



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310417-21

---

<b>Development</b>	Proposed dormer extension, and terrace above previously permitted single storey extension (Reg. Ref. SD20B/0250)
<b>Location</b>	St. Anne's, Glassamucky Brakes, Bohernabreena, Co. Dublin, D24 E296
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD21B/0136
<b>Applicant(s)</b>	Anne Jackson
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Anne Jackson
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> July 2021
<b>Inspector</b>	Ian Boyle

## 1.0 Site Location and Description

- 1.1. The subject site has an address at St. Anne's, Glassamucky Brakes, Bohernabreena, Co. Dublin, D24 E296 and accommodates a single storey detached dwelling (220 sq m). It is 2.7 hectares in area and has irregular layout. Some small sheds and outbuildings are present on the site.
- 1.2. The house is situated within the northeast part of the site. A large part of the land appears to be used for agriculture purposes, such as grazing sheep. The area around the house and perimeter of the site accommodates established trees, hedgerows and shrubs (as evidenced from aerial photography and a Tree Survey on file). Access is provided to the site on its northeastern boundary from Cunard Road Lower.
- 1.3. The site is in the Dublin Mountains, and to the east of Glenasmole. There is a small cluster of houses in the surrounding vicinity, which are also mainly detached houses, some of which have been extended. The character of the area is rural in nature and the surrounding environment has an important natural character and landscape quality.

## 2.0 Proposed Development

- 2.1. The proposal comprises the removal of an existing first floor balcony area (c.4.6sq m) and its replacement with a glazed dormer addition (thereby increasing the master bedroom floor area by approximately 7.4 sq m), and construction of a terrace with glazed balustrade over the roof of a permitted single storey extension (c. 50 sq m). The proposed works are located to the rear of the house (i.e. the southern elevation), which faces away from the road and towards the Dublin Mountains.
- 2.2. A recent, similar proposal to extend the dwelling was granted permission by South Dublin County Council in December 2020 (Reg. Ref. SD20B/0250). However, the permission did not include the proposed dormer window or roof terrace. Each of these elements were included in the original application but subsequently omitted by the Applicant as part of their *Response to a Request for Further Information*. The Planning Authority had raised concerns in an RFI regarding the potential for visual

impact on the scenic landscape and inappropriate overlooking of an abutting residential property.

- 2.3. In effect, the current application seeks permission for the previously sought dormer window and outdoor terrace, which were elements deemed to unacceptable to the Planning Authority under Reg. Ref. SD20B/0250.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority refused permission for the proposal on 10<sup>th</sup> May 2021 subject to 3 no. reasons, which are summarised below:

- i) non-compliance with the site's zoning objective ('HA-DM' – *"To protect and enhance the outstanding natural character of the Dublin Mountains Area"*) and Policy H27 which is in relation to dwellings in High Amenity Areas;
- ii) proposal would be contrary to a condition of a previous permission that prohibited the roof of the extension to be used as a roof terrace; and
- iii) an undesirable precedent would be set for other similar forms of development.

The full Reasons for Refusal are cited below for ease of reference:

*"1. Given the sites sensitive location, the proposal would be contrary to the 'HA-DM' zoning objective which seeks – 'To protect and enhance the outstanding natural character of the Dublin Mountains Area' and would be contrary to the requirements of policy H27 in relation to the extension of dwellings within high amenity areas. The Planning Authority has serious concerns with the significant adverse visual impact of the proposal and has serious concerns regarding the impact on neighbouring residential amenity. The Planning Authority has serious concerns in relation to the proposed roof terrace, balustrades and rear dormer and the application would not comply with the SDCC Development Plan 2016-2022 and the proper planning and sustainable development of the area.*

*2. The development would be contrary to a condition attached to a previous permission granted on the site, namely condition 2 of SD20B/0250, which reads: The*

*roof of the extension hereby approved shall not be used at any time as a roof terrace or for sitting out on. Access shall only be provided for maintenance reasons.*

*REASON: in the interest of residential amenity. Also, Item 1 of the request for Additional Information under SD20B/0250 (granted on the site) saw the revision of the proposal to remove the roof terrace and balustrades so that access is no longer proposed to the roof. The proposed dormer was also removed and the existing dormer was proposed to be retained. The applicant was considered to have addressed the request for Additional Information based on the revised drawings received as per Reg. Ref. SD20B/0250.*

*3. The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.”*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- The Planning Authority had significant concerns with the potential for adverse visual impact and that an adverse amenity impact would be incurred by a neighbouring residential property by virtue of the proposed dormer and roof terrace.
- The refusal was grounded on the site’s sensitive location, the applicable Zoning Objective ‘HA-DM’, and the requirements of Policy H27 which is in relation to the extension of dwellings within high amenity areas.
- The Planner’s Report recommended that permission be refused.

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

- Environmental Health Officer (EHO) confirmed the proposal is acceptable and recommended that conditions be included to control waste, noise and air pollution (same as per Reg. Ref. SD20B/0250).
- Surface Water Drainage Department – No objections subject to conditions.

### 3.3. Prescribed Bodies

- Irish Water – No objection. All works are to comply with the ‘Irish Water Standard Details for Water Infrastructure’. Where the applicant proposes to connect directly or indirectly to a public water/wastewater network operated by Irish Water, the applicant must sign a connection agreement with Irish Water.

### 3.4. Third Party Observations

- No third party observations.
- A letter of support for the proposed development was made by a neighbour (Jim and Mary Mahon, Lakeview House, St. Anne’s, Bohernabreena, dated 9<sup>th</sup> March 2021). This was included in the original planning application.

## 4.0 Planning History

### 4.1. Permitted Extension (Reg. Ref. SD20B/0250)

4.1.1 Application Reg. Ref. SD20B/0250 sought permission for a single storey extension to the rear of the existing dwelling, including use of the roof of the extension as a rooftop terrace and glazed dormer addition to extend the size of the master bedroom. The Planning Authority granted permission, subject to 5 no. conditions, on 1<sup>st</sup> December 2020.

4.1.2 The Applicant however was requested at RFI stage to submit a revised design that omitted the roof terrace, balustrades, and access to the roof of the proposed extension (i.e. terrace); a reduction in size of the proposed dormer with a more traditional design; and reduction in the depth of the proposed extension to match the existing house so as to negate the need for cut and fill and a retaining wall. The Applicant duly made these design changes via their RFI Response. A condition restricting access or use of the extension for a roof terrace was also included (No. 2).

4.1.3 The Planning Authority’s rationale is set out in the Planner’s Report, which stated that the proposed dormer window and roof terrace would result in negative overlooking of the property to the north and be overly prominent within a sensitive landscape. These elements of the proposal was considered to be visually

inappropriate having regard to the zoning for the site ('HA-DM' – 'To protect and enhance the outstanding natural character of the Dublin Mountains Area') and the requirements of Development Plan Policy H27.

- 4.1.4 The current proposal therefore effectively seeks permission for the elements that were omitted from the previous application at RFI Stage (Ref. Ref. SD20B/0250); namely the dormer window for the first floor bedroom and use of the roof of the permitted extension as a terrace.

## 5.0 Policy Context

### 5.1. Development Plan

#### Zoning

The subject site is zoned 'HA-DM (*High Amenity Dublin Mountains*)' under the *South Dublin County Council Development Plan 2016 – 2022 ('Development Plan')*, which seeks:

*"To protect and enhance the outstanding natural character of the Dublin Mountains Area".*

The site is similar zoned under the *Draft South Dublin County Development Plan 2022-2028* as 'HA-DM'. The lands abutting the site in each direction are also zoned 'HA-DM'. The proposal comprises a form of dwelling extension which as a residential use is 'open for consideration'.

#### **Section 2.4.1 Residential Extensions Policy**

- *H18 Residential Extensions: It is the policy of the Council to support the extension of existing dwellings subject to the protection of residential and visual amenities.*
- *H18 Objective 1: To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 11 Implementation and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).*

### **Section 2.5.8 Rural House & Extension Design**

Housing Policy H27 and Objective H27 set out the criteria for the design of extensions to rural housing as follows;

#### **Policy H27 Rural House & Extension Design**

It is policy of the Council to ensure that any new residential development in rural and high amenity areas, including houses and extensions are designed and sited to minimise visual impact on the character and visual setting of the surrounding landscape.

A series of seven requirements are required to be satisfied in terms of minimising impact on the landscape; environment; and on the natural contours and natural drainage features of the site' retaining and reinstating traditional roadside and field boundaries; avoiding intrusive engineered solutions; demonstrating compliance with the relevant code of practice for wastewater treatment; and not creating haphazard forms of development.

**Section 11.3.4 (ii) 'Rural Housing'** includes a section that requires a comprehensive site analysis and character appraisal for houses and extensions in rural and high amenity zones. The analysis and appraisal should, among other things, provide a rationale for the design and siting of the proposed development including form, building finishes, height, and massing based on the local and natural context. Dwellings and extensions should not be located on a ridgeline or in an elevated position in the landscape and modern gateways, piers and boundary walls should be avoided with the exception of the retention and reinstatement of traditional stone boundary walls.

**Section 11.5.5** requires Landscape Impact Assessment to assess the visual impact of the development and suggested mitigation measures to reduce the impact of the development. However smaller scale works that would be unlikely to impact on the landscape, such as dwelling extensions, are not subject to this requirement.

## **5.2. Natural Heritage Designations**

5.2.1 No designations apply to the subject site. However, the nearest boundary of the site is located approximately 150 metres east of Glenasmole Valley (pNHA) (Site Code 001209). The proposed house extension, by virtue of the site's relatively large area,

is 250 metres away. (This designation is indicated on the Development Plan Zoning Map as a red-lined area.)

### **5.3. EIA Screening**

5.3.1. The site's proximity to the Glenasmole Valley SAC, Wicklow Mountains SAC and SPA and Glenasmole Valley pNHA) have been duly considered.

5.3.2. However, having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development, which is for a dormer extension and terrace above permitted first floor extension. The need for an environmental impact assessment is therefore not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The First Party Appeal (Against Decision to Refuse Permission) is based on the following grounds:

- The proposal would have a negligible visual impact on the amenity of the area and would not result in any overlooking of neighbouring properties
- The proposal should be considered on its merits (disregarding any conflict with a condition of a previous permission).
- The proposal (if permitted) would not set a precedent for other similar forms of development because of the negligible impact on the visual or residential amenities of the area.

### **6.2. Planning Authority Response**

- The Planning Authority confirms its decision. The issues raised in the appeal have been covered in the Planner's Report.



### 6.3. Observations

- None

### 6.4. Further Responses

- None

## 7.0 Assessment

The main issues that arise for consideration in relation to this appeal are addressed under the following headings:

- Principle of Development (Zoning)
- Visual Impact
- Overlooking
- Previous Condition (Conflict with Previous Permission)
- Appropriate Assessment
- Other Issues

Policy H27 states that *“it is policy of the Council to ensure that any new residential development in rural and high amenity areas, including houses and extensions are designed and sited to minimise visual impact on the character and visual setting of the surrounding landscape.”* As such, the development proposal is required to be assessed under the criteria set out in Objective H27, which is covered in Sections 7.2, 7.3 and 7.5 below.

### 7.1. Principle of Development (Zoning)

7.1.1 The principle of development is considered acceptable. The site is zoned ‘HA – DM’, which has the objective *“To protect and enhance the outstanding natural character and amenity of the Dublin Mountains Area”*. Residential development is ‘open for consideration’ under this zoning objective.

### 7.2. Visual Impact

7.2.1 The site is in a sensitive, scenic rural area, which has experienced a number of new dwellings and house extensions being built in recent years. The proposed

development is located to the rear (southwest) of the existing dwelling, which is away from the public road that runs along the front of the site. It is setback from the road by approximately 24 metres; and 11 metres away at its nearest point from the closest dwelling 'Lakeview House', which is to the north. The terrace and dormer are low rise, compact and have simple external building finishes. Neither obscure the features of the existing roof.

- 7.2.2 Importantly, the site is not subject to the conservation objective to "Protect and Preserve Significant Views' (as denoted by the strip of blue triangles on the relevant zoning map), and which applies to many other locations in the Bohernabreena area. This suggests the site is relatively less sensitive in a visual impact sense and insofar as protected views and vistas are concerned.
- 7.2.3 The proposed development would not have a significant visual impact when viewed from road, or near the front of the site, and would not be out of keeping with the existing pattern of development in the surrounding vicinity. It is noted that there is a dense layer of vegetation in the form of trees, shrubs, hedgerows within and around the site, and that there are existing outbuildings and sheds located close to the roadside. This partially impedes views of the rear of the dwelling.
- 7.2.4 The site slopes downwards from front to back (east to west) meaning the rear part of the dwelling is positioned on the lower section of the site and that the dormer and terrace, whilst not completely imperceptible, would be well shielded from view. Both elements sit well below the overall ridge height of the existing dwelling and the proposed materials and finishes – which are mainly render and glass – are deemed appropriate.
- 7.2.5 The photomontages accompanying the application have been inspected. Whilst the quality of these images is somewhat questionable there is still sufficient information, together with the submitted technical drawings, to make a determination that the proposed works would be barely perceptible when viewed from the west against the backdrop of the existing house. (i.e. from the Dublin Mountains side.)
- 7.2.6 In summary, given the physical conditions that apply to the site, the character of development in the surrounding area, and relatively modest size, scale and nature of the proposed development, it is considered that it would not result in any significant

negative visual impact. The proposal is therefore considered to be in accordance with Policy H27, Requirement 1 of the SDCC Development Plan.

7.2.7 The stone wall that runs along the front of the site and pillars at the entrance to the property are an important visual feature. They add to the site's rural setting and complements the character and visual amenity of the area. It is therefore recommended that a condition be attached to retain the wall and pillars, both during and post construction.

### 7.3. **Overlooking**

7.3.1 The Planning Authority states that they *"have serious concerns with the significant adverse visual impact of the proposal and has serious concerns regarding the impact on neighbouring residential amenity"* (Refusal Reason No. 2). The appellant points out that this concern is neither explained, nor justified in the relevant Planner's Report. Having read the report, it is clear there is a limited assessment regarding the issue of overlooking.

7.3.2 The Planner's Report for Reg. Ref. SD20B/0250, which concerns the previous, permitted extension, states in relation to overlooking that *"...the proposal would introduce a roof terrace above the proposed extension which could result in potential overlooking to the property to the north. It was noted during the site visit that there are mature trees present which could provide some screening however, these are not permanent features and if removed at a later date would open up the site much more"*.

7.3.3 The nearest dwelling is to the north approximately 11 metres away. It is set behind the rear building line of the proposed roof terrace and well-screened by a deep strip of semi-mature and mature trees (mainly Cypress, Birch and Sycamore). Some of these trees could potentially be removed at a future point, but they are widespread, healthy and in good condition, as confirmed in the Tree Schedule accompanying the Arboricultural Report (prepared by Charles McCorkell, dated January 2021). Therefore, the Planning Authority's view that these trees could potentially be removed and lead to significant overlooking of the adjacent property does not hold a great deal of weight, particularly as the proposed terrace and dormer are well setback and past the rear of the house in question.

7.3.4 It is also noted that there is a letter of support for the development from the landowner of this property (Lakeview House) and that the Applicant has offered to increase the height of the balustrade at northwest to 1.8 metres. Whilst this may be unwarranted, as a proposed potential mitigation feature it is welcome and should be made a requirement under condition. (See revised drawings accompanying the appeal submission, Drwg. No. D1229-121a-1, dated 06. 2021).

#### **7.4. Proposal Conflicts with Previous Condition on a Permission**

7.4.1 Refusal Reason 2 states that the *“development would be contrary to a condition attached to a previous permission granted on the site, namely condition 2 of SD20B/0250, which reads: The roof of the extension hereby approved shall not be used at any time as a roof terrace or for sitting out on. Access shall only be provided for maintenance reasons”*.

7.4.2 This is not considered to be a valid reason of refusal. The Appellant readily acknowledges that the proposal is contrary to Condition No. 2 of the previous permission (Reg. Ref. SD20B/0250), but correctly notes that the current proposal should be assessed on its own individual merits. The Planning Authority’s Decision should be grounded on *bona fide* planning considerations, which may then be supported by a reference to relevant past conditions, if it is appropriate to do so. Citing a condition on another planning permission, in isolation, without reference to a particular planning issue, is not deemed sufficient reason to refuse permission.

#### **7.5. Precedence**

7.5.1 Refusal Reason 3 states that *“the proposed development would set an undesirable precedent for other similar developments...”*.

7.5.2 Upon considering the individual circumstances that apply to the site, its receiving environment and physical context, and the size, scale and nature of works proposed, it is considered that the proposed development comprises a unique set of planning considerations. It would not therefore set a precedent for other undesirable forms of development in the area.

#### **7.6 Other Issues**

This Section addresses Policy H27, Requirement Nos. 2 – 7. (Requirement No. 1 is dealt with in Section 7.2 above.)

#### 7.6.1 Flora, Fauna, Soil, Water and Human Beings (Policy H27 - Requirement 2)

The proposal would not result in any significant negative impacts on the flora and fauna of the site or on surrounding sites. The Water Services Department have confirmed that issues regarding surface water drainage and flood risk, can be dealt with by condition. Irish Water also had no objection, subject to complying with the 'Irish Water Standard Details for Water Infrastructure'. (This also addresses Requirement 6 of Policy H27 - Wastewater Treatment.)

#### 7.6.2 Natural Contours and Natural Drainage Features (Policy H27 - Requirement 3)

The proposal, which is for terrace above a permitted extension and dormer window addition, is unlikely to significantly alter the natural contours of the landscape or affect the natural drainage features of the site.

#### 7.6.3 Retains and Reinstates Traditional Roadside and Field Boundaries (Policy H27 - Requirement 4)

The proposed development will have a negligible effect on traditional roadside and field boundaries.

#### 7.6.4 Designed and sited to circumvent the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls ((Policy H27 - Requirement 5)

The proposed works comprise a terrace above a permitted extension and dormer window extension. They do not require any intrusive engineered solutions, such as cut and filled platforms, embankments or retaining walls.

#### 7.6.5 Would not create or exacerbate ribbon or haphazard forms of development (Policy H27 - Requirement 7)

The proposal seeks a modest extension to an existing dwelling. There is no real potential or risk of exacerbating the proliferation of housing along roads or worsening ribbon development.

## **7.7 Appropriate Assessment**

7.7.1 The existing dwelling is approximately 250 metres to the west of the Glenasmole Valley Special Area of Conservation (SAC) (Site Code 001209). The Wicklow Mountains SAC (Site Code 002122) and SPA (Site Code 004040) are located roughly 850 metres and 1.8km to the south, respectively.

7.7.2 Given the nature and scale of the development proposed, which is for a dormer extension and terrace above a permitted first floor extension, the distance from the nearest Natura 2000 site, and nature of the receiving environment, it is considered that no appropriate assessment issues arise. It is therefore not considered that the proposal would be likely to have a significant effect individually or in combination with other plans and projects on a European site and there is no requirement.

## **8.0 Recommendation**

It is recommended that planning permission be granted, subject to conditions as set out below.

## **9.0 Reasons and Considerations**

Having regard to the nature and scale of the proposed development on the site, which is for a dormer extension and terrace over permitted first floor extension, and characteristics pertaining to the subject site, it is considered that there is no potential for significant visual impact or overlooking of adjoining properties. The proposal is in accordance with the relevant policies and objectives of the *South Dublin County Council Development Plan 2016 - 2022*, including the site's zoning objective ('*HA-DM - High Amenity Dublin Mountains*') and provisions of Policy H27, and that it would not seriously injure the visual or residential amenities of the area.

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.</p> <p>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 stone wall and entrance pillars running along the front boundary of the site shall be kept in situ and be repaired should any damage occur during construction works.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>The height of the balustrade that is facing northwest on the terrace shall be 1.8 metres in height and with an opaque glazing finish.</p> <p><b>Reason:</b> To prevent overlooking of adjoining residential property.</p>
4.	<p>The external walls shall be finished in neutral colours, such as grey or off-white.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<p>Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:</p> <ul style="list-style-type: none"> <li>(a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.</li> <li>(b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.</li> </ul> <p>Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed</p>

	<p>development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
8.	<p>(a) An accurate tree survey of the site, which shall be carried out by an arborist or landscape architect, shall be submitted to the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.</p> <p>(b) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.</p> <p><b>Reason:</b> To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of visual amenity and to prevent overlooking of adjoining property.</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 Development Act 2000, as amended.</p> <p>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><b>Reason:</b> 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>

---

Ian Boyle  
Planning Inspector

28<sup>th</sup> July 2021