



An
Bord
Pleanála

Inspector's Report

ABP-311074-21

Development	Demolition of garage to side. Construction single-storey extension to side & rear and widening of vehicular entrance. Addition of pedestrian gate, associated site works.
Location	37 Thormanby Lawns, Howth, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0304
Applicant(s)	David Taylor.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	First Party
Observer(s)	None.
Date of Site Inspection	15 th November 2021.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.05ha and is located at 37 Thormanby Lawns, south of Howth village and in a residential neighbourhood. The site contains a 2-storey, detached house on a corner plot which is adjacent to an area of public open space.
- 1.2. The site is enclosed by a rendered block wall along the majority of the west site boundary. To the front of the house and along the north site boundary the site is enclosed by a dwarf wall and hedging.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprised: -
 - Demolition of existing single storey 30sqm garage to side of existing house,
 - Construction of 84sqm extension to side and rear of the existing house,
 - Widened vehicular access and new pedestrian gate,
 - Associated site works including landscaping and drainage.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 13th July 2021, subject to 9 no. conditions including, of relevance to this appeal: -

3. The proposed development shall be amended such that the extension is fully set inside the boundary wall. The height of the boundary wall shall remain unaltered.

3.2. Planning Authority Reports

- 3.2.1. A planning report dated 9th July 2021 has been provided, which reflects the Planning Authority's decision to grant permission. The report states that the proposed development is acceptable under the zoning but expresses concerns regarding the

proposal to incorporate the side boundary wall into the development and to raise it. The report states that the extension should be set inside the existing boundary walls to mitigate for overdevelopment of the site and to avoid a situation of overbearance. No concerns have been outlined regarding impacts on residential amenities, with reference to overshadowing, overlooking and overbearing. The report recommends that permission be granted subject to 11 No. conditions (condition Nos. 9 and 10 which relate to a bond and a financial contribution were identified to be omitted from the decision).

3.2.2. Other Technical Reports

A **Water Services** report dated 15th June 2021 has been provided, which outlines no objection to the development subject to a number of recommended conditions.

3.3. Prescribed Bodies

- 3.3.1. Irish Water made a submission dated 5th July 2021, requesting that a number of conditions be attached, should permission be granted.

3.4. Third Party Observations

- 3.4.1. The planning report outlines that no submissions were received.

4.0 Planning History

- 4.1. I did not encounter any previous planning records relating to the site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is zoned 'RS' under the Fingal County Development Plan 2017-2023, with an objective to "*Provide for residential development and protect and improve residential amenity.*"
- 5.1.2. Section 12.4 provides guidance in relation to house extensions, outlining 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. For ground floor

extensions, the section states that they will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space. Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation), and impacts on residential amenity.

- 5.1.3. Objectives DMS42 and PM46 relate to house extensions, outlining that it is an objective to: -

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

DMS42: Encourage more innovative design approaches for domestic extensions.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within or adjacent to any Natura 2000 site. The nearest European site is Howth Head SAC (Site Code 000202), which is approx. 500m south.

5.3. EIA Screening

- 5.3.1. The proposal is for a domestic extension. This type of development does not constitute an EIA project and so the question as to whether or not it might be sub-threshold does not arise.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows: -
- A first party appeal is lodged in respect of condition No. 3 of the Planning Authority's decision.
 - The boundary wall in question is on the applicant's property.
 - An 8.85m long section of the wall supports the existing garage and utility room roof. The proposed extension similarly seeks to make use of the boundary wall.

- The proposal accords with objectives PM46 and DMS42 of the development plan.
- It is contended that retention of the boundary wall in its existing state offends visual amenity.
- Regarding claims of overdevelopment, the development has a site coverage of 38% and a plot ratio of 0.48, which is low. Furthermore, the requirement of the condition will not reduce the footprint of development.
- It is contended that the proposed development is a better solution to that which would result from the requirement of condition No. 3. The condition also creates weathering issues, the mitigation for which will have visual impact.
- There is no loss of visual amenity from the development

6.2. **Planning Authority Response**

- 6.2.1. A submission was received on 7th September 2021, advising the Planning Authority has no further comment. The Board is requested to retain condition No. 9 of its decision (S48 contribution) should permission be granted.

6.3. **Observations**

- 6.3.1. None received.

6.4. **Further Responses**

- 6.4.1. None.

7.0 **Assessment**

- 7.1. This is a first party appeal against condition 3 of the Planning Authority's decision to grant permission for application Reg. Ref. F21A/0304. Under Section 139 of the Planning and Development Act, 2000, as amended (the Act), the Board has the discretion over whether to consider these conditions in isolation from the remainder of the development. I consider, having regard to the nature and intent of condition 3, that determination by the Board as if the application had been made to it in the first instance

would not be warranted in this instance and the appeal can be assessed under the provisions of Section 139 of the Act.

7.2. Condition No. 3

- 7.2.1. Condition No. 3 required that the development should be amended, such that the extension is fully set inside the boundary wall, and that the height of the boundary wall should remain unaltered.
- 7.2.2. The planning report dated 9th July 2021 expresses concern regarding the proposal to incorporate the boundary wall into the development and to raise its height, in the context of overdevelopment of the site and overbearance of the public open space area. The report recommends that the extension should be set inside the boundary wall, in order to mitigate against such impacts.
- 7.2.3. The applicant states that the boundary wall in question is wholly within their property and ownership and that an 8.85m section of this wall currently supports the existing garage and utility room pitched roof. The applicant further states that the proposal complies with objectives PM46 and DMS42 of the development plan, that the requirements of condition No. 3 would offend visual amenity in the area and that the proposed development is a superior planning solution to that which would result from compliance with the condition. I note in this respect that the applicant states that compliance with the condition will create weathering issues, creating a requirement for mitigation in the form of flashing that will itself be visually intrusive.
- 7.2.4. The development plan states that house extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Section 12.4 of the development plan states that ground floor extensions will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space and that side extensions will be evaluated against proximity to boundaries, size and visual harmony and impacts on residential amenity.
- 7.2.5. The existing west site boundary wall is of varying height, following the sloping topography of the land in the area and the application drawings indicate that it has a maximum height of c.2m. The proposed extension will be constructed on the boundary wall and, in doing so, it involves raising the height of the wall over its length, to a height of up to c.2.8m.

- 7.2.6. I have given consideration to the requirements of condition 3 and to the underpinning rationale for the condition, provided in the planning report. The overarching scale and design of the extension have been deemed acceptable by the Planning Authority and it is in the context of overdevelopment, overbearance and visual impact associated with raising of the boundary wall, that the decision to attach condition No. 3 was made.
- 7.2.7. Regarding overdevelopment of the site, I do not consider the issue arises, in view of the adequately sized rear garden retained post-development and in view of the nature and scale of the development, which is subservient to the existing house and which does not impact on the amenity of adjacent residential occupiers.
- 7.2.8. Regarding overbearance and visual impact, the effect of condition No. 3 is that the extension will be moved slightly off the site boundary but, in my view, it will not materially affect the setting or appearance of the development from the adjacent public open space. In any case, I do not consider the extension, which is single storey in nature and which for the most part involves minor raising of the wall, would have any unacceptable overbearing or visual impact. I also note the applicant submits that compliance with the condition will require water ingress mitigation, in the form of flashing, which will itself have a visual impact. I am inclined to agree with the applicant, that the addition of such mitigation is likely to result in a development with a greater visual impact than that proposed.
- 7.2.9. In view of the above considerations, I conclude that the requirements of condition 3 are unjustified and the condition should be omitted.

8.0 Recommendation

- 8.1. I recommend that the Board, for the reasons and considerations set out below, direct the Planning Authority under Section 139 of the Act to remove conditions 3 of its decision to grant permission under Reg. Ref. F21A/0304.

9.0 Reasons and Considerations

Having regard to the scale and design of development proposed and the provisions of Section 12.4 of the Fingal County Development Plan 2017-2023, it is considered

that the requirements of condition No. 3 are not necessary and that the proposed development would not impact on the amenities of adjoining property and would not impact on the character or visual amenity of the area.

Barry O'Donnell
Planning Inspector

16th November 2021.