



An  
Bord  
Pleanála

## Inspector's Report ABP 307390-20.

### Development

Extensions to dwelling comprising widening of existing building by 1.3m, extension at ground, first floor and basement to side and rear and alterations of roof profile to front and rear.

### Location

Lisheen, Dundrum Road, Dundrum, Dublin 14.

### Planning Authority

Dún Laoghaire-Rathdown Co. Council

### Planning Authority Reg. Ref.

D20A/0098

### Applicants

Paul & Catherine Tierney

### Type of Application

Permission

### Planning Authority Decision

Refuse permission

### Type of Appeal

First Party

### Appellant

Paul Tierney

### Observer

None

### Date of Site Inspection

24/8/2020 & 31/8/2020

**Inspector**

Siobhan Carroll

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## 1.0 Site Location and Description

- 1.1. The appeal site, with a stated area of c. 0.03866 hectares, is located on the western side of Dundrum Road. It is part an established suburban area situated to the south of Windy Arbour, circa 1.5km to the north of Dundrum Town Centre and approximately 7km from Dublin City Centre.
- 1.2. There are a mix of house types along Dundrum Road in the vicinity of the site with varying styles, scales and heights, ranging from single storey, two storey to a three storey.
- 1.3. The existing house on site, Lisheen, is a three storey semi-detached house dating from the c.1930s. The property is served by a rear garden with a depth of circa 40m. The site is bounded to the west by the Dundrum Slang River.

## 2.0 Proposed Development

- 2.1. Extensions to dwelling comprising widening of existing building by 1.3m, extension at ground, first floor and basement to side and rear and alterations of roof profile to front and rear.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was refused for the following reasons,

1. The subject site is located Flood Zone A, and within the Dundrum Slang. The proposed development, therefore, is not in accordance with Appendix 13 (Strategic Flood Risk Assessment) of the 2016-2022 Dún Laoghaire-Rathdown County Development Plan, in particular Section 5.3.9 Dundrum Slang that seeks to resist development within the rear gardens of properties along the Dundrum Road. The proposed development is located in an area which is at risk of flooding, in A and as such, would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

2. The proposed rear extension by reason of its scale, bulk, and massing would be visually overbearing when viewed from the adjoining properties at Shanbeg to the North and Rushwee to the South, resulting in harm to the visual and residential amenities of both properties. The proposed development would, therefore, seriously injure the residential amenities and depreciate the value of adjoining properties and, as such would be contrary to the Objective 'A' zoning of the site and the proper planning and sustainable development of area.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

- The report of the Planning Officer concluded that given the overall size and scale of the proposed extension over three levels and extending up to 6m at ground and first floor level that it would impact on the neighbouring properties in terms of visual amenity. It was considered that the rear extension would be visible from the front elevation and due to the scale of the extension that it would be contrary to Section 8.2.3.4 of the Development Plan. Furthermore the Planning Officer recommended that permission be refused on the basis that the development is within an area at risk of flooding.

### 3.2.2. Other Technical Reports

Drainage Planning – Refusal recommended.

## 3.3. **Prescribed Bodies**

None

## 3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received one submission/observation in relation to the application. The issues raised concerned, flooding, proximity of the proposed development to the boundary, height of the proposed extension, overshadowing, impact upon privacy and potential effect on property valuation.

## 4.0 Planning History

PA Reg. Ref. D19B/0322 – Permission was refused for the widening of the existing building by 1.3m, construction of a new ground floor and basement extension to the rear, alteration of roof profile to front and rear and associated site works. The proposed extension is to facilitate additional bedrooms, a larger kitchen and increased living space. Permission was refused for the following reasons;

1. The subject site is located Flood Zone A, and within the Dundrum Slang. The proposed development, therefore, is not in accordance with Appendix 13 (Strategic Flood Risk Assessment) of the 2016-2022 Dún Laoghaire-Rathdown County Development Plan, in particular Section 5.3.9 Dundrum Slang that seeks to restrict development within the rear gardens of properties along Dundrum Road. The proposed development is located in an area which is at risk of flooding, in A and as such, would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

### Adjoining property to the north

PA Reg. Ref. D19B/0301 – Permission was refused for the construction of a new ground floor and basement extension to the rear, rear facing balcony and associated site works. The proposed extension is to facilitate 2 additional bedrooms, 2 additional bathrooms and a kitchen. Permission was refused for the following reasons;

1. The subject site is located Flood Zone A, and within the Dundrum Slang. The proposed development, therefore, is not in accordance with Appendix 13 (Strategic Flood Risk Assessment) of the 2016-2022 Dún Laoghaire-Rathdown County Development Plan, in particular Section 5.3.9 Dundrum Slang that seeks to restrict development within the rear gardens of properties along Dundrum Road. The proposed development is located in an area which is at risk of flooding, in A and as such, would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
2. Having regard to the depth of 9 metres and overall scale of the proposed extension the proposed development would appear overbearing and

oppressive when viewed from the neighbouring property to the north, Venetti and would seriously injure the residential amenity and depreciate the value of this property. The proposed development would materially contravene Section 8.2.3.4 'Additional Accommodation in Existing Built-up Areas' of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

## **5.0 Policy Context**

### **5.1. 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 flood plain of the Dundrum Slang River and within a Flood Zone A area as identified in Map No. 1, Flood Zone Maps, as set out in the 2016 – 2022 Dun Laoghaire-Rathdown County Development Plan (CDP)
- Chapter 8 – Principles of Development
- Section 8.2.3.4 – refers to Additional Accommodation in built up areas
- Section 8.2.3.4(i) – refers to Extensions to dwellings
- Appendix 13 – Strategic Flood Risk Assessment

### **5.2. The Planning System and Flood Risk Management Guidelines 2009**

The key principles are:

- Avoid the risk, where possible – precautionary approach.
- Substitute less vulnerable uses, where avoidance is not possible, and
- Mitigate and manage the risk, where avoidance and substitution are not possible.

Flood Zone A has the highest probability of flooding, Zone B has a moderate risk of flooding and Zone C (which covers all remaining areas) has a low risk of flooding.

The sequential approach should aim to avoid development in areas at risk of flooding through the development management process.

An appropriate flood risk assessment and justification for development in and management of areas subject to flooding and adherence to SUDS is recommended.

This document sets out how to assess and manage flood risk potential and includes guidance on the preparation of flood risk assessments by developers. This has regard Screening Assessment, Scoping Assessment and Appropriate Risk Assessment.

### **5.3. Natural Heritage Designations**

- None of relevance

### **5.4. EIA Screening**

- 5.4.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. 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 first party was submitted by Patrick Tierney on behalf of the applicants Paul & Catherine Tierney, the issues raised are as follows;

- In relation to refusal reason no. 1 the proposed extension was designed in partnership with IE Consulting a chartered water and environmental consultancy firm. The extension is elevated 1m above Flood Zone A and it would be elevated using two concrete columns. IE Consulting has confirmed that the footprint will not displace or redirect any significant volume of fluvial waters.
- It is submitted that the proposed extension is not considered to be a risk of flooding and would pose no risk to public health.



- The 'Planning System and Flood Risk Management Guidelines' require a justification test to be carried out to ensure that flood risks are mitigated. The appeal includes a comprehensive justification test which concluded that the proposed development will not result in a significant displacement of fluvial flood waters. It would result in less than 200 litres in a flood zone of over 26,000,000 litres.
- It is submitted that 90% of the extension footprint is not located within the designated Flood Zone. It is considered that approximately 2m of the extension infringe on the flood zone boundary. The proposed basement extension is 36sq m. This is within the 40sq m exempted development range for a ground floor extension.
- Refusal reason no. 2 refers to the scale, bulk and massing of the proposed extension. It is submitted that the proposed extension is not excessively large. It is stated in the refusal that the proposed extension would be visually overbearing when viewed from the adjoining properties Shanbeg to the north and Rushwee to the south. In response to this the applicant states that they are working with the owners of Shanbeg who wish to extend to the rear of their property. The applicant and the owners of the Shanbeg have agreed if permission is granted for the proposed extension that the development would also encompass the extension of the basement of Shanbeg to a size which is exempted development.
- In relation to the property Rushwee to the south this is located at a higher elevation to Lisheen. The elevated seating area to the rear of Ruswee extends for 13m. It is submitted that the proposed basement floor will not be visible from Rushwee, that the proposed ground floor is at the same elevation as the ground floor of Rushwee and that the extension will mainly be screened by the existing high wall and trees along the boundary.
- It is refuted that the proposed extension would seriously injure the residential amenities and depreciate the value of adjoining properties.
- The appellant responds to matters raised in the submission/observation to the application to the Council. The report from IE Consulting the Site Specific Flood Risk Assessment concludes that the proposed extension would have a

negligible impact in relation to the flow of fluvial waters. It is stated that the applicant has no plans to back fill the garden. Some temporary filling will be required to facilitate the construction, but this will be removed on completion.

- The submission/observation referred to the extension being built up to the side wall. The proposed design provides a distance of 0.5m between the houses to facilitate access and maintenance.
- It is highlighted that the dwelling Rushwee is located to the south of Lisheen and that Lisheen is at a lower elevation. Therefore, it is submitted that Lisheen would not cause shadowing to Rushwee. It is noted that the height of Lisheen would not be increased and that there would be a distance of over 10m between the proposed first floor bedroom window and the seating area to the rear of Rushwee. Having regard to the existing high wall and trees between the properties and the sharp viewing angle, it is submitted that it would not be possible to view the seating area to the rear of Rushwee from the ground floor and basement windows of the proposed extension.
- The appeal includes a number of revised proposals to address the design of the rear extension. Under option 1 it is proposed to reduce the depth of the extension should the Board consider it appropriate to do so to mitigate flood risk. Under option 1A it is proposed to reduce the depth of the extension from 6m to 5m. Under option 1B it is proposed to reduce the depth of the extension from 6m to 4m.
- Under Option 2 it is proposed to reduce the depth of the ground floor extension. Under option 2A it is proposed to reduce the depth of the ground floor extension from 6m to 5m. Under option 2B it is proposed to reduce the depth of the ground floor extension from 6m to 4m.
- Option 3 proposes the increase in the separation distance between the side of Lisheen and Rushwee from 0.5m to 0.75m. Option 4 proposes the modification of design of the first floor windows. Under option 4B it is proposed to reduce the height of the windows by half to prevent overlooking. Under option 4B it is proposed to remove the northern and southern most windows from the first floor extension. Under option 4C it is proposed to install

200mm wooden slats onto the window exterior of the first floor extension.  
Under option 5 it is proposed to omit the first floor extension.

## 6.2. **Planning Authority Response**

- The Board is referred to the report of the Planning Officer.
- It is considered that the grounds of appeal do not raise any new matters which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

## 7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Design and impact on residential amenity
- Flood Risk
- Appropriate Assessment

### 7.1. **Design and impact on residential amenity**

- 7.1.1. Refusal reason no. 2 issued by the Planning Authority stated that the proposed rear extension due its scale, bulk, and massing would be visually overbearing when viewed from the adjoining properties at Shanbeg to the North and Rushwee to the South. It was concluded that the proposed rear extension would negatively impact upon the visual and residential amenities of both properties.
- 7.1.2. Section 8.2.3.4(i) of the Dun Laoghaire Rathdown Development Plan 2016-2022 refers to extensions to dwellings. There are a number of specific criteria set out in this section of the Plan which relate to first floor rear extensions. It is stated that first floor rear extensions will be considered on their merits and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. The factors which are taken into consideration in determining proposals for first floor extensions include,

overshadowing, overbearing, overlooking, proximity, height and length along mutual boundaries.

- 7.1.3. The existing property is three-storey and the extension as originally proposed under the application is over three-storeys. The extension features a flat roof design. It would extend out 6m at basement and ground floor level from the rear building line. The proposed upper floor extension would project out 3m. The dwelling Lisheen adjoins Shanbeg to the north and the dwelling Rushwee is situated circa 1.7m to the south of Lisheen.
- 7.1.4. In relation to the issue of overbearing impact, having regard to the adjoining nature of Shanbeg to the north and the close proximity of Rushwee to the south and given the extent to which the proposed rear extension would project out at 6m at basement and ground floor level this would result in it appearing overly dominant and overbearing when viewed from the adjoining property to the north and adjacent property to the south.
- 7.1.5. The applicant has provided a number of options for revisions in the design of the proposed extension. These revised proposals include the reduction in the depth of the extension from 6m to 5m or 4m under option 1A & 1B respectively. I consider the reduction in the depth of the extension at basement and ground floor level to 4m would address the matter of overbearing impact to a certain extent. It is proposed to reduce the depth of the extension from 6m to 5m or 4m at ground floor level under option 2A & 2B respectively while maintaining the depth of the basement extension at 6m. This would serve to reduce the bulk and scale of the extension somewhat, however the reduction in the overall depth of the extension to 4m at basement and ground floor level would I consider be preferable in reducing any overbearing impact and loss of outlook. Option 5 proposed in the appeal is the omission of the first floor extension. This element of the extension would project 3m from the rear building line. Its omission would further reduce the bulk and scale of the extension. I note that the Planning Authority had concerns in respect of the visual impact the proposed flat roof extension would have upon the streetscape as a section of the proposed flat roof would be visible from the Dundrum Road. The omission of the upper floor would also address this matter.

- 7.1.6. Further proposals are provided to address the Planning Authority's refusal including the reduction in the width of the extension to provide a separation distance of 0.75m between the side of Lisheen and Rushwee. Under the original proposal a separation distance of 0.5m is provided between the extension to the side of Lisheen and Rushwee. The reduction in the width of the extension would reduce the bulk and scale of the proposal particularly in relation to the proximity to Rushwee to the south.
- 7.1.7. The appeal includes proposals to modify the design of the first floor windows. These proposals include the reduction in the height of the windows by half, the omission of the northern and southern most windows and the installation of 200mm wooden slats onto the window exteriors. Regarding the matter of overlooking, I note that the refusal reason issued by the Planning Authority did not refer specifically to overlooking. I consider that having regard to the siting and design of the proposed extension which does not feature any windows to the side elevations, that the proposed windows would not result in any undue overlooking of neighbouring property.
- 7.1.8. In conclusion I consider that the revised design proposals specifically the reduction in the depth of the extension to 4m and the omission of the upper floor would satisfactorily address concerns regarding impact on residential amenity. Accordingly, should the Board decide to grant permission for the proposed development, I would recommend the attachment of a condition requiring that revised floor plans and elevations indicating the above revisions be submitted to the Planning Authority for their agreement.

## **7.2. Flood Risk**

- 7.2.1. The site is situated within the catchment of the Dundrum Slang River. The Planning Authority refused permission for the proposed extension on the basis that the site is located within Flood Zone A and that the proposed development would not be in accordance with Appendix 13 the Strategic Flood Risk Assessment of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The reason for refusal refers specifically to Section 5.3.9 of Appendix 13 which refers to the Dundrum Slang River. It states that the Council seeks to resist development within the rear gardens of properties along the Dundrum Road. It was concluded in the refusal reason that the proposed development is located in an area which is at risk of flooding, Flood

Zone A and that the proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

- 7.2.2. In response to the matter it is stated in the appeal that the extension was designed in partnership with IE Consulting that the level of the extension is proposed to be elevated 1m above Flood Zone A using two concrete columns. The applicant's Consultant Engineers confirmed that the footprint will not displace or redirect any significant volume of fluvial waters. The provisions of 'The Planning System and Flood Risk Management Guidelines' are cited in the appeal and it is highlighted that the guidelines require a justification test to be carried out to ensure that flood risks are mitigated.
- 7.2.3. Appendix D of the appeal contains a Site Specific Flood Risk Assessment prepared by IE Consulting. It is stated in the assessment that a portion of the proposed extension falls within a delineated fluvial Flood Zone 'A' and Flood Zone 'B'. In relation to the question of whether the proposed development would increase flood risk elsewhere it is set out in the justification that the ground floor slab of the extension would not encroach within and would be elevated above the delineated 1% AEP (1 in 100 year) and 0.1% AEP (1 in 1000 year) Flood Zone 'A' and Flood Zone 'B'. It is concluded that the proposed development will not result in a significant displacement of fluvial flood waters. Regarding the question of whether the proposal includes measures to minimise flood risk to people, property the economy and the environment, it is stated in the assessment that to mitigate against any residual flood risk it is recommended that the underside of the proposed floor slab will be constructed to a minimum level of 0.3m above the 1 in 1000 year flood level of 38.461m OD. The proposed finished floor level of the extension is 39.036m OD, therefore it is submitted that the proposed development is not predicted to be impacted by an extreme fluvial flood event in the Dundrum River Slang.
- 7.2.4. It is set out in the appeal that 90% of the extension footprint is not located within the designated Flood Zone and that approximately 2m of the extension infringe on the flood zone boundary.
- 7.2.5. Appendix 13 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 is the Strategic Flood Risk Assessment (SFRA). Section 5.3.9 of the SFRA refers to the Dundrum Slang River. The Dundrum Slang River is included in the Dodder

CFRAM. As set out in this section of the SFRA there are a number of areas within Dún Laoghaire-Rathdown where it is not appropriate to adopt an approach where development in flood zones A and B may be considered. The areas cited are Seafield, Bayview and downstream of Dundrum Town Centre. The appeal site at Lisheen, Dundrum Road is located within the Dundrum Slang River catchment and downstream of Dundrum Town Centre.

- 7.2.6. It is advised in the Dodder CFRAM that flooding overtops the riverbanks of the Dundrum Slang River during the 1% and 0.1% AEP events. Flood Zone Map no. 1 of the Dún Laoghaire-Rathdown County Development Plan indicates Flood Zone A in the rear garden of the appeal site up to a point close to the existing rear elevation of the dwelling. The information provided in the Site Specific Flood Risk Assessment prepared by IE Consulting and submitted with the application and appeal confirms that part of the proposed extension lies within Flood Zone A. Section 5.3.9 of the SFRA advises that flooding is indicated in the rear gardens of properties along Dundrum Road and that in this area development should be limited to Flood Zone C. The report of the Water Services Section of the Council dated the 13<sup>th</sup> of March 2020 advises that part of the proposed extension lies within Flood Zone A. The proposal to build the extension on concrete stilts was noted in the report, however the Water Services Section Water advised that such an approach is not acceptable in Flood Zone A or B as a flood mitigation measure.
- 7.2.7. Accordingly, notwithstanding the details submitted with the appeal including the Site Specific Flood Risk Assessment and justification test and the proposal to build the extension on concrete stilts, having regard to the specific guidance set out in Section 5.3.9 of Appendix 13 of the Development Plan the SFRA in relation to the appeal site and surrounding rear gardens along this section of Dundrum Road development within Flood Zone A should be refused.
- 7.2.8. In conclusion, I consider that the Board should exercise a precautionary approach in determining the current application before it, having particular regard to the devastating consequences which arise as a result of flooding in highly vulnerable development such as residential development.

### **7.3. Appropriate Assessment**

- 7.3.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, the location of the site in a serviced suburban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

- 8.1. I recommend that permission should be refused.

### **9.0 Reasons and Considerations**

1. Having regard to the Dún Laoghaire-Rathdown County Development Plan 2016 – 2022, including the Strategic Flood Risk Assessment (SFRA) in Appendix 13 of this Plan, the subject site is located within the flood plain of the Dundrum Slang River and within a Flood Zone A area as identified in Map No. 1, Flood Zone Maps, as set out in the 2016 – 2022 Dún Laoghaire-Rathdown County Development Plan (CDP). Section 5.3.9 of the Strategic Flood Risk Assessment (SFRA) (Appendix 13 of the CDP), refers to the Dundrum Slang River. It advises that flooding is indicated in the rear gardens of properties along Dundrum Road and that in this area development should be limited to Flood Zone C. It is therefore considered that the proposed development would contravene Section 5.3.9 of the SFRA as set out in Appendix 13 of the CDP. The proposed development is in an area which is at risk of flooding and would be contrary to the proper planning and sustainable development of the area.

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Siobhan Carroll  
Planning Inspector

10<sup>th</sup> of September 2020