



An
Bord
Pleanála

Inspector's Report ABP308409-20

Development	Domestic extension and alterations.
Location	128 Meadow Grove, Dundrum, Dublin 16.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20B/0174
Applicant(s)	Fiona and Ronan Phelan
Type of Application	Permission
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Bernadette and Michael Murphy.
Observer(s)	None
Date of Site Inspection	11 th December 2020
Inspector	Hugh Mannion.

1.0 Site Location and Description

1.1. The application site has a stated area of 0.03ha, comprises a detached two storey house with a front and rear garden and is at 128 Meadow Grove, Dundrum, County Dublin. The house has an existing rear/side extension and the appellant's property is the second of the semi-detached pair at 130 Meadow Grove. The area is characterised by detached and semi-detached houses from about the 1960's.

2.0 Proposed Development

2.1. The proposed development comprises;

- Demolition of the existing flat roofs to the rear entrance lobby, playroom, kitchen and dining room and single storey outhouses to the rear of the playroom,
- Construction of a single storey extension to the side and rear of the house,
- Internal and elevation alterations including new hipped roof to the front, side and rear of the house to existing ground floor rooms and the proposed extension and associated works.

All at 128 Meadow Grove, Dundrum, County Dublin.

3.0 Planning Authority Decision

3.1. **Decision-** Grant permission with 5 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports – initially the planner's reporter sought additional information;

- Submit a proposed eastern elevation and cross section to show how the proposed development relates to 130 Meadow Grove and new boundary treatments.
- Additional photographs of the site should be submitted to aid the assessment of the case.

3.3. After the submission of additional information on the 21st August 2020, the planner's report recommended a grant of permission as set out in the manager's order.

3.3.1. Other Technical Reports

Drainage Planning Section reported no objection subject to conditions.

4.0 Planning History

No relevant planning history.

5.0 Policy and Context

5.1. Development Plan

5.2. The site is zoned A 'to protect and or improve residential amenity' in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

5.3. Section 8.2.3.4 of the County Development Plan states in relation to domestic extensions.

- Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining.
- Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation) and impacts on residential amenity. First floor side extensions built over existing structures and matching existing dwelling design and height will generally be acceptable, though in certain cases a set-back of an extension's front facade and its roof profile and ridge may be sought to protect amenities, integrate into the streetscape and avoid a 'terracing' effect. External finishes shall normally be in harmony with existing.
- Any planning application submitted in relation to extensions shall clearly indicate on all drawings the extent of demolition/wall removal required to facilitate the proposed development and a structural report may be required to determine the integrity of walls/structures to be retained and outline potential

impacts on adjoining properties. This requirement should be ascertained at pre-planning stage. A structural report must be submitted in all instances where a basement or new first/upper floor level is proposed within the envelope of an existing dwelling. Side gable, protruding parapet walls at eaves/gutter level of hip-roofs are not encouraged.

- The proposed construction of new building structures directly onto the boundary with the public realm (including footpaths/open space/roads etc) is not acceptable and it will be required that they are set within the existing boundary on site. The provision of windows (particularly at first floor level) within the side elevation of extensions adjacent to public open space will be encouraged in order to promote passive surveillance.

5.4. Natural Heritage Designations

Not relevant.

5.5. EIA Screening

5.6. Having regard to the modest scale of the proposed development and its location within an appropriately zoned and serviced area there are no likely significant environmental impacts arising therefrom.

6.0 The Appeal

6.1. Grounds of Appeal

- The public notice is deficient in not accurately describing the proposed development.
- There is a boundary wall to the rear of this pair of semidetached houses. In the 1970's this was used as part of a rear extension to for number 128 but is not in the ownership of the current applicants. The current applicants do not have sufficient legal interest to demolish this wall, add a parapet to it or access it from the adjoining property (130 Meadow Grove).

- Part of the proposed development overhangs the appellants' property without consent.
- The ground level of rear garden of 128 Meadow Grove has been raised resulting in soggy conditions in the adjoining garden at 130 Meadow Grove.
- Unauthorised uses were carried out in the property previously.

6.2. Applicant Response

- The applicants are recent purchasers of the application site/house and know nothing of previous uses thereon.
- It is proposed to raise the boundary wall by a single block and cap the raised wall. This will facilitate drainage.
- It is proposed to retain the existing boundary wall – not demolish it.

6.3. Planning Authority Response

- The appeal raised no additional planning issues requiring comment.

6.4. Observations

- None

6.5. Further Responses

- None

7.0 Assessment

7.1. Principle of development.

7.2. The proposed development comprises an extension to an existing residential use in an area zoned for residential amenity in the current County Development Plan. The proposed development is acceptable in principle.

7.3. Impact on adjoining property.

- 7.4. The appeal makes the point that the proposed development will use a party wall which is not entirely in the applicant's ownership, that a part of the capping will extend into the appellant's property and that to carry out the development the applicant needs to access the appellants' property for which permission is required and will not be given.
- 7.5. The Development Management Guidelines (at 5.13) make the point that where issues of sufficient legal interest arise in relation to carrying out proposed development that further information should be requested from the applicant and that only where it is clear from the response that the applicant does not have sufficient legal interest to carry out the development should permission be refused on that point.
- 7.6. In the present case the appellant raised the issue of sufficient legal interest in the boundary wall in his initial submission to the planning authority. The planning authority sought further information in relation to the construction details of the partially revised/new boundary wall between the two properties (128 and 130 Meadow Grove) but did not specifically raise the issue of the ownership of the wall proposed to be added to in the present application. The applicant's response (see letter to the planning authority dated 21st August 2020) does not address the issue of ownership of what the third party described as a party wall.
- 7.7. The grounds of appeal raised similar issues as those raised in the submission to the planning authority, including in relation to the ownership of the wall to be raised/supporting the proposed extension and was circulated to the applicant for comment. The applicant's response to the appeal did not address the issue of ownership of the wall.
- 7.8. Notwithstanding the applicant's drawing showing the existing wall which is proposed to raise/amend as being entirely within the ownership of the applicant and having regard to the observable conditions on site I consider it likely that this is a shared party wall over which the applicant does not have sufficient legal interest to carry out the proposed development in the absence of the agreement of his neighbour. Turning to the additional drawings submitted with the FI response I conclude that the capping on the parapet wall does extend into the adjoining property at 130 Meadow

Grove and the appellant states explicitly that permission for the encroachment will not be given. I conclude on this basis that the applicant does not have sufficient legal interest to make an application for permission or carry out the proposed development.

7.9. **Impact on residential amenity.**

7.10. The proposed development will not materially subtract from the rear garden/private open space of the amended house and I consider that sufficient private open space remains to serve the recreational needs of future residents of the extended house.

7.11. Having regard to the single storey nature of the proposed extension, that it replaces an existing extension and has no windows on the boundary I conclude that the proposed development will not seriously injure the residential amenity of adjoining property. There will be no material visual impact on the streetscape and I conclude that the proposed development will not seriously injure the visual amenity of the area.

7.12. **Appropriate Assessment**

7.13. Having regard to the modest scale of the proposed development and the nature of the likely emissions therefrom I conclude that no appropriate assessment issues arise in this case.

8.0 **Recommendation**

8.1. I recommend refusal.

9.0 **Reasons and Considerations**

1.	Having regard to the material submitted with the planning application and appeal the Board is not satisfied that the applicant has sufficient legal interest in the entirety of the lands included in the planning application site to carry out the proposed development and, therefore, is precluded from granting planning permission.
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Hugh Mannion
Senior Planning Inspector
11th January 2021