



An  
Bord  
Pleanála

## Inspector's Report ABP 308760-20

---

<b>Development</b>	Construction of a single storey family flat with new front porch.
<b>Location</b>	No. 56 Meadowbrook Park, Baldoyle, Dublin 13.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F20A/0396
<b>Applicant(s)</b>	John and Siobhan Ryan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	John and Siobhan Ryan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> April 2021
<b>Inspector</b>	Brendan Coyne

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
4.0 Planning History.....	5
5.0 Policy and Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations .....	6
6.0 The Appeal .....	6
6.1. Grounds of Appeal .....	6
6.3. Planning Authority Response .....	7
7.0 Assessment.....	8
8.0 Recommendation.....	11
9.0 Reasons and Considerations.....	11

## 1.0 Site Location and Description

1.1. The site (0.02 ha) is located on the southern side of Meadowbrook Park, in Baldoyle, Co. Dublin. The site contains a two storey mid-terrace dwelling (No. 56) with a single storey extension to its rear and a single storey porch extension to its front. The elevations of the dwelling are rendered and its roof profile is pitched. The rear garden of the site has a depth of c. 12.7m - 18m, varying due to the angled configuration of the rear boundary. The rear boundary is defined with a timber fence c. 1.8m high along its western side and a block wall c. 1.6m high with hedging over along its eastern side. A timber shed with a covered lean-to is located at the end of the garden. A shared external passageway to the side of the dwelling provides access to the rear garden. An off-street parking space is provided to the front of the dwelling. The character of the surrounding area comprises dwellings of similar form and appearance.

## 2.0 Proposed Development

2.1.1. Application as lodged on the 13/08/2020 – Permission sought for the construction of the following;

- Single storey family flat extension to the rear of the dwelling (40 sq.m.),
- Porch extension to the front of the dwelling (3 sq.m.),
- New 0.975m high boundary wall to the front eastern/side boundary of the dwelling with a new gated entrance (3m wide) and pillar to match existing,
- Associated site works.

2.1.2. Further Information submitted to the Planning Authority on the 14/10/2020. No material changes to the original proposal.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Fingal County Council REFUSED permission for the proposed development. The Reason for Refusal was as follows;

1. Having regard to the restrictive nature of the subject site as a result of its mid terrace location, the proposed family flat in its current form would give rise to overbearing scale on the existing plot and a significant negative impact upon the residential amenity of the neighbouring property in terms of being visually overbearing. As such the proposed development would seriously injure amenities of property in the vicinity.

### **3.2. Planning Authority Reports**

#### **3.2.1. First Report (29/09/2020)**

- The proposed front porch is considered acceptable.
- Having regard to the orientation of the site relative to the path of the sun and the single storey nature of the proposal, overshadowing of neighboring property would not occur.
- The western elevation of the proposal would extend along the entire boundary shared with adjoining dwelling No. 57 and its height would rise 1.8m above the existing shared side boundary wall.
- The Planning Authority have concerns with regards the overbearing impact the proposal would have on the private amenity space to the rear of adjoining dwelling No. 57 Meadowbrook Park.
- The proposal would constitute overdevelopment of the site. It is considered however that a family flat could be provided at this location.
- The applicant should be requested to consider a re-design of the proposal, to reduce its overbearance on neighboring property. This may include relocating the family flat closer to the rear elevation of the dwelling by reducing the proposed hall area.

#### **3.2.2. Further Information requested requiring the following:**

1. The design in its current form is considered in congruent to the existing house and site. The applicant is required to consider a redesign of the proposed family flat in order to reduce the visually overbearing impact the proposal will have upon the neighboring property and existing site. In disregard a revised design and wish reduction in scale and impact on the existing plot should be considered.

### 3.2.3. Second Report (04/11/2020)

- The applicants have decided to proceed with the original plan without making any amendments.
- The applicants have not overcome the Planning Authority's concerns regarding the overbearing impact of the proposal on neighboring property and the existing site.
- Having regard to the restrictive nature of the site as a result of its mid-terrace location, the proposed family flat would have a significant negative impact on residential amenity of neighboring dwelling No. 57 Meadowbrook Park by way of overbearing impact.
- On this basis the Planning Authority recommend the proposal be refused permission.

### 3.2.4. Other Technical Reports

**Transportation Planning Section:** No objection subject to Conditions.

**Water Services Department:** No objection subject to Conditions.

## 4.0 Planning History

None for subject site.

## 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'.

**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.

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

## 5.2. Natural Heritage Designations

- 5.2.1. The site is located c. 0.6km to the south-west of the Baldoyle Bay SPA (Site Code 004016) and Baldoyle Bay SAC (Site Code 000199).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. A first-party appeal was received from the applicants John and Siobhan Ryan against the decision made by the Planning Authority to refuse permission for the proposed

development. The main grounds of appeal relate the Planning Authority's reasons for refusal and are summarised as follows;

- The issue of 'apparent' overbearance was not raised in pre-planning consultation meetings between the applicants and the Planning Authority.
- The applicant has a medical need for the proposed family flat, with a need to downsize and live in a single storey dwelling.
- The existing dwelling would be used by the applicant's son, wife and 4 no. children. Due to rent and house prices, they are struggling to get on the property ladder.
- Further to the request for Further Information, the applicants engaged with the Planning Authority to explore a design solution addressing the concerns raised.
- Options proposed by the Planning Authority are not financially viable.
- The Planning Authority contradicts itself whereby it states the proposal would not overshadow neighbouring dwelling No. 57 but would have an overbearing impact on this dwelling.
- The appellants fail to understand how a single storey extension would be seriously injurious to visual amenities and established character of the area, as concluded by the Planning Authority.
- The residents of neighbouring dwelling No. 57 have not objected to the proposed development.
- The proposal complies with Objective DMS43 of the Development Plan.

## **6.2. Planning Authority Response**

- 6.2.1. The Planning Authority confirms that it has no further comment to make. In the event that the appeal is successful, the Planning Authority requests that provision be made in the determination of applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

## **6.3. Observations**

- 6.3.1. None

## 7.0 Assessment

7.1. I have reviewed the proposed development and the correspondence on the file. I am satisfied that the proposed development is acceptable in principle, in accordance with the zoning objective of the site. The main issue for consideration is the reason for refusal, as cited by the Planning Authority. This can be addressed under the heading 'Overbearing Impact'. I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The issue for consideration is addressed below.

### 7.2. Overbearing Impact

7.2.1. The Planning Authority refused permission for the proposed development on the grounds that, given the restrictive nature of the site in a mid-terrace location, the scale, form and height of the proposed family flat along the rear/western boundary would adversely impact the residential amenity of adjoining dwelling No. 57 Meadowbrook Park by way of overbearing impact. The Planning Authority consider such development would seriously injure the character and visual amenity of the surrounding area. The appellant contests the Planning Authority's reason for refusal, as detailed in Section 6.1 above.

7.2.2. The proposed development provides for the construction of a single-storey 1-bedroom family flat extension to the rear / south of the existing dwelling. The proposal would have a depth of 11.1m along the western side boundary and a depth of 6.3m along the eastern side boundary. The proposal would extend the entire width of the rear garden at 6.1m. The proposal would extend from the existing single storey rear extension which has a depth of 4m. The existing extension is setback c. 0.5m from the western side boundary and 1.4m from the eastern side boundary. The proposal has a flat roof profile with a stated parapet height of 3.6m.

7.2.3. The drawings submitted detail that a rear garden with an area of 25sq.m. would be maintained to the rear of the existing dwelling and a rear garden with an area of 29 sq.m. would serve the proposed family flat, located to its rear/south. I note however that the garden area to the rear of the existing dwelling has a depth of 4.6m and a width of 3.8m, yielding an area of only 17.48 sq.m. The passageway to the eastern side of the existing ground floor extension has a length of 4.3m and width of 1.4m, yielding an area of 6.02m. Cumulatively, the total area of the external space to the rear



of the existing dwelling would be 23.5 sq.m. I do not consider it appropriate to include the passageway within the calculation of the area of private amenity by reason that it does not provide for passive recreational activity such as sitting out, for active recreational activity such as play space for children and gardening, and for other outdoor requirements such as drying clothes. The Fingal County Development Plan does not set out a minimum standard for private amenity space to be maintained to the rear of dwellings after the construction of an extension or family flat. I refer however to Schedule 2 Article 6 Part 1 of the Planning and Development Regulations 2001 (Exempted Development — General) Class 1.5 which states that 'The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres'. It is my view that this 25 sq.m. should be held as a minimum standard of private amenity space that should be maintained to the rear of an extended dwelling. Given that the applicants state that their son and family with 4 no. children will reside within the existing dwelling, such standard should be maintained as an absolute minimum. On this basis, the 17.48 sq.m. useable private amenity space that would be maintained to the rear of the existing dwelling is substandard and does not comply with minimum standard required under Schedule 2 Article 6 Part 1 of the Planning and Development Regulations 2001 (as amended).

7.2.4. Having regard to the configuration and height of the proposed family relative to the depth of the rear garden serving the existing dwelling, it is my view that the proposed family flat structure would cause significant overshadowing and overbearing impact of the shared rear garden. Such development would be contrary Objective DMS85 which seeks to ensure private open spaces for all residential unit types are not unduly overshadowed. Furthermore, having regard to the proximity between the northern elevation of the proposed family flat and the rear southern elevation of the existing dwelling, it is my view that the proposal would result in overlooking and loss of privacy between both dwelling units and the rear garden between both.

7.2.5. Objective PM46 of the Fingal County Development Plan seeks to 'encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area'. Chapter 12 of the Development Plan sets out development management standards for extensions to dwellings. Under

this section, the Development Plan recognises and acknowledges the need for people to extend and renovate their dwellings. The Development Plan states that “extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area...The Planning Authority must be satisfied there will be no significant negative impacts on surrounding residential or visual amenities. The following factors will be considered:

- Overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries.
- Remaining rear private open space, and its usability.”

7.2.6. Having regard to the parapet height of the proposed family flat extension along its western side elevation at 3.6m and its depth of 11.1m along the western side common boundary shared with the adjoining dwelling, I consider that the proposed development would negatively impact on the residential amenity of adjoining dwelling No. 57 by way of overbearing impact and loss of outlook. It is my view that the height, depth and proximity of the proposed family flat extension would significantly overbear and dominate the outlook of the habitable room to the rear of adjoining dwelling No. 57 at ground floor level. Such development would be contrary to Objective PM46 of the Fingal County Development Plan and would, therefore, be contrary to the zoning objective of the area which seeks ‘to provide for residential development and protect and improve residential amenity’. For this reason, I recommend that the proposed development be refused permission.

### **7.3. Screening for Appropriate Assessment**

7.3.1. Having regard to the nature of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway to any 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

8.1.1. I recommend that permission be refused for the reasons and considerations below.

## 9.0 Reasons and Considerations

1. Having regard to the height of the proposed family flat extension and its extent along the common boundary shared with the adjoining dwelling to the west, it is considered that the proposed development would seriously injure the residential amenity of the adjoining dwelling No. 57 Meadowbrook Park by way of overbearing impact and loss of outlook. Such development would be contrary to Objective PM46 of the Fingal County Development Plan 2017-2023 which seeks to ensure extensions to dwellings do not negatively impact on adjoining properties, and would be contrary to the zoning objective of the area which seeks to protect and improve residential amenity. Furthermore, the configuration and height of the proposed family flat would provide a substandard area and poor level of private amenity space to the rear of the existing dwelling. Such development would be contrary to the development management standards for extensions to dwellings, as set out in Chapter 12 of the Fingal County Development Plan 2017-2023. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

---

Brendan Coyne  
Planning Inspector

13<sup>th</sup> April 2021