



An
Bord
Pleanála

Inspector's Report

ABP-310425-21

Development	Construction of new two storey extension to rear of existing dwelling.
Location	27 Abbeylands, Lusk Village, Lusk, Co Dublin, K45 YR84
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20B/0283
Applicant(s)	Robert & Fiona Pender.
Type of Application	Full permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Thomas Elders.
Observer(s)	None
Date of Site Inspection	29 th of October 2021.
Inspector	Karen Hamilton

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	3
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.2. Fingal County Development Plan 2017-2023.....	6
5.3. Natural Heritage Designations	6
5.4. EIA Screening	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	8
6.3. Planning Authority Response	8
6.4. Observations	8
6.5. Further Responses.....	9
7.0 Assessment.....	10
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14
10.0 Conditions	14

1.0 Site Location and Description

1.1. The site consists of a two-storey semi-detached dwelling in the residential estate of Abbeylands, Lusk Village, Co. Dublin. The area is characterised by two storey dwellings including terrace and end of terrace dwellings. The dwelling fronts onto a shared parking area and has a private rear garden, accessed by a side gate and private alley. A row of similar sized and designed dwellings are located along the north of the side (No. 29-31). The rear gardens of these dwellings side onto the subject site.

2.0 Proposed Development

2.1. The proposed development would comprise of the construction of a new two storey extension (c. 54m²) to the rear of the existing dwelling.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 11 no. conditions of which the following are of note:

C2- The permission relates solely to that detail in the statutory notices and does not refer to any other aspects of development that may be shown on the lodged plans.

C3- Prior to commencement of development the applicant shall submit for the written agreement of the PA a revised contiguous elevation drawing to reflect the floorplans submitted within the additional information response submitted to the to the PA on the 25th March 2021 showing the first-floor extension located towards the southern site boundary.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of further information on the following:

Further Information (FI) Request

No.1: Revised Design

- A revised design for the extension to ensure the proposal complies with Objective PM46 (more sensitive design with no negative impacts on adjoining property),
- Reduced overshadowing, overbearing and overlooking along the proximity, height and length along mutual boundaries,
- Revise the first-floor element of the proposed extension so that it is stepped back to the south by c.2.3m to increase its distance from the adjacent boundary with No.29 and No.31 Abbeylands.

No. 2: Discrepancies in drawings

- Clear illustration of existing structure including proposed second floor plan, internal layout staircase portion and all windows,
- Proposed, if any, first floor windows in the existing/ proposed side-facing gables.
- Clarification of second-floor living/master bedroom areas.

No. 3: Surface Water

- Surface water to be attenuated in compliance with GDSDS (Greater Dublin Strategic Drainage Study)
- No surface water or foul water to attenuate to storm.

The applicants FI response included the following:

No.1: Redesign

- A redesigned extension was submitted relocating the first-floor component c.2.3m south (away from No.29).

No.2: Discrepancies

- Amended floor plans and elevations were submitted to correct discrepancies the submitted plans.
- The area in the second-floor attic space.

No. 3: Surface Water

- Details of existing surface water drainage in the Abbeylands development and the inclusion of a proposed surface water attenuation in the rear garden for the proposed extension.

The report of the area planner noted no objection to the proposal, subject to the attic space only being used for storage.

3.2.2. Other Technical Reports

Water Services: No objection subject to condition

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

None received

4.0 Planning History

ABP-310155-21

Leave to appeal was granted to the appellant based on the architectural redesign requested through further information and condition No.1 of the permitted development (F20B/0283) which requires the development is undertaken in accordance with the further information submitted.

5.0 Policy Context

5.1. National Policy

Quality Housing for Sustainable Communities- Best Practice Guidelines for Delivering Homes Sustaining Communities (DoEHLG, 2007).

5.2. Fingal County Development Plan 2017-2023

The site is located on lands zoned as residential, RS, where it is an objective “*To provide for residential amenity and protect, provide and improve residential amenities*”.

Chapter 12 – Extensions to Dwellings.

Extensions will be supported where they have no significant negative impact on the surrounding area and there shall be no overlooking, overbearing or overshadowing along with proximity, height and length along mutual boundaries

Objective DMS42: Encourage more innovative design approaches for domestic extensions

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

5.3. Natural Heritage Designations

None relevant.

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

The grounds of appeal are submitted from the owner of the property adjoining the site, to the south (No.25) following permission for leave to appeal from the Board. The issues raised are summarised below:

- The numbers of the properties have been incorrectly labelled on the maps (i.e., No.25 & No.27).
- There was no option to make a submission to Fingal County Council, following the submission of FI.

Changes in the architectural design under the FI request.

- The double height extension was moved to the south-west of the site, adjacent to No.25.
- This double height extension was not present in the original application.
- The amended design will have a significant impact on the property.
- The amended design has only moved the overbearing, overlooking and overshadowing issue from the north to the south (adjacent No. 25).

Impact on residential amenity

- The rear of the property (No.25) is already in a dark condition with reduced light.
- The extension will reduce light levels and significantly impact the quality of life.
- The double height would have an overbearing effect. The window for the bathroom of No.25 is c. 120cm from the side of the house.
- The area of the patio at the rear of No.25 will be impacted.

Oversailing/encroachment.

- Fingal Council included a requirement that any consents are included, this was not permitted.

Air Ventilation

- There are air vents along the northeast of No.25, on the party wall, facing onto No.27.
- There is concern that these air vents will be sealed and against building regulations.

Plans/documents

- It is not clear if there will be windows overlooking No. 25, if so, these would have an impact on privacy.

Drainage

- There is concern the deeper foundations will lead to drainage issues on No.25.
- There is already considerable surface water except for the summer months.

Noise

- The master bedroom would adjoin the upper level between No. 27 & No.25.
- There is already a noise issue for these houses, and this would cause significant issues.

6.2. Applicant Response

The applicant's response to the grounds of appeal is summarised below:

- The appellants property is located to the south-west and there will be no overshadowing.
- A Shadow Study (using Revit 2021) has been submitted with the response.
- The proposed development will be staggered and only a small portion of the extension will be visible from No.25.
- The extension has been designed so there will be no oversailing.

6.3. Planning Authority Response

A response was received from the Pa which requires that in the event the decision is upheld it is requested Condition No. 11 (Section 48 levy) is included.

6.4. Observations

None submitted.

6.5. Further Responses

The appellant made a further submission on the applicant's submission (which included shadow projection drawings) and the issues raised are summarised below:

- Unable to get a professional assessment of the shadow projection drawings within the 2-week timescale.
- The shadow analysis highlights that there will be overshadowing to the rear of No.25 throughout Spring and Summer from daybreak to early morning.
- The additional overshadowing will have a negative impact on the enjoyment of No.25.
- Submitted photos highlight the already poorly lit interior of No.25.
- A representative of the Board is welcome to visit this property.
- The new structure will be a larger structure, overbear and block ambient daylight from entering property.
- The contents of the initial submission are reiterated.
- Whilst it is appreciated there may be no oversailing, the applicant's response did not address the air vent on the side of my property.
- There would be access issues to the maintenance of the side of this extension and would require access through No.25.
- Photographs from the interior and of the rear of No.25 have been included.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Impact on Residential Amenity
- Overhang and Air Vents
- Appropriate Assessment.

Impact on Residential Amenity

Background

- 7.2. The subject site is an end of terrace two storey dwelling (No. 27) located within a large residential estate, Abbeylands, in Lusk. The current dwelling faces north-west onto a shared parking area, has a modest rear garden and adjoins No.25 Abbeylands (located to the south-west). A row of two storey terrace dwellings is located to the north and north east of the site (No. 29 and No.33 Abbeylands) and their rear gardens adjoin the rear garden of the subject site.
- 7.3. The proposed development comprises of a two-storey extension to the rear of the dwelling, replacing an existing ground floor single storey sunroom extension. On foot of a further information request the design of the first floor was amended. This amendment relocated the main section of the first-floor extension from the northern end of the first floor (closer to No.29) further south (adjoining No.25). The occupier of No.25 had not made a submission on the original application, having regard to the northern orientation and could therefore not make a submission on the FI (not deemed significant). Leave to appeal was granted to the appellant (occupier of No.25).
- 7.4. The grounds of appeal do not consider the alteration to the design, and the relocation to the southern end of the site appropriate as it will have a negative impact on the residential amenity and enjoyment of No.25. The grounds of appeal consider the proposal will cause noise disturbance, overshadowing and overbearing. In addition, there are concerns in relation to the overhang and covering of the air vent, further detailed below.

Overshadowing

- 7.5. The site is located to the north east of No.25 and the current rear building line of No.27 is set back c. 2m from the rear building line of No.25. The proposed development will extend c. 2m along the boundary, adjacent with No.25. In response to the grounds of appeal the applicant submitted a Shadow Analysis.
- 7.6. The shadow analysis illustrates the shadow cast from the existing scenario (without the extension) and the proposed scenario (with the extension). Shadow projections were illustrated on the 21st of March, June and December during the following times, 08.00, 12.00, 14.00 and 18.00.
- 7.7. The response from the appellant noted the shadow analysis and stated that although a professional opinion could not be gained in the timescale required for comment (2 weeks) it was considered that the proposed extension would lead overshadowing to the rear of No.25 throughout Spring and Summer from daybreak to early morning. In addition, the extension would remove the ambient daylight into the rear of the property of No. 25.
- 7.8. No. 25 is located to the south-west of No.27. The orientation of the appellants site would mean that any overshadowing on the rear of the property would be limited to the morning sun. The Shadow Analysis submitted does not illustrate any additional shadow cast from the proposed development on the rear of No.25. I note the shadow analysis begins at 08.00 which is later than daybreak in the Spring and Summer, (the times noted in the grounds of appeal).
- 7.9. Section 2.2 of the 'Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice', (the BRE Guidelines), provides guidance on best practice for assessing the impact of extensions on existing dwellings. A quick method to assess the diffuse skylight impact on the house next door is by using the 45° approach. In this instance a 45° point at the top of the extension (flat roof) can be assumed to be the reduction in light (only diffuse skylight only). The guidelines note that the interpretation of this 45° approach requires flexibility. Having regard to the possibility of additional shadow from the extension only during daybreak and before 08.00 in the spring and summer, the 45° approach would indicate that the shadow would be slight. In addition, the photographs submitted by the appellant illustrate the patio doors are set back from the boundary and I note the extension will protrude a modest c.2m along the

boundary. The rear of the property of No.25 will receive direct sunlight from the south and east during the day.

- 7.10. Therefore, having regard to the orientation of the subject site, the design of the proposed extension and the information contained in the BRE guidelines, I do not consider any overshadowing will have a significant negative impact on the residential amenity of the occupants in No.25.

Overbearing and Overlooking

- 7.11. As stated above, the proposed extension will be c. 2m along the boundary with No.25. The height of the extension is 5.5m. The grounds of appeal are concerned the extension will be overbearing. I note the size of the rear garden and the remaining boundary for No.25, and I consider the extension past the existing building line by c. 2m, whilst may be visible from the rear of No.25, will not cause a significant overbearing to have a significant negative impact on the residential amenity of the occupants of No.25. No windows are proposed along the south of the site onto No.25 and therefore there will be no potential for overlooking.

Noise

- 7.12. The grounds of appeal are concerned the first-floor master bedroom will generate additional noise and have a negative impact. I note the existing bedrooms on the first floor are located proximate to the proposed extension. I do not consider the use of the rooms as bedrooms would generate excessive noise which would have a significant negative impact on the residential amenity of the occupants of No.25. I note the living space of No.27 is south, in approximately the same location as the proposed living areas.

Conclusion

- 7.13. Overall, I consider the design and layout of the rear extension is modest and having regard to the current location of No. 27, which is set back from the rear of No.25, the extension (c.2m along the boundary) will not have a significant negative impact on the residential amenity of No.25. As stated above, it is my opinion that having regard to the orientation of the subject site and location of the extension there will be no significant negative impact on the adjoining property by way of overshadowing.

Overhang and Air vents

- 7.14. The grounds of appeal raised the potential for overhang and the impact on their property. In response to the grounds of the appeal the applicant stated there would be no overhang onto this property. I consider this response reasonable.
- 7.15. The grounds of appeal have stated that there are two air vents associated with No.25, along the north of the boundary all, facing onto the subject site. Concern is raised in relation to the impact of these air vents.
- 7.16. I note the location of the air vents along the side of No.25 and the design of the extension, which extends over these vents. I also note the location of windows and floors serving the rooms associated with the air vents, which appear to be a bathroom on the first floor and living area on the ground floor.
- 7.17. The Board will be aware under the provisions of Section 34 (13) of the Planning and Development Act, 2000 (as amended) a person shall not be entitled solely by reason of permission to carry out a development. I note the grant of permission included a note advising the applicant that they are obliged to comply in full of Building Control legislation and also not undertake works which may encroach onto an adjoining property. In this instance I consider it advisable that a similar note is attached to any grant of permission. Should the Board not consider this acceptable, a condition requiring a setback from the boundary wall (between No.25 and No.27) would also be acceptable.

Appropriate Assessment

- 7.18. The subject site is located within a serviced urban area and is not directly adjoining or adjacent to a designated site. The nearest European site is the Rogerstown Estuary SPA which is approximately 2.7km away. However, there are no relevant habitats within the site or no direct hydrological connection to this site.
- 7.19. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest 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 the conservation objectives of any European site.

8.0 Recommendation

8.1. I recommend that planning permission be granted.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development for an extension to the rear of a semi-detached dwelling in a residential estate, it is considered that the nature and scale of the proposed development would be acceptable within the context of the site. The orientation of the site to the north east of No.25 and the design of the proposed development is such that it does not result in a negative impact on the existing character of the area or the amenities of adjoining properties and would be in accordance with the policies and objectives of the Fingal Development Plan 2017-2023 and 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>Reason: In the interest of clarity</p>
2.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing structure in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays,</p>

	<p>between 0800 to 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 adjoining property in the vicinity</p>
4.	<p>The site development work and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material.</p> <p>Reason: In the interests of orderly development and to ensure that the adjoining roadways are kept in a clean and safe condition.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
6.	<p>The applicant shall comply with the requirements of Irish Water.</p> <p>Reason: In the interest of public health.</p>
7.	<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. 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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Note: The applicant is advised that under the provisions of Section 34(13) of the Planning and Development Act 2000, a person shall not be entitled solely by reason of a permission to carry out any development.

Karen Hamilton
Senior Planning Inspector

1st of November 2021