



An  
Bord  
Pleanála

## Inspector's Report ABP-307809-20

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<b>Development</b>	An extended storage space of 12m <sup>2</sup> at first floor and behind the building at this level.
<b>Location</b>	11 / 12A Barnhill Road, Dalkey, Co. Dublin.
<b>Planning Authority</b>	Dún Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D20A/0282
<b>Applicant(s)</b>	David Whelan
<b>Type of Application</b>	Permission for Retention
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	David Whelan
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	17 <sup>th</sup> November, 2020
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located on the southern side of Barnhill Road (the R869 Regional Road) at a mini-roundabout junction with Castlepark Road in Dalkey, Co. Dublin, in a predominantly residential area, and comprises a small supermarket / convenience store which is presently undergoing redevelopment / reconstruction works that provide for its amalgamation with an adjacent shop unit (a former florist) and its further extension. It has a stated site area of 0.12 hectares, is irregularly shaped, and is occupied by a two-storey (plus attic) building surrounded by single-storey flat-roofed extensions on three sides in addition to a first floor addition / extension (including the extended storage area proposed for retention) alongside the western gable elevation of the principle two-storey construction. The wider site also includes an external yard and a covered storage area to the rear of premises whilst the entirety of the area between the shop unit and the public road has been tarmacadamed for use as off-street car parking. Access is obtained directly from the adjacent mini-roundabout with the site sloping steeply uphill away from the roadway towards the shop entrance with the result that the retail unit itself occupies a comparatively elevated position.
- 1.2. The site is surrounded by mature housing to the south, east and west. The eastern and western site boundaries to the forecourt (where it abuts front garden areas) are defined by a combination of walls, fencing and hedging whilst the remainder of the site perimeter generally comprises c. 2m high concrete blockwork walls.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the retention of an extended storage space (incorporating a 'dumb waiter') with a stated floor area of 12m<sup>2</sup> which has been constructed at first floor level to the rear of the existing retail premises / building. It comprises a flat-roofed construction towards the western side of the site and would appear to have been built in tandem with the first floor extension and enclosed stairwell previously permitted under PA Ref. No. D19A/0055.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On 9<sup>th</sup> July, 2020 the Planning Authority issued a notification of a decision to refuse permission for the retention of the proposed development for the following single reason:

- The proposal by reason of its scale, bulk, mass and first floor location will adversely impact the residential amenity of the adjoining dwellings to the south, east and west of the subject site by reason of being visually overbearing and incongruous with the existing built form. The proposed development to be retained would therefore, be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. *Planning Reports:*

Details the site context, planning history, and the applicable policy considerations, before stating that whilst the overall principle of the development is acceptable, cognisance should be had to the potential impact of the proposal on the residential amenity of neighbouring properties and the visual amenity of the wider area. The report subsequently raises concerns as regards the visual impact attributable to the bulk and mass of the proposed extension (and a lack of screening), particularly when viewed from the south and east, and states that, when taken in conjunction with the scale of those works already permitted on site, the proposal would amount to an overdevelopment of the subject site. Further concerns arise as regards the precedent which could be established in the event the proposal was to be granted permission for retention. The report thus concludes by recommending a refusal of permission for the reason stated.

#### 3.2.2. *Other Technical Reports:*

*Drainage Planning, Municipal Services Dept.:* No objection, subject to conditions.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

3.4.1. A single submission was received from an interested third party and the principle grounds of objection / areas of concern raised therein can be summarised as follows:

- The further expansion / extension of the existing retail premises would serve to increase traffic volumes in the area thereby exacerbating localised congestion and instances of haphazard parking along the roadside.
- The increase in traffic attributable to the development would further impact on local air quality and the safety of pedestrians.
- The history of unauthorised development on site.
- The detrimental impact on the residential amenity of neighbouring properties due to excessive noise levels / disturbance attributable to air conditioning / ventilation / extraction units, a lack of acoustic insulation / mitigation, and on-site activities such as the moving of roller trolleys etc. during the early morning / late-night hours.

## 4.0 Planning History

### 4.1. *On Site:*

PA Ref. No. D19A/0055. Was granted on 14<sup>th</sup> August, 2019 permitting David Whelan permission for a redesign of the existing shop frontage, including two storey screen, new signage, new fenestration and dormer window, 29m<sup>2</sup> extension over ground and first floor to western side, roof light to rear (south) and associated site works, and incorporating existing florist shop into grocery shop.

PA Ref. No. D12A/0456. Was granted on 27<sup>th</sup> February, 2013 permitting David Whelan permission for: Demolition of c. 99.7m<sup>2</sup> of retail/storage area; Removal of c. 169m<sup>2</sup> of temporary retail area (granted under D10A/0077; PL06D.236625) and c. 118m<sup>2</sup> of unauthorised retail area; Construction of a new single storey extension (c. 298m<sup>2</sup>) to the main neighbourhood shop to now provide a total gross floor area of c. 422.4m<sup>2</sup>; Increase in the size of the second retail unit from c. 42.2m<sup>2</sup> to c. 68.2m<sup>2</sup> GFA; Provision of new stairs to existing 1<sup>st</sup> floor store/admin area; Modifications to elevations and additional signage (c.11.8m<sup>2</sup>) and associated landscaping, site boundary and development works.

PA Ref. No. D10A/0077 / ABP Ref. No. PL06D.236625. Was granted on appeal on 21<sup>st</sup> December, 2010 permitting Marie Ballyguile Limited permission for the retention of the demolition of a single storey store to the rear and the temporary installation for three years of a single storey temporary premises as an extension to the existing retail shop at the rear of Centra.

## 5.0 Policy and Context

### 5.1. Development Plan

#### 5.1.1. *Dún Laoghaire Rathdown County Development Plan, 2016-2022:*

##### *Land Use Zoning:*

The proposed development site is located in an area zoned as 'NC' with the stated land use zoning objective '*To protect, provide for and / or improve mixed use neighbourhood centre facilities*'.

##### *Other Relevant Sections / Policies:*

##### *Chapter 3: Enterprise and Employment Strategy:*

##### *Section 3.2: Retail and Major Town Centres:*

##### *Section 3.2.2.6:*

The function of Neighbourhood Centres is to provide a range of convenient and easily accessible retail outlets and services within walking distance for the local catchment population. The Council considers that, subject to the protection of residential amenities, a number of the larger neighbourhood centres are capable of being promoted as local mixed-use nodes accommodating a range of uses beyond simply retailing or retail services. The introduction of residential and a higher level of commercial office activity, for example, could 'sit' quite comfortably in many neighbourhood centre locations without detriment to local amenity. The Zoning Objective for 'NC' (Refer to Table 8.3.6 in Chapter 8.3) has consequently been amended to facilitate a more diverse range of uses than has been the case heretofore in previous Development Plans.

*Policy RET6: Neighbourhood Centres*

It is Council policy to encourage the provision of an appropriate mix, range and type of uses – including retail and retail services - in areas zoned objective 'NC' subject to the protection of the residential amenities of the surrounding area.

Section 3.2.2.7:

Within residential areas, the Council recognises the need for convenience shopping provision and accepts that a neighbourhood centre may not always be available within easy walking distance. When evaluating proposals for such a use, the Council will have regard to the distance from the proposed development to existing shopping facilities and to its impact on the amenity of adjoining dwellings. Local convenience shops shall not have a floorspace greater than 100 sq.m. net.

*Policy RET7: Convenience Shops:*

It is Council policy to facilitate the provision of local convenience shops in residential areas where there is a clear deficiency of retail provision, subject to protecting residential amenity.

*Chapter 8: Principles of Development:*

Section 8.2.6: *Retail Development*

**5.2. Natural Heritage Designations**

5.2.1. The following natural heritage designations are in the general vicinity of the proposed development site:

- The Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code: 001206), approximately 800m southeast of the site.
- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 1.5km east of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 1.8m east of the site.

### 5.3. EIA Screening

- 5.3.1. Having regard to the minor nature and scale of the development under consideration, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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

- The subject proposal is representative of an entirely standard extension to an existing commercial unit. It has been appropriately separated from adjoining boundaries and has been designed so as to avoid any undue impact on the residential amenity of neighbouring properties.
- The grounds for refusal are unsubstantiated and the level of assessment undertaken by the Planning Authority in arriving at its decision is questionable.
- The extension is entirely obscured by the extent of the western elevation previously approved under PA Ref. No. D19A/0055 and is also appropriately separated from the eastern and southern site boundaries so as to have an imperceptible impact on the residential amenity of adjoining properties.
- In assessing the potential impact of the proposal on adjacent housing and any associated private amenity areas, the Board is advised as follows:

- *'The Gables' (to the immediate east of the site):*

The extension is situated between 14.5m and 16.2m from the eastern site boundary shared with this dwelling which is considered to be more than sufficient to dispel any visual impact / overbearing concerns.

Moreover, the extension does not include any fenestration within its elevations and has been finished in the same materials as the works

already approved under PA Ref. No. D19A/0055 whilst it is only 3m closer to the eastern site boundary. The orientation of the site also mitigates against any potential overshadowing of 'The Gables' and its private amenity space.

- *Nos. 6 & 9 Saval Park Road (to the immediate south of the site):*

The extension approved under PA Ref. No. D19A/0055 is over 25m from the boundary shared with No. 6 Saval Park Road and in excess of 55m from the rear elevation of that dwelling. The subject extension is located at the same distance, albeit it is 3m wider.

The extension approved under PA Ref. No. D19A/0055 is over 27m from the boundary shared with No. 9 Saval Park Road and in excess of 43m from the rear elevation of that dwelling. The subject extension is located approximately 1m closer to that property.

It is considered that the foregoing separation distances, when taken in conjunction with the design, scale and form of the extension proposed for retention, are sufficient to dispel any semblance of a potential visual amenity or overshadowing impact. In addition, the absence of any fenestration within the extension ensures that no concerns arise as regards the overlooking of private open space.

- *'Alwoodley' (to the immediate west of the site):*

The extension does not unduly impact on the adjoining property to the west due to the fact that it is entirely obscured behind the western elevation of the construction already approved under PA Ref. No. D19A/0055.

Whilst the extension will be visible when viewed north-eastwards from within part of the adjacent rear garden area, the focus should be on the limited size and scale of the construction and its uniformity with the development already approved on site.

- Despite the assertion by the case planner that the development would adversely impact on the residential amenity of the adjacent dwelling houses to



the east, west and south, no submissions against the proposal were received from the owners / occupiers of those properties.

- By way of precedent, the Board is referred to the Planning Authority's assessment of PA Ref. Nos. D18A/1207 & D19A/0304 and inconsistencies in its approach as regards the impact of comparable development on the residential amenity of neighbouring properties.

## 6.2. **Planning Authority Response**

- States that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

## 6.3. **Observations**

None.

## 6.4. **Further Responses**

None.

## 7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Overall design and layout / visual impact
- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

### 7.2. **Overall Design and Layout / Visual Impact:**

7.2.1. The proposed development consists of the retention of a modest (c. 12m<sup>2</sup>) first floor extension which has been constructed to the rear of the existing retail premises in order to provide for additional storage space (and a 'dumb waiter' feature). It would

appear to have been built in tandem with the first-floor extension and enclosed stairwell previously approved under PA Ref. No. D19A/0055 and comprises a flat-roofed construction which has been finished in a smooth dark render to match the front and side elevational treatment of the premises as visible from Barnhill Road (as opposed to a smooth white render as has been detailed on the submitted drawings). In this regard, it is my opinion that the overall design, scale and form of the proposed extension is in keeping with the existing and permitted pattern of development on site. Moreover, it is of particular relevance to note that the new construction is screened from public view due to its positioning behind the existing two-storey building on site and, more specifically, the first-floor extension and the enclosed stairwell previously approved under PA Ref. No. D19A/0055.

7.2.2. Having regard to the limited scale, form, bulk and overall design of the extension proposed for retention, the screening offered by its siting relative to existing / permitted construction, and noting the separation distances between it and adjacent residential properties, I am satisfied that the proposed development would not be visually overbearing or incongruous in the context of the established pattern of development and would not detract from the visual amenity or character of the wider area.

**7.3. Impact on Residential Amenity:**

7.3.1. Given the nature (storage), limited scale, and overall design of the extension proposed for retention, its relationship with the development previously approved on site under PA Ref. No. D19A/0055, and noting the considerable separation distances between it and those residential properties to the immediate east and south of the site, I am unconvinced that the proposal could be construed as amounting to an overdevelopment of the application site or that it would have a detrimental impact on the residential amenity of neighbouring properties.

**7.4. Appropriate Assessment:**

7.4.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development

would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## 8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission for retention be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

## 9.0 Reasons and Considerations

- 9.1. Having regard to the zoning of the site in the current development plan for the area as 'NC' with the stated land use zoning objective 'To protect, provide for and / or improve mixed use neighbourhood centre facilities', the planning history of the site, with particular reference to PA Ref. No. D19A/0055, the pattern of development in the area, and to the scale, form and design of the extension, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained, 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. 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. No additional development shall take place above roof parapet level, including air handling equipment, storage tanks, ducts or other external plant,

telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

3. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

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Robert Speer  
Planning Inspector

18<sup>th</sup> November, 2020