



An
Bord
Pleanála

Inspector's Report ABP-302666-18

Development	Permission for the construction of two extensions at first floor level of 20 sq.m in floor area above the existing study and store, and 17 sq.m in floor area above the existing kitchen
Location	'Tetherdown' 21 Dalkey Avenue, Dalkey, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown
Planning Authority Reg. Ref.	D18B/0328
Applicant(s)	Iris O'Malley
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Iris O'Malley
Observer(s)	
Date of Site Inspection	24 November 2018
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site, which has a stated area of 0.12 hectares, is located on the eastern side of Dalkey Avenue at the junction with Cunningham Road, approximately 400m to the south of Dalkey Village. Access to Hillside, Mapas and Dalkey Park is located immediately opposite on the western side of the roadway. Access to 'The Flags' is located along its south-western boundary. The general character of development in the vicinity is low density mature suburban housing.
- 1.1.2. Permission was previously granted for demolition of an existing dwelling and the construction of three no. detached properties: A,B and C. The two houses to the south of the site referred to a Houses B and C are constructed. The current application relates to House A, a detached five bedroom dwelling addressing the corner of Dalkey Avenue and Cunningham Road.

2.0 Proposed Development

- 2.1. On the 27th July 2018 permission was sought for the construction of two first floor extensions: 20sq.m. games room above the existing study and store and 17sq.m. extension to bedroom no. no. 2 above the existing kitchen.
- 2.2. Details provided in the application form are as follows:
 - Total site area: 0.12ha
 - Floor area of new build: 37sq.m.
 - Existing dwelling 460.25sq.m.
 - Total floor area (new and retained): 541.3sq.m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 19th September 2018 Dun Laoghaire Rathdown County Council issued a notice of their intention to REFUSE permission for the following reason:

“Having regard to the scale of the dwelling already permitted and constructed on site, the planning history of the site and the development proposed under the current planning application, it is considered that the development proposed that further increases the floor area of the dwelling on site ‘Tetherdown’, would constitute overdevelopment of the site, would seriously injure the residential amenities at the

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

3.2. **Planning Authority Reports**

- 3.2.1. **Planning Report:** Refers to the extensive planning history on the wider site (17 no. applications) and to these specifically referring to the subject dwelling House A (11 no. applications). Notes that the Board refused permission for an increase in floor level previously (PL06D.243356) and to the incremental nature of increase in floor area. Recommends refusal on the grounds of over development of the site that would injure the residential amenities of the area.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. **D11A/0193** This is the parent permission pertaining to the site. Permission granted in June 2011 for the demolition of a dwelling house and the construction of 3 new dwellings. The house subject of the current appeal was referred to a House A on the approved plans.
- 4.1.2. Planning Authority reg. ref. **D13A/0150:** Permission granted in May 2013 for a development comprising the conversion of attic space, associated dormer windows and second floor terrace.
- 4.1.3. **PL06D.242469** (Planning Authority reg.ref. D13A/0317) Permission for a development comprising a change of house type (for House A – the subject site) from the approved two-storey plus roof level accommodation, five bedroom dwelling (305 sq.m.) with a second floor level terrace to a three storey with setback second floor level, five bedroom dwelling (326 sq.m.) also with a second floor level terrace and ancillary works including moving house northwards by c. 1.7m.
- 4.1.4. Planning Authority Reference **D13A/0532:** Permission granted in December 2013 for modifications to the approved House A consisting of the relocation of the permitted dwelling within the site northwards by 1.7m.
- 4.1.5. **PL06S.243356:** (Planning Authority Reference D14A/0098) Permission refused for a development comprising a single storey extension (39 sq.m.) to the eastern side of the dwelling and a garden store of 10 sq.m. The reason for refusal stated:

“Having regard to the scale of the house already permitted on site, to the planning history of the site, to the prominent position of the site at a corner location and to the proximity of the proposal to the nearby boundaries and the removal of landscaping, the Board considered that the proposal would seriously injure the amenities, or depreciate the value of property in the vicinity.”

- 4.1.6. **Planning Authority Reference D14A/0467:** Permission refused for a single storey extension and store to the southern side of the dwelling. The reason for refusal stated: *“Having regard to the scale of the dwelling already permitted on the site, the planning history of the site and the extent of development proposed on this elevated and prominent site, it is considered that the proposed increase in floor area and altered site boundary between Houses A and B, would seriously injure the residential amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.”*
- 4.1.7. **RL3442:** A section 5 referral in relation to a single storey extension to the eastern side/rear of the dwelling was considered not to be exempt as no dwelling existed on the site at the time of the assessment. A subsequent referral to the Board was dismissed.
- 4.1.8. **ABP-300214-17:** Planning permission granted for the retention of a ground floor extension by the conversion of an exempt development garage to a study (24.75sq.m) and a store (10.5sq.m.) to the rear of the study.
- 4.1.9. It should also be noted that prior to the granting of the parent permission pertaining to the site, there were three previous refusals for the redevelopment of the site. The relevant reference numbers include: PL06D.231593, PL06D235122 and PL06D.237414. Over development of the site was cited as a reason for refusal in all of these decisions.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2016-2022.

- 5.1.1. The site is zoned Objective A: *To protect and/or improve residential amenity.* There is a public right of way located along the south western boundary of the site. This right of way is known as ‘The Flags’ which forms part of the ‘The Metals’ pedestrian route which extends from Dun Laoghaire to the former Dalkey Quarry.

5.1.3 **Section 8.2.3.4 (i)** of the plan deals with extensions to dwellings. It is stated that *“side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation), and impacts on residential amenity.”*

5.2. **Natural Heritage Designations**

5.2.1 The nearest Natura 2000 site is the Dalkey Islands SPA located c. 0.9 km to the north east of the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. A first party appeal against the decision of the Planning Authority to refuse permission was submitted by an agent on behalf of the applicant. The grounds of the appeal can be summarised as follows:

- The proposed development is fully compliant with section 8.2.3.4(i) of the development plan.
- The planner erred in comparing the proposed to a 2010 as this has since been superseded.
- The council has not demonstrated how the proposed development would be seriously injurious to the residential amenities of the area.
- It is noted that the Planning Authority’s reason for refusal is almost identical to their previous reason for refusal (PL06D.300214). The appellant notes that this decision was overturned by the Board.
- The Boards inspector referred to the quantum of open space and the proposed plot ratio. The quantum of open space will remain the same. The proposed development would see the plot ratio would increase from 0.36 to 0.396. It is submitted that this well below the surrounding average of 0.53. It is clear that the proposed development is not over development.
- The proposed 8% increase in floor area can be absorbed into the subject site.
- The proposed development is in compliance with section 8.2.3.4(i) of the development plan as the proposed extensions are lower than the existing second

floor, are set back on all boundaries, are finished in the same materials whilst avoiding a 'terracing effect'.

- The proposed developments have been designed to easily assimilate into the existing streetscape. The extension will be hidden from Cunningham Road by the high boundary hedgerow.
- As the proposed windows are in excess of 11m from boundaries, no overlooking will occur.
- The Board is requested to grant permission.

6.2. **Planning Authority Response**

6.2.1. The grounds of the appeal do not justify a change in the attitude to the proposed development.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Environmental Impact Assessment
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The subject site is located in an area zoned to protect and / or improve residential amenity. The principle of extending an existing dwelling is acceptable, subject to other planning considerations.

7.2.2. The Planning Authority refers to the over development of the site and the serious injury to the residential amenity of area. I note the concerns of the Planning Authority regarding the incremental increase in the size of the dwelling from that originally permitted. However, as noted by the previous Inspector in ABP-300214-18, notwithstanding the extensive planning history of the site, the design, scale and

height of the development must be considered on its merits and in terms of the overall site context and dwelling as constructed.

7.2.3. I note that in the most recent decision the Board attached a condition restricting further exempted development of the dwelling. The proposed development, at first floor level retains the quantum of private open space available to the dwelling. Notwithstanding the proposed increase in floor space, the plot ratio of 0.396:1 is acceptable this suburban area. It is considered that the proposed development does not result in the overdevelopment of the site.

7.2.4. The proposed extensions will not overlook or overshadow the adjoining properties on The Metals or on Cunningham Road. I am satisfied that the proposed development will not injure the residential amenities of the adjoining properties. The proposed extensions read as a continuation of the existing dwelling. The proposed step down and set back of both extensions allow the dwelling to retain its primacy whilst responding to the boundaries of the site. It is considered that the proposed extensions successfully address the streetscape and the existing dwelling and are in accordance with the requirements of section 8.2.3.4 of the development plan regarding extensions at first floor level.

7.3. **Appropriate Assessment**

7.3.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, 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.

7.4. **Environmental Impact Assessment Screening**

7.4.1. Having regard to nature of the development comprising extension to and alteration of an existing dwelling and the urban 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

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

9.0 Reasons and Considerations

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Gillian Kane
Senior Planning Inspector

25 November 2018