



An
Bord
Pleanála

Inspector's Report ABP 308550-20

Development	Construction of a two storey extension to side and rear.
Location	18 Asgard Park, Howth, Co Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0591
Applicant(s)	Alan and Georgina Staunton.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with Conditions.
Type of Appeal	Third Party
Appellant	Cormac Kavanagh
Observer(s)	Billy and Breda Morgan
Date of Site Inspection	19 th March 2021
Inspector	Brendan Coyne

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1.0 Site Location and Description

1.1. The site (0.07 ha) is located on the northern side of a cul-de-sac within the residential development known as Asgard Park in Howth, Co. Dublin. The site contains a detached part single storey / part two storey 3-bedroom dwelling (No. 18) with a stated floor area of 199 sq.m. The roof profile of the two storey element is pitched, presenting a gable elevation to the front. The single storey extensions to both sides have flat roofs. Front elevation finishes comprise stone cladding at ground floor level and a rendered finish at first floor level. The single storey extension to the western side is characterised with tall window opens to both its front and rear elevations. A covered port and garage adjoins the eastern side of the dwelling and ramped access serves both the front and rear entrance doors. The front vehicular entrance and driveway is located along the eastern side of the front garden. The rear garden has a depth of 14.7m and its rear / northern boundary is defined with low rise hedging, enabling panoramic views to the north. Land adjoining the site to the north comprise a steep embankment dropping in a northerly direction to the Balscadden Road. The embankment is overgrown with vegetation and trees. The northern roadside boundary of the Balscadden Road, immediately to the north of the site, is defined with a garage, a tall wall with fencing to its western side and a low rise wall to its eastern side with tall mature trees behind. A single storey dwelling known as 'Cliff House' (the appellants dwelling) is located further to the west of the garage. The rear side boundaries of the site are defined with fencing and tall mature hedging.

2.0 Proposed Development

2.1.1. Application as lodged on the 05/12/2019 – Permission sought for the construction of the following;

- Two storey extension to the side (west) and rear,
- Single story extension to the eastern side, including the conversion of the existing garage to habitable accommodation,
- Associated alterations to elevations,
- New additional vehicular access driveway,
- All associated site works.

Stated Floor Area of proposed works: 103 sq.m.

2.1.2. Revised Proposal as submitted by way of Further Information on the 08th of September 2020.

- Omission of originally proposed door to the southern elevation of the family flat and its replacement with a new window and door.
- Removal of the originally proposed internal w.c. serving a study area and its replacement with the provision of a direct internal link to the main dwelling.
- Re-positioning of the originally proposed new vehicular entrance, to avoid impact of the street tree.
- Change in roof profile of the proposed family flat and omission of roof lights to the front roof slope of the extension to the western side.
- Omission of the first floor terrace to the rear and amendments to the elevation treatment.

2.1.3. Documentation submitted include;

- Revised architectural drawings,
- Letter written by Yvonne McEvoy, mother of the applicant Georgina Staunton stating her intent to move into the proposed family flat at the subject dwelling.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council GRANTED permission for the proposed development subject to 11 no. Conditions. Noted Conditions include:

No. 2 a) The access door on the front elevation of the assisted living suite / family flat shall be omitted.

b) The roof profile of the works along the eastern elevation shall be part hipped / part flat, as per Dwg. No. 18057_16 and 18057_17 (as originally submitted on the 05/12/2019).

c) The proposed 'library' room, as per Dwg. No. 18057_11 shall not be used as a bedroom.

d) The glass sliding doors serving the Master Bedroom, as per Dwg. No. 18057_15 shall be omitted and shall be a window only.

No. 3. The entire premises shall be used as a single dwelling unit.

No. 4. The proposed assisted living suite / granny flat shall not be separated from the main house, shall be occupied by a family member only and shall not be sold or let independently of the main house, and when no longer required shall revert to use as part of the main house.

No. 5. All bathrooms/ ensuite windows on the western elevation shall be fitted with obscure glazing.

No. 8. a) The proposed new vehicular entrance shall be omitted.

b) A tree bond of €800 shall be submitted to the Planning Authority for the protection of the existing street tree.

3.2. Planning Authority Reports

3.2.1. Planning Reports

First Report (05/02/2020)

- The proposed development includes an assisted living suite at ground floor level and a terrace on the rear elevation at first floor level. These are not described in the statutory notices.
- The applicant's description to convert the garage to habitable use is not considered sufficient to describe the nature of the proposed converted garage.
- An acceptable separation distance to the northern boundary together with the variance in topography would prevent undue overlooking.
- There are no directly opposing properties to the rear. The properties to the north are located downhill, separated by the Balscadden Road.

- The separation distance to the eastern boundary from the proposed terrace would be below minimum standards and would impact upon the amenity of the neighbouring property by way of undue overlooking.
- Notwithstanding the applicant's suggestion to provide a wing wall to the west and obscure glass upstands, it is considered that the proximities to the boundaries would not overcome its negative impact to adjacent residential amenities.

3.2.2. Further information was requested requiring the following:

1. The development description within the statutory notice is not sufficient to describe the proposed use of part of the ground floor level of the dwelling as an assisted living suite. The applicant is requested to address this issue by way of revised public notices.
2. The applicant is also requested to submit revised plans addressing the following issues;
 - a) Replacement of the proposed doors with a window on the front (south) elevation serving the assisted living suite.
 - b) Provision of a direct internal link to the main dwelling from the assisted living suite which may be achieved by way of omission of the proposed WC serving the study area.
3. The applicant is requested to submit revised plans and elevations demonstrating the following amendments;
 - a) Omission of the terrace and associated glass panels to the rear elevation.
 - b) The projection off the western building line shall be omitted and the provision of a 1 metre in depth wing wall to project off the rear elevation in a northerly direction.
 - c) Consideration should be given to the inclusion of necessary rainwater goods on the eastern elevation, regard being had to the proximity to the eastern boundary and ensure all development is within the confines of the redline of the application site.
4. The applicant is requested to demonstrate that the proposal would not impact upon the existing street tree within the grass verge to the front of the property.

Second Report (05/10/2020)

- Given the amendments to the floor plans to provide internal links within the dwelling, the further information received is not considered significant.
- The applicant has submitted a letter confirming that the proposed family flat would be used to accommodate the applicant's mother. It is noted that in the original application, the proposed family flat would accommodate the applicant's son. Notwithstanding this ambiguity, a Condition could be attached restricting the use of the family flat to a family member only.
- The proposed front door serving the family flat should be omitted, in accordance with Objective DMS43 of the Development Plan.
- The minor increase in the floor area of the proposal at the north-western corner would not impact on the neighbouring property by way of overshadowing or overbearing impact.
- The proposed room labelled 'Jakes Room' with a floor area of 6.76 sq.m. would be substandard for use as a bedroom. A Condition should be imposed restricting this use.
- The revised plans detail the omission of the terrace and associated glass panels to the rear elevation.
- The revised plans detail the omission of the projection off the western elevation and the provision of a 1m wing wall which has an angled north-westerly projection.
- The proposal is setback in excess of 11m from the northern and eastern boundaries. This would ensure no undue overlooking.
- The proposed window to the rear elevation of the family flat would not be a new feature, given the size of the existing window ope on the rear elevation at this location.
- All window opes serving ensuite w.c.'s and wardrobes should be glazed with obscure glass.
- Issues relating to conflict regarding the ownership of a party boundary wall is a civic matter.

- The original design approach for a part hipped roof / part flat roof extension would be more appropriate. This would provide a consistent approach for integration in the streetscape and reflective of the design of the single storey extension to the western side of the dwelling. A condition should be imposed requiring that the originally proposed hipped roof be re-instated.
- The proposed vehicular entrance would impact the existing street tree which contributes positively to the residential area. Given the dwelling is served by a vehicular entrance, the omission of the proposed new vehicular entrance would not impact on the amenities of the occupants of the dwelling.

3.2.3. Other Technical Reports

Transportation Section: No objections.

Water Services Section: No objection subject to Conditions.

Parks Division: No objection subject to Conditions.

4.0 Planning History

None for subject site.

Adjoining site to the west - No. 19 Asgard Park

P.A. Ref. F17A/0654 Permission GRANTED in 2018 for (a) single storey garage extension to east side, (b) two storey extension to west side and rear, (c) alterations to elevations and (d) associated site works including widening of existing driveway, all to existing two storey detached house.

Neighbouring dwelling to the east – No. 15 Asgard Park

P.A. Ref. F00B/0509 & ABP Ref. PL06F.121765 Permission REFUSED on appeal in 2001 for a bedroom extension at first floor level and alterations to house no. 15 Asgard Park. The Reasons for Refusal were as follows;

1. It is considered that the proposed development, which would be located to the side of an existing detached, gable fronted, dormer house, would be visually intrusive and out of character with the prevailing pattern of development in the

area. The proposed development would seriously injure the amenities of property in the vicinity and would, therefore, be contrary to the proper planning and development of the area.

2. The proposed first floor dormer structure located to the rear of the existing house would overlook the rear gardens and result in a loss of privacy to the adjoining houses at number 16 and number 14 Asgard Park. The proposed development would seriously injure the residential amenities of the adjoining properties and would, therefore, be contrary to the proper planning and development of the area.

5.0 Policy and Context

5.1. Development Plan

Fingal County Development Plan 2017 – 2023 is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is zoned objective 'RS - Residential' with the objective 'to provide for residential development and protect and improve residential amenity'.

Specific Objectives: There is a Specific Objective 'To Preserve Views' along the Balcadden Road to the north of the site. The site is also located within the Howth SAAO (Special Amenity Area Order) area.

Objective PM46 Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

Objective DMS30 Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.

Section 12.4 Extensions to Dwellings – Development Management Standards

Objective DMS42 Encourage more innovative design approaches for domestic extensions.

Objective DMS85 Ensure private open spaces for all residential unit types are not unduly overshadowed.

Objective DMS43 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.

5.2. Natural Heritage Designations

The site is located c. 20m to the south of the Howth Head SAC (Site Code: 000202).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal was received from Cormac Kavanagh, who resides at 'Cliff House' located along Balscadden Road to the north-west of the appeal site. The following concerns were raised in the grounds of appeal.

- The large window to the rear elevation of the proposal at first floor level would overlook the gardens of neighbouring houses to the north.
- The proposed first floor bedroom be omitted.
- Reference made development and possible unauthorised development at neighbouring property No. 19 Asgard Park, which was drawn by the same architect under the subject appeal.
- The proposed development is similar to the development which was refused permission on appeal in 2001 under ABP Ref. PL06F.121765 at No. 15 Asgard

Park where permission was refused for a first floor bedroom extension and alterations to the house. The reasons for refusal are detailed in Section 4.0 above.

6.2. Applicant Response

6.2.1. The response received from Hughes Planning & Development Consultant, representing the Applicants, is summarised as follows;

- The proposal accords with all development management standards as set out in the Fingal Development Plan 2017 – 2023.
- The existing dwelling does not overlook 'Cliff House' or its private amenity space.
- The images submitted from the appellant are taken from Balscadden Beach and provide no credible indication of any overlooking from the proposed development.
- The revised proposal provides a wing wall which obscures views towards the appellants property.
- The Planning Authority report confirms the proposal would not overlook neighbouring property.
- Development at No. 19 Asgard Park has no bearing on the subject application.
- The site notice erected at the site is in accordance with the provisions of Part 4 section 19(c) of the Planning and Development Regulations 2001 (as amended).

6.3. Planning Authority Response

6.3.1. The Planning Authority confirms that the proposed development was assessed against the policies and objectives of the Fingal Development Plan 2017 – 2023 and was assessed having regard to its impact on neighbouring property and the character of the area. The Planning Authority requests Bord Pleanála to uphold its decision. In the event the Planning Authority's decision is upheld, the Planning Authority requests that Condition No. 11 is included in An Bord Pleanála's determination.

6.4. Observations

An observation was received from Kiaran O'Malley & Co. Town Planning Consultants representing Billy and Brenda Morgan who reside at 'West Winds', No. 17 Asgard Park in Howth. Issues raised are summarised as follows;

- Concern regarding the size of the rear/north facing window of the proposed family flat.
- Concern the proposal would overlook neighbouring property to the north, as referenced in the appeal and the neighbouring property to the east, No. 17 Asgard Park.
- Observers request the window opening serving the family flat revert to that as originally submitted and detailed on Dwg. No. 18057_16 Rev D, as lodged on the 05th of December 2019.
- Condition No. 2(d) is welcomed but observers request the Board to stipulate that the window replacing the door be a high level window comparable to the high level window on the western elevation of the proposed master bedroom. This would prevent overlooking of neighbouring property.
- A Condition should be added requiring the retention of the existing boundary wall between house Nos. 17 and 18 Asgard Park. It is unclear if works are proposed to this wall. A Condition to retain this wall would provide clarity and assist in any potential enforcement action.
- Condition No. 8(a) should be amended to permit the proposed new vehicular entrance in lieu of the existing vehicular entrance, having regard to the location front door serving the dwelling.

7.0 Assessment

- 7.1.1. I have reviewed the proposed development and the correspondence on the file. I note the Planning Authority were satisfied that the proposed development accords with the policies and objectives of the Development Plan for the area. I am satisfied that the proposed development is acceptable in principle, in accordance with the zoning

objective of the site. The main issues in this appeal are those raised in the grounds of appeal. I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The main issues in this appeal are as follows;

- Overlooking
- Appropriate Assessment

These are addressed below.

7.2. Overlooking

- 7.2.1. The appellant objects to the proposed development on the grounds that the large window to the rear / northern elevation of the proposed master bedroom at first floor level would overlook the gardens and private amenity space of neighbouring houses to the north, on the northern side of the Balcadden Road. I also note the concerns raised in the observation submitted with regard the ground floor window ope to the rear / northern elevation of the proposed family flat.
- 7.2.2. The Planning Authority in its assessment determined that the separation distance between the proposal and the northern boundary, along with the topography site would prevent overlooking of property to the north. The Planning Authority report notes that there are no directly opposing properties to the north of the site. In response to the revised proposal submitted by way of Further Information, the Planning Authority consider the setback in excess of 11m between the proposal and the eastern boundary would ensure overlooking of neighbouring property No. 17 would not occur. With regard the ground floor window ope to the rear of the proposed family flat, the Planning Authority consider the proposed window ope is not a new feature given the existing window ope at this location.
- 7.2.3. The proposed development provides for the construction of a first floor extension to the western side of the main dwelling. The original proposal as submitted to the Planning Authority on the 05/12/2019 provides a large floor to ceiling height corner type window and sliding doors (c.4.8m wide), facing both to the north and east and opening onto a terrace. In response to the Planning Authority's request for Further Information, the applicants submitted a revised proposal omitting the proposed first floor terrace and the omission of the north facing sliding doors and their replacement

with a north facing window ope of similar width and a sliding door to the eastern elevation, as detailed on Dwg. No. 18057_15 Rev.G. The revised proposal also provides an angular projecting 1m wing wall at the north-western corner and the provision of 2 no. obscure window opes and a high cill level window ope to the western elevation at first floor level. Given the nature of the obscure window opes and the high cill level window ope on this west facing elevation, I do not consider these window opes would overlook the neighbouring property to the west No. 19 Asgard Park.

7.2.4. The rear garden of the site has a depth of c. 14.7 metres and the northern boundary is defined with a low rise hedge enabling panoramic views to the north. A steep embankment drops from the northern boundary to the Balscadden Road below. The northern roadside boundary of the Balscadden Road, to the north of the site, is defined with a garage, a tall wall (c. 2m high) to its western side and a low rise wall to its eastern side with dense tall mature trees and vegetation behind. The appellant's dwelling known as 'Cliff House' is located c. 40 to the north-west of the site and is located to the north of No. 19 Asgard Park. There is not a residential dwelling located directly to the north of the site. The projecting 1m wing wall at the north-western corner of the proposal would prevent overlooking of the neighbouring property No. 19 Asgard Park and adjacent 'Cliff House' to the north-west. Having regard to the boundary treatment along the northern side of the Balscadden Road, the depth of the rear garden of the site and the omission of the originally proposed first floor terrace, it is my view that the proposal would not impact on the amenity of land to the north of the Balscadden Road by way of overlooking. The subject dwelling and dwellings to either side already have window opes on their rear elevation at first floor level. The proposed north facing window serving the master bedroom ope would not be inconsistent with these window opes.

7.2.5. The east facing corner element of the proposed window ope serving the master bedroom is detailed on Dwg. No. 18057_15 Rev G as comprising a full glass sliding door and would maintain a separation distance of c.11.8m from the eastern boundary. Given the omission of the originally proposed terrace it is reasonable to assume that this is typing error. Notwithstanding this, in order to alleviate the concerns of the observers with regard overlooking of the private amenity space to the rear of neighbouring dwelling No. 17 Asgard Park, I consider it appropriate that this sliding door be omitted and replaced with a high cill level window ope, similar to that proposed

on the west facing elevation of the master bedroom as detailed on the same drawing. This can be dealt with by way of Condition in the event of a grant of permission.

7.2.6. I note the observers concerns with regards the size of the window ope on the rear / northern elevation of the proposed family flat. I concur however with the Planning Authority that this proposed window would not be a new feature and would simply be an enlargement of the existing window ope at this location. Given its north facing orientation and the dense mature hedging along the shared side / western boundary, overlooking from this window of the private amenity space to the rear of No. 17 Asgard Park would not occur. As stated by the Planning Authority, issues raised regarding works to shared boundary walls are a civic matter. Section 5.13 of the Development Management Guidelines (2007) refers to 'Issues relating to title to land' and states that the planning system is not designed as a mechanism for resolving disputes about title to or rights over land and that these are ultimately matters for resolution in the Courts. On this basis, I recommend that the appellant's ground of appeal with regards overlooking should not be upheld.

7.2.7. I am satisfied that all other issues were adequately addressed by the Planning Authority and the Conditions imposed are appropriate for the most part. I concur with the Planning Authority that the originally proposed hip ended roof profile to the proposed family flat is a more appropriate form and design to the pitched roof profile as submitted by way of further information response. The omission of the access door to the front elevation of the proposed family flat would ensure the proposal complies with Objective DMS43 of the Development Plan which requires that family flats do not have a separate front door. I do not consider it necessary to omit the proposed new vehicular entrance and driveway, subject to a Condition in the event of a grant of permission requiring the developer to submit a bond to ensure the protection of the street tree during the construction period of the proposed development. Such development would be similar to neighbouring dwelling No. 19 Asgard Park which has 2 no. vehicular entrances and a tree on the grass margin to its front.

7.3. **Screening for Appropriate Assessment**

7.3.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the absence of a clear direct pathway to the nearest European site, the Howth Head SAC (Site Code:

000202), 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 be granted subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

9.1.1. Having regard to the residential land use zoning of the site, the pattern of development in the area, the size of the site and the layout and design of the proposed development, it is considered that, subject to compliance with the Conditions set out below, the proposed development would not adversely impact on the residential amenity of the area 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 08th day of September 2020, 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>Reason: In the interest of clarity.</p>
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2.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority drawings and documentation detailing the following;</p> <p>(a) The omission of the access door to the front elevation of the proposed family flat.</p> <p>(b) The provision of a hip ended roof profile to the proposed family flat in accordance with Drawing Nos. 18057_16 and 18057_17, as lodged to the Planning Authority on the 5th day of December 2019. Drawings should ensure all rainwater goods are located within the red line of the application site.</p> <p>(c) The omission of the full glass sliding door on the east facing elevation of the master bedroom, as detailed on Drawing No. 18057_15 Rev G and its replacement with a high cill level window ope similar that as proposed on the western elevation of the master bedroom, as detailed on the same drawing.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
3.	<p>(i) The existing street tree in the grass verge to the front of the dwelling along Asgard Park, shall be retained and protected, both above and below ground level, from damage during construction works.</p> <p>(ii) A maximum of two weeks from the date of the Commencement Notice and prior to the commencement of works on site, a Bond or bank draft to the value of €800 shall be lodged with Fingal County Council as a security for the protection of the existing street tree in the grassed margin during the course of the development works.</p> <p>This bond will be released twelve months after the completion of all site works once it has been ascertained that the tree specified for retention has been preserved and the developer has complied with the requirements of the Planning Authority in relation to tree protection.</p> <p>Reason: In the interest of tree protection and the proper planning and sustainable development of the area.</p>

4.	<p>The proposed family flat shall be used solely for that purpose and shall revert to use as part of the main dwelling on the cessation of such use.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p>
7.	<p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
8.	<p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>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</p>

	<p>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.</p> <p>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.</p>
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Brendan Coyne
Planning Inspector

24th March 2021