect surface water discharge. Notwithstanding this, the Drainage Planning Section of Dún Laoghaire – Rathdown County Council requested that further information be sought to indicate compliance with the Sustainable Drainage Systems (SuDS) requirements. In the event that the Board is minded to grant permission for this development, a condition should be attached requiring compliance with SuDS requirements.

7.4.2. Access & Parking

The access driveway is shared by three houses. I would be satisfied that the proposed extension would not lead to any significant increase in traffic to the house on the appeal site. Drawings submitted show two parking spaces for this house: there is, in fact, only one. The site is accessed off a private driveway. The limited parking available will not have any impact on traffic movement on The Hill, and will not result in a traffic hazard. The Transportation Planning section of Dún Laoghaire – Rathdown County Council had no objection to the proposed development.

7.4.3. Development Contribution

As permission was refused for this development, there is no record of what development contribution might have been levied. The Dún Laoghaire – Rathdown County Council Development Contribution Scheme 2016-2020, indicates that the domestic extensions are charged at a rate of €74.10 per m². If the Board is minded to grant permission, a condition should be attached requiring the developer to pay a contribution in accordance with the Development Contribution Scheme.

7.4.4. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

7.4.5. Appropriate Assessment

The closest European site is the South Dublin Bay and River Tolka Estuary SPA – located some 0.5km to the north-northwest, as the crow flies. The South Dublin Bay SAC is located slightly further away – at 0.6km to the northwest, as the crow flies. There are no surface water connections with either of these two sites. Having regard to limited nature of the proposed development, and to the fact that it will be connected to the public sewer network, 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 an European site.

7.4.6. Precedent

The PA refused permission on grounds of precedent – particularly within an ACA. I would consider that each case should be dealt with on its merits.

8.0 **Recommendation**

I recommend that permission be refused for the Reasons and Considerations set out below.

9.0 **Reasons and Considerations**

1. The proposed development, by reason of its scale, height, elevated site, and proximity to site boundaries (particularly to the northwest and northeast), would be visually overbearing and intrusive. The proposed development would be contrary to section 8.2.3.4 (i) of the Development Plan states, in relation to first-floor extensions to dwellings; and would seriously injure the amenities and depreciate the value of property in the vicinity.

2. The proposed development, by reason of its scale, height, elevated site, and proximity to the northwest boundary, would be particularly dominant when viewed from the back of ‘Tudor House’ (a Protected Structure), and from its rear garden. The proposed development would be contrary to section 8.2.11.2 (iii) of the Development Plan, which seeks to ensure that new development would not adversely affect the setting of a Protected Structure.

3. The proposed development, by reason of its scale, height, elevated site and proximity to site boundaries, would adversely affect an architectural conservation area.

**Michael Dillon,
Planning Inspectorate.**

3rd December 2018.