



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307845-20

#### Development

(1) Removal of shed, (2) Construction of single storey rear extension, (3) Modification of existing rear wall and roof of existing single storey extension, (4) Widening of existing vehicular entrance and, (5) Associated works.

#### Location

12 Berwick Drive, Swords, Co. Dublin,  
K67 P8W9

#### Planning Authority

Fingal County Council

#### Planning Authority Reg. Ref.

F20A/0164

#### Applicant(s)

Michelle Garry.

#### Type of Application

Permission.

#### Planning Authority Decision

Split Decision

#### Type of Appeal

First Party

#### Observer(s)

Jeanette Green

#### Date of Site Inspection

20<sup>th</sup> October 2020.

#### Inspector

Barry O'Donnell

## **1.0 Site Location and Description**

- 1.1. Berwick is a large residential neighbourhood to the west of Swords, accessed via Brackenstown Road. Berwick Drive is a cul-de-sac development within the wider neighbourhood, consisting of a mix of detached and semi-detached houses.
- 1.2. The subject site, 12 Berwick Drive, is centrally located within the cul-de-sac. It is a semi-detached property measuring 0.02ha, incorporating a single storey extension to the rear, together with a detached shed within the rear garden. The property has a small south-facing garden.
- 1.3. There is a slight incline within the site, with land levels rising gently from north to south. The detached rear garden shed is therefore set slightly higher than the rear of the house.

## **2.0 Proposed Development**

- 2.1. Permission is sought for removal of an existing shed, to facilitate the construction of a single storey rear extension with a gross floor area of 28.2sqm, together with widening of an existing vehicular entrance and associated works.
- 2.2. The shed to be removed is located adjacent to the south and west property boundaries and has a gross floor area of 6sqm.
- 2.3. The proposed extension would be L-shaped, projecting from the rear of the dwelling in the form of a 1.6m wide link corridor, which accesses onto a semi-independent living accommodation extension measuring up to 7m wide and up to 5m deep, that follows the angle of the rear garden boundaries and abuts each boundary. The extension would be primarily flat-roofed, measuring up to 2.75m high. It would provide a bedroom, study and bathroom and is intended to provide semi-independent living accommodation to address an identified family need. As part of the extension, the existing ground floor layout would also be altered.
- 2.4. The vehicular access is also proposed to be widened, to 3.85m.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On 14<sup>th</sup> July 2020 Fingal County Council issued a Split Decision, refusing permission for the single storey extension and granting permission for the widened vehicular access.

3.1.2. Permission for the extension was refused for one reason, as follows:

*'1. The combined impact of the proposed rear extension and corridor link extension would, constitute overdevelopment of the site and taking into account its excessive depth, height and siting on the boundary with no. 10 Berwick Drive, would be seriously injurious to the residential amenities of the attached property at no. 10 Berwick Drive by reason of its visual impact – being overbearing and significantly adding to the sense of enclosure of the adjoining rear garden, and through loss of light to the rear garden through additional overshadowing. As such, the proposal would be contrary to the proper planning and sustainable development of the area.'*

3.1.3. Permission was granted for the widened vehicular access, subject to five standard planning conditions.

### 3.2. Planning Authority Reports

3.2.1. Planning Report dated 7<sup>th</sup> July 2020, which reflects the decision to refuse permission for the extension and grant permission for the widened access. The report expressed concern in relation to the scale and site coverage of extensions of the house, which were considered to lead to overdevelopment of the site. The report also expressed concerns in relation to the impact of the development on the adjoining property, 10 Berwick Drive. A number of recommended planning conditions in relation to the widened access, which appear to have been recommended in error and which relate to new residential development, were not applied to the Planning Authority's Split Decision.

3.2.2. Other Technical Reports

3.2.3. **Water Services** – Report dated 18<sup>th</sup> May 2020, requesting Additional Information in relation to surface water drainage proposals. Additional measures which would reduce runoff and improve water quality were sought.

3.2.4. **Transportation** – Undated report, outlining no objection to the development subject to a number of standard conditions.

### 3.3. **Prescribed Bodies**

3.3.1. Irish Water submission dated 23<sup>rd</sup> May 2020, outlining no objection to the development.

3.3.2. Dublin Airport Authority submission dated 8<sup>th</sup> June 2020, outlining that the Authority had no comments on the application.

3.3.3. Irish Aviation Authority submission dated 6<sup>th</sup> May 2020, outlining that the Authority had no comments on the application.

### 3.4. **Third Party Observations**

3.4.1. None.

## 4.0 **Planning History**

4.1.1. I am not aware of any previous planning records relating to the site.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. The site is zoned 'RS' under the Fingal County Development Plan 2017-2023, with an objective to "*Provide for residential development and protect and improve residential amenity.*"

5.1.2. Objective DMS43 is of particular relevance to the proposed development, stating that in relation to family flats, it is an Objective to:

*"Ensure family flats:*

- *Are for a member of the family with a demonstrated need.*

- *Are linked directly to the existing dwelling via an internal access door and do not have a separate front door.*
- *When no longer required for the identified family member, are incorporated as part of the main unit on site.*
- *Do not exceed 60 sq m in floor area.*
- *Comply with the design criteria for extensions, as above.”*

5.1.3. Development plan Objective PM46 is also relevant to the proposed development, seeking to:

‘Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.’

## 5.2. Natural Heritage Designations

5.2.1. The site is not located within or adjacent to any Natura 2000 sites.

5.2.2. Malahide Estuary Special Area of Conservation (Site Code 000205) and Special Protection Area (Site Code 004025) and the Malahide Estuary Proposed Natural Heritage Area (Site Code 000205) are located approx. 3km to east.

## 5.3. EIA Screening

5.3.1. Having regard to the limited nature and scale of the proposed development 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

- Scale of development
  - The proposed extension measures 28.2sqm, which is a modest addition to the existing dwelling and would normally be considered exempted development.

- A private amenity space of 25.1sqm is retained and as such it is not considered that the development results in overdevelopment of the site. Further, the amenity space is accommodated in one usable space.
- The development was put forward as semi-independent accommodation for an immediate family member dependent on the main occupants of the dwelling. The application was not assessed on this basis. Objective DMS43 states that family flats should not exceed 60sqm, should be directly linked to the main dwelling and should not have a separate front door.
- It is contended that the gross floor area, in combination with the remaining private amenity space retained, demonstrates that the development is appropriate and does not constitute overdevelopment of the site.
- Visual Impact
  - It is contended that the development would have minimal impact on the amenity of the adjoining property. The depth, width and scale of the development are considered appropriate and in accordance with building regulations requirements, development plan policies for family flats and rear extensions, while retaining an appropriate quantum of private amenity space for the occupiers.
  - Objective DMS43 requires family flats to be linked directly to the existing dwelling via an internal access door and should not have a separate front door. The proposed link corridor is put forward in order to comply with this, whilst ensuring that the remaining garden space is provided in one usable space. The link corridor does not contain any living areas which would generate noise or nuisance and does not contain any windows which would overlook. It is contended that the development will not impact on the existing amenity enjoyed by the adjoining property.
  - The extension would not exceed the height of the existing shed in the adjoining property, nor the height of the existing rear extension on the subject site and it is not considered to be excessive. It is also flat roofed, which further mitigates against potential overbearing effects. It is contended that the development would not add to a sense of enclosure of the neighbouring property. The

proposed height is considered to be justified by the results of a sun study, provided as part of the appeal.

- The Board is requested to assess the proposed height in the context of existing rear garden developments at both properties, with consideration to the need for the development as semi-independent accommodation and the development plan criteria for same.
- It is noted that there was no third party observation submitted on the application.
- Overshadowing of the neighbouring property
  - Both rear gardens in question are south-facing and will continue to receive adequate light throughout the majority of the day, as the sun move from east to west. The Planning Authority did not afford the appellant the opportunity to submit a light/shadow analysis, so that the issue could be addressed. A sun study has been prepared by Richard Callaghan as part of the appeal.
  - The appellant is amenable to the height of the proposed link corridor being stepped down, to mitigate against any visual impact on the neighbouring property.
  - The development will not result in any loss of light to any existing habitable room within the adjoining property and will retain adequate sunlight levels within the rear garden, in accordance with BRE guidance '*Site Layout for Daylight and Sunlight: A Guide to Good Practice*'. Sun study drawings have been provided for the spring equinox and summer and winter solstices, which demonstrate the minimal impact of the development on the adjoining property.
- Compliance with development plan standards
  - The application was put forward as providing semi-independent accommodation, but this was not addressed by the Planning Officer's Report, underlining the appellant's view that the application was not fully assessed by the Planning Authority.
  - The development complies with the requirements of Objective DMS43, which relates to family flat developments.

- The proposed length of the extension is considered appropriate, given the floor area proposed, building regulations requirements, development plan criteria or family flats and the quantum of remaining private open space.
- The height of the extension does not exceed that of the existing shed within the rear garden of the adjoining property and as such should not be considered excessive.
- The sun study enclosed within the appeal confirms that the development will not result in any significant loss of light within the adjoining property and, notwithstanding, the appellant is amenable to height of the proposed link corridor being stepped down, to mitigate against any visual impact on the neighbouring property.
- The development is also supported by development plan Objective DMS42 which encourages innovative design approaches for domestic extensions.
- Surface water drainage
  - The appellant was not afforded an opportunity to respond to the request by the Planning Authority's Water Services department for additional information in relation to surface water drainage proposals. The appellant is amenable to incorporating the recommendations of the Water Services department, should the Board require this.

## 6.2. Planning Authority Response

6.2.1. Submission received dated 3<sup>rd</sup> September 2020, the contents of which can be summarised as follows:

- The application proposed a single storey extension, not a family flat, and was described as such within the public notices. Notwithstanding, a family flat must also comply with the design criteria for extensions.
- The submitted sun study demonstrates the additional shading on the private amenity space of 10 Berwick Drive.
- The combined impact of the proposed extension and the corridor link extension would constitute overdevelopment of the site, taking into account its excessive depth, height and siting on the common boundary with 10 Berwick Drive and would



be seriously injurious to the amenities of the attached property by reason of its visual impact, being overbearing and significantly adding to the sense of enclosure of the adjoining rear garden and through overshadowing of the rear garden.

- The Board is requested to uphold the decision of the Planning Authority. Should permission be granted, provision should be made for a financial contribution in accordance with the Council's development contribution scheme.

### 6.3. Observations

6.3.1. A submission has been received on behalf of Jeanette Green, of 10 Berwick Drive, the contents of which can be summarised as follows:

- The observer does not object to the proposed development to the front of the site, which was granted by Fingal County Council.
- The observer has significant concerns in relation to the rear extension:
  - The development is contrary to the 'RS' zoning objective. The extension covers almost the entirety of the rear garden and this represents an over intensification of development that is incongruous with the surrounding area and which fails to respond to the established character of the area. If granted, the development would set a precedent for undesirable future development.
  - The development has been designed without consideration of the observer's residence and it will result in a significant overbearing impact and will add to a sense of enclosure of the observer's limited rear garden space.
  - Insufficient consideration has been given to the practicality of constructing the proposed extension directly on the common boundary wall, with particular reference to how the wall would be finished along the east and south boundaries. Similarly, no information has been provided to demonstrate that shared boundary walls would be protected during construction. It is outlined that no consent has been provided from the observer, to enter onto their lands in order to complete the development.
  - There will be a noticeable impact on the observer's rear garden, which has a maximum depth of 8.2m. Notwithstanding the findings of the sunlight

assessment, the development will represent a significant overbearing structure, directly adjoining the shared boundary wall.

- The appellant's proposal to reduce the height of the link corridor is not considered adequate.
- The proposed development is not considered appropriate to this setting, which has a limited rear garden. Family flat extensions are typically provided for on larger development sites and not in connection with semi-detached houses which have already been extended.
- Whilst the need for specialist living accommodation is noted, a revised extension together with internal alterations within the existing house would be a more appropriate approach.
- The existing house has been put forward by the appellant as a 3-bed house, but the attic has been converted and is often used for accommodation purposes.
- The Board is requested to uphold the Planning Authority's decision.

#### **6.4. Further Responses**

6.4.1. Further submission received from the Planning Authority, dated 6<sup>th</sup> October 2020, the contents of which can be summarised as follows:

- The Planning Authority remains of the opinion that the proposed development is unacceptable.

6.4.2. Further submission received from the first party, dated 12<sup>th</sup> October 2020, following receipt of the third party observation. The contents of which can be summarised as follows:

- The majority of the points raised in the third party observation have been addressed within the appeal.
- It is noted that no third party observation was received within the 5 week planning application consultation period and the observer has not taken the opportunity to discuss their concerns with the first party.

- It is noted and welcomed that the submission contains no objection to the development to the front of the site, which was granted by Fingal County Council.
- It is not agreed that the development does not comply with the 'RS' zoning objective applying to the site. The site is in an established residential area, on zoned lands for residential use and the principle of the development is acceptable.
- The first party household contains a young adult who will require lifetime care and supervision and this cannot be provided within the existing house. The proposed development will allow for improved residential amenity, in compliance with the 'RS' zoning objective.
- In relation to the protection of residential amenity, the appeal demonstrated the negligible impact of the development on the adjoining property and it was also proposed that the height of the link corridor could be reduced, if deemed necessary.
- It is contended that the development does not represent over-intensification of the site. The rear extension has a gross floor area of 28.2sqm which is a modest addition and would normally be considered exempted development. The development also retains 25.1sqm of private open space and therefore does not represent over-intensification of the site.
- The development would have no impact on the character of the area and would not set a precedent for future development. Other future developments would themselves be subject to the planning process and the provisions of the development plan at that time. The proposed development meets with the requirements of the current development plan and should be granted.
- As was outlined within the appeal, the development has been designed and put forward to comply with development plan requirements for family flats and the gross floor area is less than half the maximum allowable for a family flat. The gross floor area and extent of retained rear garden space are contended as demonstration that the development does not constitute overdevelopment of the site.

- Consideration was given to the orientation of existing properties during the design stage and the proposed layout ensures that 10, 12 and 14 Berwick Drive would each receive adequate levels of sunlight and daylight.
- In relation to concerns regarding construction methods, it is stated that the development would be contained entirely within the first party's lands and there is no requirement for a letter of consent. No aspect of the development would require entry onto third party lands. The development will be constructed to appropriate standards and if necessary, the Board may impose a condition relating to material finishing and/or construction methods.
- The submission acknowledges that the sunlight assessment demonstrates compliance with the BRE guidance. It is considered inevitable that a development will have some sort of impact, but the rationale for guidance such as the BRE Guidelines is to ensure that any impacts are kept to an acceptable standard.
- The height of the proposed extension and link corridor are considered appropriate. They do not exceed the height of the existing shed within the adjoining property, nor the height of the rear extension at the subject site. This is supported by the findings of the sunlight assessment and it is reiterated that the first party is willing to reduce the height of the link corridor, if deemed necessary by the Board.
- In relation to the observer's references to development plan Objectives PMS46 and DMS44, it is contended that the development complies with Objective PMS46, given its minimal impact on the adjoining property, whilst the development site is not located in an area of particularly unique character.

## 7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the third-party appeal in detail, the main planning issues in the assessment of the proposed development are as follows:

- Principle of development
- Design and layout and impact on neighbouring properties

- Drainage
- Other Matters
- Appropriate Assessment

## **7.2. Principle of Development**

- 7.2.1. The proposed development is consistent with the 'RS' zoning objective, as set out in the Fingal County Development Plan 2017-2023.
- 7.2.2. I note from the grounds of appeal that the appellant contends that the proposed rear extension is a family flat extension and should be assessed as such. This aspect of the development was described within the public notices as a 'single storey extension' and was assessed as such by the Planning Authority. My assessment below is also on the basis of a domestic extension. In any case, I would advise the Board that a proposed family flat is in essence a domestic extension, albeit to meet a specific identified need, and involves an identical planning assessment, in terms of impacts arising.

## **7.3. Design and Layout and Impact on Neighbouring Properties**

- 7.3.1. In relation to the design and layout, the bulk of the rear extension, i.e. the living accommodation component, would be located at the rear of the property. This area of the garden currently contains a detached shed and I noted on my visit to the site that the east and west-adjointing gardens also contain detached rear garden structures in the same broad location and of similar height. Indeed, it was apparent that a number of the rear gardens in the area contain a rear garden structure. Having regard to the pattern of development in the area and where the appellant proposes to reprofile and reduce the level of the rear garden, in order to limit the structure's height above the boundary walls, I do not consider the extension would have any impact on the residential amenities of adjoining occupiers. It is of similar height and massing to other rear garden structures in the area.
- 7.3.2. The link corridor extension would be located adjacent to the east property boundary and would have the effect of raising the common boundary wall to approx. 2.8m immediately to the rear of both houses. Whilst I consider the relationship of this element to the east-adjointing property, 10 Berwick Drive, would be acceptable in terms of access to daylight and sunlight, I am concerned that the effective raising of the

shared boundary wall would have an overbearing and enclosing impact, presenting an imposing feature immediately to the rear of the house and prominent in rear, south-facing views. I note that the appellant has stated that they are amenable to this element being stepped down, to mitigate against any visual impact on the neighbouring property; however, I would advise the Board that no such revised proposals have been submitted as part of the appeal and I am unsure how this could be practically delivered. This is an issue which is open to clarification by the Board, prior to a decision being made on the application, however; on the basis of the information available to me, I consider the relationship of link corridor to the adjoining property is unacceptable in its proposed form and a refusal of permission is justified.

#### **7.4. Drainage**

- 7.4.1. The Planning Authority's Water Services Department requested additional information, in order to secure incorporation of additional surface water drainage measures which would reduce runoff and improve water quality. The appellant has confirmed within the grounds of appeal that they are amenable to the request and I am satisfied this can be controlled by condition, should the Board be minded to grant permission.

#### **7.5. Other Matters**

- 7.5.1. The appellant also seeks to increase the width of the vehicular access, from 2.95m to 3.85m. A number of adjoining properties within the cul-de-sac have similarly wide accesses and, where the existing grass verge which contains a street tree would be minimally affected by the proposed widening, I consider the proposal is acceptable.

#### **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, which is a domestic extension on residentially zoned and serviced lands, outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider 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 for the proposed rear extension should be refused and permission for the proposed widened access should be granted, for the reasons and considerations outlined below.

## 9.0 Widened Vehicular Access - Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development is in keeping with the character of the area and would not seriously injure the amenities of the area or the amenities of properties in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. 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.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>The layout of the proposed vehicular access and front garden parking area shall be agreed with the planning authority prior to the commencement of development and shall be implemented and retained thereafter.</p> <p><b>Reason:</b> In the interests of traffic and road safety.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional</p>

	circumstances where prior written approval has been received from the planning authority.  <b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.
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## 11.0 Rear Extension – Reasons and Considerations

11.1. The proposed development, by reason of the close proximity of the proposed link corridor rear extension to the shared property boundary wall with 10 Berwick Drive and the necessity to effectively raise the height of this boundary wall to 2.8m, immediately to the rear of this adjoining house, would have an unacceptable overbearing impact on the adjoining property. The development would therefore seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

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Barry O'Donnell  
Planning Inspector

27<sup>th</sup> October 2020.