



An  
Bord  
Pleanála

## Inspector's Report

**ABP-304501-19**

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<b>Development</b>	2 storey extension to rear of existing dwelling & internal alterations
<b>Location</b>	3 St Patrick's View, Tennis Court Lane, Skerries, Co Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F19B/0053
<b>Applicant(s)</b>	Aaron Kennefick & Emer Whyte
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Seamus and Mary MacLoughlin
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> of August 2019
<b>Inspector</b>	Angela Brereton

## **1.0 Site Location and Description**

- 1.1. The subject site is located at no. 3 St. Patrick's View, Tennis Court Lane, in Skerries town centre. This is a mid-terrace two storey dwelling and is within a terrace of 4no. similar type 2 storey recently constructed dwellings. Access is via the narrow lane network from Tennis Court Lane and this is a cul de sac development with parking to the front of the houses.
- 1.2. There is a sports ground to the west of the site and residential to the east. The site to the north of no.1 is currently undeveloped, and this also has access to Tennis Court Lane. The site is relatively close to the coast and beach at Skerries.

## **2.0 Proposed Development**

- 2.1. This proposal is to construct a two storey extension to the rear of the existing dwelling and internal alterations.
- 2.2. The application form provides the area of the subject site is 0.0115ha and the g.f.s of the existing building is 70sq.m and of the proposed extension is 24sq.m.
- 2.3. Floor plans and Elevations showing the existing and proposed have been submitted.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On the 23<sup>rd</sup> of April 2019, Fingal County Council granted permission for the proposed development subject to 6no. conditions. These include the use of the house and extension as a single unit, no encroachment, external finishes, construction related issues including hours of operation.

### **3.2. Planning Authority Reports**

Planning Reports

The Planner's Report had regard to the locational context of the site, planning history and policy and to the submissions made. They note that no departmental reports were sought in respect of this proposal. Their assessment included the following:

- They note the TC *Town and District Centre* zoning and the highly sensitive landscape designation due to the proximity to the coast.
- They have regard to the plans submitted and recommend that a condition be included to prevent encroachment on the dwelling to the north – No. 2 St. Patrick's View.
- They do not consider that the proposal will unduly impact on the residential amenity of the adjoining dwelling to the north.
- They note that no. 4 St. Patrick's View has a similar 2 storey rear extension (Reg. Ref. F12B/0076 refers) and do not consider there will be adverse impacts on neighbouring property.
- They consider that the proposed development would not unduly impact on the visual amenity of the surrounding area having regard to its design and its location to the rear of the dwelling.
- Having regard to the nature and location of the proposed development no negative impacts on the Natura 2000 sites are anticipated.
- They conclude that the proposed development would not unduly impact on the amenity of neighbouring property and does not detract unduly from the amenity of the surrounding area. They consider the proposed development to be in accordance with the proper planning and sustainable development of the area.

### 3.3. **Third Party Observations**

A Submission has been received from the adjoining residents. As these are the subsequent Third Party Appellants their concerns are considered further relative to the grounds of appeal.

### 4.0 **Planning History**

The Planner's Report notes that there is no relevant planning history on the subject site.

*Part XI Development* – 4no. 2 bedroom units to the rear of 43 Church Street.

*Proximate Site* – Reg.Ref. F12B/076 – Permission granted subject to conditions by the Council for the construction of a new two storey rear extension of 16.2sq.m at ground floor and 16.2 sq.m at first and a new front porch including all associated site works. This concerned the adjoining site no. 4 St. Patrick’s View, Tennis Court Lane, Skerries.

## 5.0 Policy Context

### 5.1. Fingal County Development Plan 2017-2023

#### *Land Use Zoning*

The subject site is zoned ‘TC’ *Town and District Centre* with an objective to *Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*

The site is within a highly sensitive landscape designation due to its proximity to the coast.

A section of the site to the east is located within the Skerries ACA. However, the majority of the site is not located within the Skerries ACA.

The land to the west (not within St Patrick’s View) is located in the Masterplan Area – MP 5.C.

RPS. No. 207 ‘Seapark’ which is a later 18<sup>th</sup> of early 19<sup>th</sup> century detached five bay three storey house is located south of the subject site.

#### *Extensions*

Chapter 3 refers to Placemaking and includes regard to infill, corner and backland sites and to extensions:

Objective PM46 seeks to: *Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.*

Section 12.4 provides the Design Criteria for Residential Development. This includes that all new dwellings shall comply with Development Plan standards in relation to accommodation size, garden size and car parking.

Section 12.4 has regard to ground and first floor extensions and notes that extensions will generally be considered favourably on their merits where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Regard is had to Overshadowing, Private Open Space provision, External finishes.

#### *Overlooking/Overshadowing*

Objective DMS28 - *A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.*

#### *Daylight, Sunlight and Overshadowing*

Objective DMS30 - *Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.*

Objective DMS42 seeks to: *Encourage more innovative design approaches for domestic extensions.*

#### *Private Open Space - Houses*

Objective DMS87 seeks to: Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:

3 bedroom houses or less to have a minimum of 60 sq m of private open space located behind the front building line of the house.

Houses with 4 or more bedrooms to have a minimum of 75 sq m of private open space located behind the front building line of the house.

Narrow strips of open space to the side of houses shall not be included in the private open space calculations.

## *Parking*

Objective PM69 – *Ensure that proposals do not have a detrimental effect on local amenity by way of traffic, parking, noise or loss of privacy of adjacent residents.*

Table 12.8 provides the car parking standards.

## **5.2. Natural Heritage Designations**

The closest Natura 2000 sites (i.e Skerries Islands SPA, c.0.9km to the east of the subject site).

## **5.3. EIA Screening**

Having regard to the nature and scale of the development and the fact that it is for an extension to an existing dwelling which is connected to the public water and drainage network, it is considered that 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.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A Third Party Appeal has been received from Seamus and Mary McLoughlin who are the adjoining residents no.2 St. Patrick's View. This also has regard to the points made in their submission to the application and includes the following:

- They are concerned that the proposal will impact negatively on the residential amenity of their property in terms of overbearing and overshadowing.
- There will be significant overshadowing of their property as well as encroachment issues.

- The plans as set out in this application are too intrusive on their property and will diminish their quality of life and detract from the value and the continued enjoyment of the property.
- While they acknowledge the applicant's need to increase their living space is valid, they feel their concerns are equally valid.
- They feel that a compromise could be reached by amended plans which would significantly reduce overshadowing as well as being stepped back from the party wall.
- They are concerned about the proposed demolition of the party wall to be replaced by the exterior wall of this development and will resist this.
- They are unclear how the proposed development will impact on the guttering and drainage to their premises and need to be satisfied that there is no change in the current situation.
- They are concerned about the impact of construction works on their property.

## 6.2. Applicant Response

Aaron Kennefick & Emer Whyte's response includes the following:

- They consider that the 2 storey rear extension constructed at no.4 St. Patrick's View did not adversely impact on their residential amenities.
- They agreed to allow for the neighbour's extension to replace their party wall and considered it to be of no consequence to themselves.
- Due to their growing young family they require extra space, the house is too small in its current form.
- They do not consider that the proposed design would impact adversely on the residential amenities of their neighbours.
- They consider that the Third Party property is for rental purposes as an investment property.
- Replacing the boundary wall is advantageous to the third party particularly if they wanted to extend in the future.

- A precedent for this type of modest rear extension has been set at no.4 St. Patrick's View.
- They request the same treatment and ask that their original plans be granted full permission.

### 6.3. Planning Authority Response

Fingal County Council note that the planning permission was granted by the Council subject to 6no. conditions. They consider that the issue of overshadowing has been addressed in the Planner's Report. They note that a condition was included relative to the encroachment issue and that revised drawings are to be submitted for the written agreement of the planning authority to demonstrate no encroachment onto adjoining properties. They point out that in terms of proposed works to the boundary wall, this is considered to be a civil issue rather than a planning issue. Having assessed the appeal submission the Planning Authority remains of the opinion that the proposed development should be granted having regard to the reasons set out in the Planner's Report. They request that in the event their decision is upheld that the Board include a development contributions condition.

## 7.0 Assessment

### 7.1. Principle of Development and Planning Policy

- 7.1.1. The appeal site is located on lands that are zoned Objective 'TC' Town Centre under the provisions of the Fingal Development Plan, 2017-2023. Under this land use zoning objective residential development is identified as a permissible use. Section 12.4 of the Plan provides the Design Criteria for Residential Development and this includes that Extensions to dwellings are generally considered favourably on their merits provided they do not have a negative impact on the amenities of adjoining properties or on the nature of the surrounding area.
- 7.1.2. This includes: *First floor rear extensions will be considered on their merits, noting that they can often have potential for negative impacts on the amenities of adjacent properties. The Planning Authority must be satisfied there will be no significant*



*negative impacts on surrounding residential or visual amenities.* A List of factors to be considered is given i.e:

- *Overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries.*
- *Remaining rear private open space, and its usability.*
- *External finishes and design, which shall generally match the existing.*

7.1.3. The Third Party are concerned that this proposal, particularly the two storey element will impact adversely on their adjoining terraced property and that problems of overshadowing, overbearing and encroachment will ensue. The First Party provides that this extension is to accommodate their increased family needs and consider that a precedent has been set by the similar rear extension that has been constructed at no. 4 St Patrick's View.

7.1.4. Having regard to the documentation submitted, the issue in this case is whether the proposed development would have an adverse impact on the character and amenity of the area or of the adjoining property no.2 St. Patrick's View. Regard is had in particular to the issues raised in the Third Party grounds of appeal relative to the proposed extension in this Assessment below.

## **7.2. Design and Layout and impact on adjoining properties**

7.2.1. St. Patrick's View is currently a small development of 4no. terraced town houses of relatively recent construction. Access to this cul de sac development is via the narrow winding Tennis Court Lane. These are currently 2 bedroomed houses, containing a double bedroom and a single bedroom on first floor level. No. 4 to the south of no. 3 has a flat roofed 2 storey rear extension similar to that proposed. To date the other houses in this terrace have not been extended. There is a small rear garden area enclosed by block walls.

7.2.2. As shown on the floor plans submitted the floor area of the existing house is c. 70sq.m. The proposed rear extension is shown as c.28sq.m. It is noted that the drawings show that the length of the proposed extension is to match that at no.4 St. Patrick's View and that it is to be externally it is to be just under 4m in length. It is to

provide a kitchen/dining area at ground floor and an additional bedroom at first floor level. This would then provide for a three bedroomed house. The proposal is shown 5.7m in height, with a flat roof to match that of the neighbouring two storey rear extension.

- 7.2.3. As shown on the plans submitted the rear garden will be reduced from c.50sq.m to c.38sq.m. While it is noted that these houses were constructed prior to the implementation of the current Development Plan, this is less than the minimum open space provision of 60sq.m now recommended for a house in Objective DMS87.
- 7.2.4. The party wall along the boundary with no.2 St Patrick's View is a block rendered and capped wall of c.2m in height. The Third Party has concerns about overshadowing and encroachment. A Shadow Study has not been submitted. When on site at c.11.30am I noted overshadowing to no. 3 resulting from the rear extension to no.4 St. Patrick's View. It is noted that the kitchen of No. 2 is already significantly overshadowed by the boundary wall located between this property and No.3 St. Patrick's View. However, this proposal which is to the south will also result in some overshadowing of the first floor rear bedroom window of no.2.
- 7.2.5. The Council have included a condition relative to the issue of encroachment. I would recommend that if the Board decides to permit that a similar type condition be included. It is of note that the issue of ownership/encroachment is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"
- 7.2.6. In view of rear garden depth it is not considered that there will be adverse impacts on the properties to the east (Nos. 42 & 43 Church Street).

### **7.3. Precedent and the Impact on the Character and Amenities of the Area**

- 7.3.1. It is noted that a precedent for this type of flat roofed two storey extension has been set by the adjoining end of terrace property no. 4 St. Patrick's View. However, each case is considered on its merits. The current application differs in that no.3 is a mid-terrace property. However, there will be no adverse impact on no. 4 as this proposal will adjoin and be similar to this extension.
- 7.3.2. The rear extension cannot be seen from the road frontage or parking area. It will not impact on the character of the wider residential area. The main impact will be on the adjoining terraced property to the south no. 2 St. Patrick's view. The issues relative to overshadowing have been noted above. The Board may decide that a single storey rear extension would be more appropriate. However, it is noted that the living accommodation in the current dwelling unit is restricted. It is considered that the design of the proposed 2 storey extension is in character with the existing house and that of the property to the north. As has been noted above there is already some overshadowing of no.2 caused by the party wall. I would not consider that the impact of the current proposal to be so adverse in the circumstances presented that it should be refused.

### **7.4. Development Contributions**

- 7.4.1. It is noted that the Council in their response to the grounds of appeal refer to the application of Development Contributions. Regard is had to the Fingal Development Contributions Scheme 2016-2020. Section 10 provides for *Exemptions and Reductions*. This includes in Section 10(i)(a): *The first 40 sq metres of domestic extensions. This exemption is cumulative and limited to 40 m<sup>2</sup> in total per dwelling.* As the proposed extension and alterations are less than 40sq.m it would fall into this exemption and development contributions would not apply.

### **7.5. Screening for Appropriate Assessment**

Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

I recommend that permission be granted subject to the conditions below.

## 9.0 Reasons and Considerations

Having regard to the form and character of the established dwelling on the site, to the design and scale of the proposed two storey rear extension, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the provisions of the current Fingal Development Plan. The proposed development 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 and by the further plans and particulars received by An Bord Pleanála on the 6th day of June, 2019, 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 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.

3. The external finishes of the extension shall match those of the existing dwelling and the adjoining two storey rear extension.

**Reason:** In the interest of visual amenity.

4. The proposed development shall be amended as follows:
  - (a) the proposed extension shall be constructed so that it does not encroach or overhang the boundary with the adjoining property No. 2 St. Patrick's View.

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 residential amenity.

5. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. 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 order to safeguard the residential amenities of property in the vicinity.

7. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and, if the need arises for cleaning works to be carried out on the adjoining public roads, the cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

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Angela Brereton  
Planning Inspector  
12<sup>th</sup> of August 2019