



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305203-19

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<b>Development</b>	2 storey extension to rear of existing dwelling
<b>Location</b>	39 The Walk, Robswall, Malahide, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F19B/0142
<b>Applicant(s)</b>	Hugh & Tara O'Brien
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Ashley Harries
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20 <sup>th</sup> of November 2019
<b>Inspector</b>	Angela Brereton

## **1.0 Site Location and Description**

- 1.1. The subject site is located at No. 39 The Walk, Robswall, Malahide, approximately 1.5km southeast of Malahide town centre. Robswall is a relatively dense recently constructed cul-de-sac type residential development accessed via the R106 Coast Road, comprising mainly 3 and 4 storey apartment blocks. There are also some 2 and 3 storey houses within the scheme. There is a variation of property types which adds to the residential variety, density and character of the area.
- 1.2. No 39 is a detached tower block type 3 storey property sited further forward of the building line, as compared to the semi-detached pair nos. 41 & 43 to the west and the end of terrace of 3no. houses including the adjoining property no. 37 to the east. The subject property is of similar design to that on the opposite side of the road no. 46 The Walk and these two buildings act as signature buildings and as a gateway to this part of the estate. Being set further forward and on a more elevated site, the design of No. 39 appears prominent especially when seen from the courtyard surface parking areas to the east and west of the property.

## **2.0 Proposed Development**

- 2.1. It is proposed to provide a two storey rear extension to the rear of no. 37 The Walk, Robswall, Malahide.
- 2.2. A Site Layout Plan, Floor Plans and Elevations have been submitted.
- 2.3. The application form provides that the area of the site is 0.022ha, the g.f.a of the existing building is 123.5sq.m and of the proposed extension is 65sq.m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On the 22<sup>nd</sup> of July 2019, Fingal County Council granted permission for the proposed development subject to 7no. conditions. These concern design and layout, infrastructure including regard to surface water drainage, construction works and development contributions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made. Their Assessment included the following:

- The main issues for consideration are impact on the visual and residential amenity of the area, comments on Water Services Planning Section report and comments on the letter of objection.
- The proposed development relates to the extension of an existing house on zoned/serviced lands.
- They consider that the extension will not erode the character of the area and that the gateway type design is retained when viewed from the public street.
- They consider there will not be significant overlooking, loss of privacy, overshadowing or encroachment.
- Any loss of daylight will be marginal having regard to the layout of the site.
- They note that the Water Services Planning Section have reported no objection subject to conditions.
- While they note the proximity to Natura 2000 sites they do not consider that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on any European Sites in the vicinity.
- They conclude that the proposed development is acceptable and it is not foreseen that there will be a negative impact on the residential or visual amenity of the area.

### 3.3. Other Technical Reports

#### Water Services

They have no objections subject to conditions.

### 3.4. **Prescribed Bodies**

#### Irish Water

They have no objections subject to conditions.

### 3.5. **Third Party Observations**

A submission has been received from the adjoining residents at no. 37 The Walk expressing their concerns about the proposed development. As these are the subsequent Third Party, their concerns are noted and are dealt with in the context of their Grounds of Appeal.

## 4.0 **Planning History**

The Planner's Report provides that there are no recent, relevant, valid planning applications on this site. The following is the parent permission for the overall Robswall development:

- ABP Ref. PL06F.123998 (P.A Reg.Ref. No. F00A/1009): On appeal to the Board planning permission was granted for the residential scheme at Robswall that the site forms part of. Condition no.14 of the Board's permission provided restrictions on exempted development.

## 5.0 **Policy Context**

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

The development strategy for Malahide contained in Chapter 4 of the Plan seeks to promote the planned and sustainable consolidation of the existing urban form and the sensitive promotion of amenities. This includes Objective Malahide 3 which seeks to retain the existing centre with its mixed use and varied architectural character as the heart and focal point of Malahide.

*Land Use Zoning* - Sheet 9 refers to Malahide/Portmarnock. The site is zoned RS – Residential where the Objective is to: *Provide for residential development and protect and improve residential amenity.*

### *Placemaking*

Objective PM44 encourages the development of underutilised sites in existing residential areas subject to the protection of amenities, privacy and character, while objective PM45 promotes contemporary and innovative design in such areas.

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.

Objective PM65 seeks to ensure all areas of private open space have adequate level of privacy for residents through the minimisation of overlooking and the provision of screening arrangements.

### *Chapter 12 Development Management Standards*

Objective DMS30 seeks compliance with good practice standards relative to daylight, sunlight and overshadowing.

Objective DMS39 provides that new infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

Objective DMS44 seeks to protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.

Objective DMS73 provides for the use of Sustainable Drainage Schemes (SuDS).

Objectives DMS84-86 refer to private open space and boundary treatment and to ensure that all residential unit types are not unduly overshadowed.

Objective DMS87 seeks to ensure minimum private open space provision for houses i.e. 75sq.m for a 4 bedroom plus house.

Table 12.8 provides the Parking Standards. 2 spaces within the curtilage of the site would be required for 4 bedroom houses.

Objective MT44 refers to Development Contributions.

## 5.2. Natural Heritage Designations

The subject site is located approx. 367m to the east of the Malahide Estuary SAC (site code:000205) and the Malahide Estuary SPA (site code: 004025).

## 5.3. EIA Screening

5.4. Having regard to the nature and scale of the proposed development and taking into account the residential land use zoning and the serviced nature of the site, and the distance of the site from nearby sensitive receptors, 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 submitted by Future Analytics on behalf of Ashley Harries, who resides in the adjoining residence No.37 The Walk, Robswalls, to the east of the site. The Grounds of Appeal are summarised as follows:

- The development is contrary to Development Plan Zoning Objective 'RS' to "Provide for residential development and protect and improve residential amenity". Whereas the proposed extension would have a negative impact on residential amenity by reason of overshadowing, and erosion of the character of the neighbouring residence and surroundings.
- It would be contrary to the Development Plan Objective PM46 to ensure extensions "do not negatively impact on the environment or on adjoining properties or area. By reason of introducing a new built element to the adjoining property, this will directly block natural light to their private amenity space of no.37 The Walk.
- It would have a significant impact on property value of the neighbouring property and natural daylight from the rear open garden of no.37 The Walk. The architectural design takes no consideration into account of the adjacent

neighbouring property, bar the omission of windows directly facing private space.

- The Council's decision ignores and is contrary to the precedent established under Ref. 15B/0172 (ABP.Ref. PL06F.245578) at 31 The Walk, that established that a two-storey extension to the 3 storey signature houses is not acceptable in terms of residential amenity.
- The drawings on the planning file do not display the principle height dimensions of adjoining property, therefore cannot be used to verify extent of impact on neighbouring amenity space. No datum levels or principle height dimensions on contextual elevations. Contradictions in elevation drawings indicating that outline of neighbouring property no. 37 is higher than indicated on proposed front elevation.

## 6.2. Applicant Response

Fingal Planning Consultants response on behalf of the Applicants includes the following in summary:

- The Appellant has not provided any evidence or study to back up their assertions that the property will impact adversely on the environment and they consider that there is no merit made in the points raised in the appeal.
- They have attached both a visual impact report and shadow analysis which show that the factual position is that no material and no negative affect will result from the proposed extension on No. 37 The Walk.
- Further neighbours in the Courtyard have not objected – they enclose a letter of support from a neighbour living in the courtyard area.
- They provide that in summary the independent studies confirm there will be no material and no negative impact due to overshadowing or to the visual amenity of No. 37 The Walk.
- The appeal is materially misleading is that it has removed reference to the 85sq.m 3 storey extension at No. 41 The Walk.

- The applicants require more living space in their family home. This is in line with other four bedroom properties in the Robswell development and those approved by ABP.
- The proposal is in accordance with Fingal DP policies and objectives relative to extensions.
- They enclose a letter from their Solicitor to confirm that they do not live in a protected structure or ACA or have any unusual planning restrictions.

### 6.3. **Planning Authority Response**

This provides that the application was assessed against the policies and objectives of the Fingal DP 2017-2023 and existing government policy and guidelines. They noted the residential land use zoning. Having reviewed the appeal they remain of the opinion that the proposed development will not detract from the adjoining residential amenity, subject to compliance with conditions. They request the Board to uphold the decision of the P.A. and in the event of a permission to include Condition no. 7 in their determination.

### 6.4. **Further Responses**

Future Analytics response on behalf of the Third Party includes the following:

- Their grounds of Appeal include numerous photographs/images as evidence, in addition to descriptions and they provide examples of such.
- They question the need considering the scale of the proposed development for The Visual Impact Report.
- The proposed extension does not offer anything positive towards the courtyard, only a long side wall devoid of detail.
- They consider that the drawings submitted are inaccurate in particular regarding the height differential between the properties.
- They enclose a comprehensive letter from the neighbouring property, no. 41 The Walk which disputes the assertion that the proposed development enjoys



the support of the residents in the courtyard area and raises a number of objections to the proposed development.

- The proposed development would be contrary to the Fingal DP Objective PM46 relative to extensions.
- They query the accuracy of the Shadow Analysis and highlight a number of issues and concerns relative to the study taking into account the height differential of the sites.
- The 'precedent' referred to by the First Party relative to no. 41 The Walk is inappropriate considering the differences between the properties.
- No. 31 The Walk is the correct precedent, but the applicant's response submission fails to acknowledge its importance.
- The proposed two storey extension for no. 39 is significantly larger than what was proposed for no. 31 The Walk.
- To grant permission at this stage would further diminish the visual symmetry between the properties.
- There are no 'replica Georgian houses' on The Walk and all of those properties have been built facing onto open spaces.
- The First Party have not addressed the inaccuracies in the drawings submitted especially relative to the height variations in view of different ground levels. This is of particular significance when considering the overshadowing and negative overbearing effect of the proposed extension.
- They submit that the Applicant's response documentation has failed to address the considered ground of appeal presented to the Board or provide any reassurance that the scheme will not have a detrimental impact on the residential amenity of no. 37 The Walk.

## 7.0 Assessment

### 7.1. Principle of Development and Planning Policy

- 7.1.1. Robswall is a higher density contemporary residential development located to the east of Malahide Town Centre and accessed via the Coast Road, R106. This is a cul-de-sac type development constructed from the early 2000's comprising a mixture of 3/4 storey apartment blocks, and 2/3 storey houses. No 39 is a 3 storey detached property set further forward than the adjacent 2 storey terraced and semi-detached dwellings. It along with no. 46 The Walk form signature buildings at the more elevated western end of The Walk.
- 7.1.2. As the site is located within the established residential area and zoning objective 'RS' – Residential of the Fingal CDP 2017-2023 applies, where the objective seeks: *To provide for residential development and protect and improve residential amenity.* The vision is to ensure that any new development in existing residential areas has a minimal impact on existing amenity. I am satisfied that the proposal as an extension to an existing residence is acceptable in principle, however regard is had to the issue of its impact on the adjoining property and on the character and amenities of the area. Objective PM46 is of note in that it seeks to: *Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.*

### 7.2. Design and Layout and Impact on the Character and Amenities of the Area

- 7.2.1. The proposed development seeks to provide a two-storey flat roofed extension to the rear of No. 39 The Walk. This is shown on the drawings submitted as c. 7m in length by 5m in width i.e 35m on each floor (70sq.m) and 6m in height. The floor plans show that this is a 4 bedroom house and it is to provide a kitchen/dining room on ground floor level with a living room at first floor level. It is proposed that it adjoin the party wall with the Third Party property to the east no. 37 the Walk. The plans show that a c.1m side passage with no. 41 The Walk is to be maintained. External finishes are to match the existing. In view of the forward siting of no. 39 the proposed extension would not project beyond the rear of no. 37 The Walk.

- 7.2.2. In view of the density of the Robswall scheme, there are no front gardens or driveways or on-site parking. Rather these are all incorporated into a shared surface. Parking is located in a courtyard type setting to the east and west of No.39. The residential private amenity value is therefore not contained in the street but in the private gardens to the rear. As shown on the plans submitted the rear garden area of no. 39 will be reduced to c. 112sq.m which is in compliance with Objective DMS87 of the Fingal DP, which provides for a minimum rear garden area of 75sq.m plus of private open space located behind the front building line of a 4 bedroomed house.
- 7.2.3. The Third Party are concerned that the drawings on file are inaccurate in that they do not display the principle height dimensions of the adjoining property and therefore cannot be used to verify the extent of the impact on neighbouring amenity space. That no datum levels or principle height dimensions have been shown on the contextual elevations. They consider that there are contradictions in elevational drawings indicating that the outline of no.37 to the east is higher than indicated on the proposed front elevation – Figure 6 of their Appeal refers i.e showing the side elevation as existing and proposed. Also, that the proposal will be overbearing and cause overshadowing and loss of light, particularly to their side passage and rear garden area. In this respect they consider that the gap to the side of no. 39 plays an important role in allowing natural light to penetrate to the rear of no. 37.
- 7.2.4. In response to the Third Party concerns the First Party has submitted a Visual Assessment and a Shadow Analysis. This includes regard to the impact on the character and amenities of the area. The Shadow Analysis shows the difference between existing and proposed rear elevations and relative to no.37 The Walk which appear to be minor. They consider that the impact of the proposed extension to the rear of no. 39 on the character of this area will be slight and neutral. The Third Party refutes this and queries the accuracy of the Shadow Analysis and considers that the height differential of the sites i.e no. 37 being on a lower level has not been taken into account. They consider that the proposed development would give rise to significant material overshadowing of the amenity space of their property (figs 1 and 2 of the Third Party response relate).
- 7.2.5. On site I noted from the rear garden of no. 37 that it is on a lower level than no. 39. There is a low wall with a high fence on top along the boundary with no. 39 which provides screening for that property and in view of its height provides a feeling of

enclosure. There is a 1m gap to the side boundary along the western side of no.37 and a c. 1.8m fence around the rear garden area of the subject site. There are no windows proposed in the two storey eastern side elevation nor on the gable end of no. 37 facing. The first floor and dormer windows of no. 41 look towards the site. There are semi-detached 2 storey houses to the rear (north) of the site 'Biscayne' and the first floor windows of nos. 145 and 146 can be seen from the site. The rear of no. 145 is c.28m from the rear of the proposed two storey extension.

- 7.2.6. On site I noted that in particular the western side elevation of the proposed two storey extension will be seen in the context of the gap/set back between no. 39 and 41 The Walk from the courtyard area. In view of the more elevated nature of the subject site and the height of the existing property it will appear more dominant in the streetscape. It will present a c.6m high continuous blank wall appearance to the rear of the more slender tower building and could be said to visually detract from the character of the courtyard and the existing building. No. 39 while not a landmark building is more dominant in view of its height, elevation and forward setting and adds to the variety and character of house types in the area.

### 7.3. **Regard to Precedent**

- 7.3.1. Other examples of proximate extensions include a single storey flat roofed rear extension to a similar style tower building at No.31 and a 2 storey plus dormer rear extension to no. 41 to the west. In view of its design and elevated setting no. 39 as a 3 storey tower type building appears dominant in the area, especially when seen from the west along the site frontage and courtyard parking area. It is also be visible in relation to the similar 3 storey house type at no.46 The Walk.
- 7.3.2. The Third Party considers that in view of the more elevated siting a single storey rear extension would be more appropriate in this location (as per the Board's decision relative to no. 31 The Walk). They consider that there is a planning precedent set by the Board, on a less elevated site, relative to no.31 The Walk. Regard is had to Reg.Ref. F15B/0172 where permission was granted by the Council but subsequently modified by the Board Ref. PL06F.245578 relates for Part double, part single storey extension to rear of dwelling, new window to rear of 2<sup>nd</sup> storey ((bedroom 1) with internal modifications and associated site works at no.31 The Walk, Robswall,

Malahide. The Board granted permission subject to conditions including the following:

Condition no. 2 refers i.e:

*The second floor level extension shall be omitted and revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.*

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

- 7.3.3. In this respect regard is had to Section 8.8 of the Inspector's Report Ref. PL06F.245578, relative to no. 31 The Walk was concerned that a two storey extension as originally applied for would: *significantly erode the tower and slender built form of the subject property and it would diminish the visual symmetry it currently maintains within its neighbouring counterpoint no. 39.* Section 8.9 queries as to whether a two storey extension *would be an appropriate insertion to this host dwelling which forms part of a carefully considered architectural design scheme.*
- 7.3.4. Subsequent to this in Reg. Ref.F16B/0167, No. 31 The Walk applied for permission for a single storey rear extension (area 40sq.m), internal modifications and all associated site works. This was granted by the Council and upheld on appeal, Board Ref. PL06F.247251 refers. I noted on my site visit that a single storey extension has now been constructed to the rear of this property. Visually, this has very little impact on the streetscape. Also, of note is that the gap between no. 31 and no. 33 is less than the set back between no. 39 and no. 41 The Walk.
- 7.3.5. The First Party response refers to the 2 storey rear extension with dormer accommodation, which was approved by the Council at the property to the west which is further set back no. 41 The Walk (Reg. Ref. F13B/0181 & F13B/0069 refer). This has been constructed and includes first floor windows and the dormer looking towards the site, which cause an element of overlooking to the rear garden of no. 39 The Walk. They ask the Board to consider this extension when looking at that currently proposed on the subject site.
- 7.3.6. In response the Third Party consider that this is not an appropriate precedent for consideration relative to the different house types i.e no. 39 The Walk being a tower dwellings and no. 41 being a two storey semi-detached property.

7.3.7. In view of the issues raised relative to the visual impact of this proposal on the character of the area I would be concerned that it will impact on and the views/sense of enclosure from the courtyard area to the west. Also, in view of the precedent presented by the Board's decision relative to no. 31 The Walk and the concerns relative to the height differential, being overbearing and leading to overshadowing for no. 37 The Walk, I would recommend that if the Board decides to permit that it be conditioned that the proposed extension be reduced to single storey in height.

#### **7.4. Screening for Appropriate Assessment**

7.4.1. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development for an extension to an existing dwelling house on serviced lands, individually or in combination with other plans or projects would not be likely to have a significant effect on the above European Sites, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

#### **7.5. Development Contributions**

7.5.1. The Council requests that if the Board decides to permit that condition no. 7 of their permission relative to development contributions be included. This would be the case should the Board decide to permit the two storey rear extension. However, if permission is granted for a single storey extension only, regard is had to the Fingal County Council Development Contributions Scheme. Section 10 refers to Exemptions and Reductions. Section 10 (i)(a) refers to the first 40 sq.m of domestic extensions as being exempt. In this case as the proposed ground floor extension is under 40sq.m it would be exempt from development contributions.

### **8.0 Recommendation**

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

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the site as set out in the Fingal County Development Plan 2017 - 2023, and to the nature and scale of the proposed development on residentially zoned land, 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 acceptable in terms of traffic safety and convenience. 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 18<sup>th</sup> day of September, 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 second floor level extension shall be omitted and revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

3. The external finishes of the proposed extension shall be the same, in colour and texture as those of the existing dwelling.

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

4. 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.

5. 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.

6. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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 construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise and traffic management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

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Angela Brereton  
Planning Inspector

3<sup>rd</sup> of December 2019