



An
Bord
Pleanála

Inspector's Report ABP-311655-21

Development

Planning permission is sought for demolition of single storey extension to rear and construction of flat roofed reduced ground level two storey extension on the existing building footprint, additional side pedestrian gate, together with all associated site works and services.

Location

'Moveen', No. 31 Church Road, Ballybrack, Gleneary, County Dublin.

Planning Authority

Dún Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D21B/0375.

Applicant

Jean Redden.

Type of Application

Planning Permission.

Planning Authority Decision

Refused.

Type of Appeal

First Party.

Appellant

Jean Redden.

Observer(s)

None.

Date of Site Inspection

5th day of November, 2021.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a given site area of 0.0132ha. It is located on the south western side of Dale View and Church Road T-junction on the northern most end of the neighbourhood centre of 'Ballybrack', in Glengeary, County Dublin.
- 1.2. The site contains a single storey vernacular dwelling which is setback just over 6m from a historic stone wall which contains a modest in width vehicular entrance that opens onto the western side of Church Road at a point where there are no pedestrian footpaths and sightlines to the north and south are restricted. This entrance is situated in close proximity to the T-junction of Church Road and Dale View. The period stone wall wraps around this setback area and terminates at the either side of the No. 31's principal elevation. The setback area it encompasses is mainly gravelled.
- 1.3. To the rear of the subject dwellings original envelope is a flat roofed rear extension. This later extension extends to a small linear concrete strip that is the only rear outdoor amenity provision. This area also provides access via a steep number of steps to the public domain of Dale View via a solid timber gated pedestrian access. The boundary running alongside the public domain has a staggered alignment to the rear of the main dwelling. Double yellow lines run alongside this boundary.
- 1.4. The ground levels slope steadily from the Church Road boundary and the rear boundary of the site. They also continue to slope steadily away from the rear of the site with this affording panoramic views of the surrounding and wider urban landscape.
- 1.5. The adjoining property to the south consists of a much modified and added to single storey dwelling. With residential properties neighbouring the site to the west and along Dale View whilst the heavily trafficked Church Road has a mixed-use character.

2.0 Proposed Development

- 2.1. By way of this application Planning Permission is sought for demolition of single storey extension to rear and construction of flat roofed reduced ground level two-storey extension on the existing building footprint, additional side pedestrian gate, together with all associated site works and services at 'Moveen', No. 31 Church Road, Ballybrack, County Dublin.

- 2.2. According to the accompanying planning application the existing floor area of the subject property is 57.68m²; the gross floor space of works proposed is 36.92m²; the gross floor space to be retained is 39.62m²; and the gross floor space to be demolished is 18.06m². Thus, the proposed development, if permitted, in the form proposed would result in a dwelling with a total floor area of 76.54m².
- 2.3. Accompanying this application is a Covering Letter from the applicant's architect.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 12th day of September, 2021, the Planning Authority decided to **refuse** planning permission for the following stated reason:

"1. *Having regard to the location of the proposed development on a corner site on Church Road and Dale View, the proposed development would be prominent in this streetscape. The proposed two-storey rear extension, by reason of its scale and massing, would be visually incongruous and seriously injure the existing visual and residential amenities by reason of overlooking and overbearing appearance, and would therefore be contrary to the provisions of Section 8.2.3.4 Additional Accommodation in Existing Built-up Areas (i) Extensions to Dwellings of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. In addition, it is considered that the proposed development would set an undesirable precedent for other similar scaled developments, which would in themselves and cumulatively be harmful to the visual and residential amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*"

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report dated the 25th day of August, 2021, is the basis of the Planning Authority's decision.

3.2.2. Other Technical Reports

Drainage: No objection. (Report date: 25th day of August, 2021).

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. Site:

P.A. Ref. No. D94B/0326: Planning permission was granted subject to conditions for a development consisting of a single storey extension at side and on lands to the front. (Decision Date: 17th day of May, 1994). Note: Not implemented and lapsed.

5.0 Policy Context

5.1. Development Plan

5.1.1. The site is governed by the provisions of the Dún Laoghaire – Rathdown County Development Plan 2016-2022. The is located on Map 10 of the Dun Laoghaire Rathdown Development Plan 2016-2022 and is identified as being Zoned Objective 'NC'. The land use objective for such zoned lands seeks to "*protect, provide for and/or improve mixed-use neighbourhood centre facilities*".

5.1.2. Section 8.2 of the Development Plan deals with the matter of Development Management. With Section 8.2.3 dealing specifically with residential developments and Section 8.2.3.4 dealing with additional accommodation in existing built-up areas. Section 8.2.3.4(i) is of particular relevance as it deals with extensions to dwellings.

5.2. Natural Heritage Designations

5.2.1. The nearest Natura 2000 site is Rockabill to Dalkey Island SAC (Site Code: 003000).

5.3. EIA Requirement

5.3.1. The proposed extension to the existing residential dwelling is not a class of development for which EIAR is required.

5.4. EIA Screening

5.4.1. Having regard to nature and scale of the development proposed, the serviced nature of the site and this built-up area, the lateral separation distance to the nearest Natura 2000 site(s) together which effectively seeks to add no additional footprint to the period but extended dwelling house, 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

6.1.1. The 1st Party Grounds of Appeal can be summarised as follows:

- The Board is requested to reconsider the decision of the Planning Authority and to grant planning permission for the development as proposed.
- The appellant seeks to upgrade and adapt their existing dwelling to meet their needs by way of modest contemporary alterations and additions.
- The Development Plan directs development to built-up areas as part of achieving compact development.
- The proposed design nurtures a sense of place on a corner site and its aspect to Dale View would be strengthened whilst the residential amenities of the location are also respected in the design put forward.
- Reference is made to a number of examples where permission has been granted by the Planning Authority for first floor extensions in the locality and wider urbanscape setting.
- The appellant is willing to comply with a condition requiring provision of overlooking measures.

- The rear dormer window would not be highly visible from Church Road.
- The proposal would be a significant improvement over the existing contribution of the rear extension when appreciated from the public domain.
- The rear first floor window of the proposed extension would be less than 2m above the existing and the addition of a corner window would provide light and views down the public road of Dale View.

6.2. **Planning Authority Response**

- 6.2.1. The Planning Authority's response refers the Board to Planning Officer's Report for this application and considers that the grounds of appeal do not raise any new matters which, in the opinion of the Planning Authority, would justify a change of decision.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. Having inspected the site and examined the associated documentation, I concur with the Planning Authority that given the established residential nature to this site and the building thereon together with having regard to the zoning provisions for the site and its setting that the general principal of alterations and additions are deemed to be an acceptable type of development at this location subject to safeguards.
- 7.1.2. I also consider that in general the principal of contemporary design approach and the use of a palette of contemporary materials, finishes as well as textures that allow the key building layers to be appreciated is generally acceptable, subject to safeguards.
- 7.1.3. Further I also concur with the Planning Authority that other matters like drainage, services, waste management during construction through measures to deal with nuisances that could potentially arise during the construction phase can be dealt with by way of an appropriately worded conditions and that no substantive issues arise from the consideration of these particular matters.
- 7.1.4. I therefore consider that the substantive matters to be considered by the Board in its determination of this case relates to the Planning Authority's single reason for refusal. In this respect, the appellant by way of this appeal seeks that the Planning Authority's decision is reconsidered by the Board and overturned on the basis that the proposed

development would not give rise to any adverse residential and visual amenity impacts on its setting whilst allowing additional habitable space for the occupant of this modest dwelling.

- 7.1.5. In relation to the Planning Authority's reason for refusal I note that the site occupies a corner site on Dale View and Church Road. In this context the Planning Authority considered that the proposed development would be prominent in this streetscape by way of the two-storey rear extensions scale and massing. If permitted, the Planning Authority considered that the proposed alterations and additions to this dwelling would be visually incongruous in its context.
- 7.1.6. In addition to this the Planning Authority sets out in their given reason for refusal that the proposed development would seriously injure the existing visual and residential amenities by way of overlooking and overbearing appearance in a manner that would be at variance with Section 8.2.3.4(i) of the Dún Laoghaire-Rathdown Development Plan.
- 7.1.7. This section of the Development Plan sets out that in determining applications for first floor extensions that the following factors will be considered by the Planning Authority:
- Overshadowing, Overbearing and Overlooking - along with proximity, height, and length along mutual boundaries.
 - Remaining rear private open space, its orientation and usability.
 - Degree of set-back from mutual side boundaries.
- 7.1.8. On the matter of overshadowing, I note that this application is not accompanied by any analysis of this matter. Nor does the suite of documentation with this application include a sunlight/daylight impact analysis to illustrate and examine the existing and the proposed context of the site and its setting in respect of the proposed development should planning permission be granted.
- 7.1.9. Notwithstanding the lack of such analysis, I note that the site forms part of an existing built-up area that at this location has a relatively tight historical grain with the appellant effectively having no qualitative passive and/or recreational amenity space to the rear of their extended period dwelling. This appears to be similarly the case with the adjoining property to the south. With the subject property and the adjoining property (No. 29 Church Road) appearing to avail of their semi-private amenity spaces to the

front and in the case of No. 29 Church Road there is also a semi-private amenity space to the southern side of the main residential structure on this plot.

- 7.1.10. I consider that the additional level of overshadowing that would arise from the proposed development despite its proximity to the boundaries with what appears to be two other residential units would not significantly change from the existing situation if the proposed development were permitted and implemented as per the height and overall built form proposed for the first-floor level insertion.
- 7.1.11. With this conclusion based on a number of factors including but not limited to the overall built form and height of the proposal, the orientation, the juxtaposition to amenity space provisions serving adjoining and neighbouring residential units in its immediate setting; the existing built features present within this setting which I observed includes high boundaries and single storey outbuilding type structures; the sloping nature of the land which falls away from the rear of the site and the built-up tight grain nature of this urbanscape whereby a degree of overshadowing is already established and to be expected in such a context.
- 7.1.12. In terms of overbearing, as previously set out I consider that the use of a contemporary approach to finding a solution to what is undoubtedly a very modest dwelling on a restricted site and in a varied mainly period architectural setting is an acceptable approach to finding a solution to the question of providing additional habitable accommodation for this residential unit. Notwithstanding, this is subject to the safeguard that the main dwelling is still legible as the principal and defining built form and that new building layers are subordinate through to respectful and harmonious to it. Particularly as appreciated from the public domain.
- 7.1.13. The visual legibility of the main dwelling and the proposed development would be added to by the site's corner location which results in the site forming part of the streetscape scene of Church Road and Dale View.
- 7.1.14. In this context I accept that the existing single storey flat roof extension is of no architectural or other merit and contributes little to the visual amenities and quality of its streetscape scene. I therefore consider its alteration and partial demolition as part of reworking it to provide improved ground level and new additional first floor space arguably has the latent potential to result in a more positive built insertion at a location would inevitably be visible from the public domain. Particularly on the approach from

Dale View to the junction of Church Road. There is also the opportunity to provide a built form that counter balances the period structure on the opposite side of this junction which presents as a highly visible rear 2-storey with habitable attic space rear elevation as appreciated from the public domain.

- 7.1.15. Of concern the proposed built form for the first-floor level fails to be subservient to the main dwelling with its overall height and atrium light protruding above its ridge height. This lack of subservience to the main dwelling is in this case added to by what is a palette of materials that includes horizontal cladding boards in the rendering drawings provided with this application by the applicant's architect. This choice of material, the colour, and tonal presentations of the same in my view add to the angularity and accentuates the mass and volume of the resulting ground and first floor level alterations as well as additional proposed. The significant level of glazing and their angular dimensions as well as solidity of fenestration results in a first-floor level which would result in effective overlooking and diminishment of privacy in an overbearing manner when appreciated from the private, semi-private and public domain. The impact of which would in my view significantly diminish the residential and visual amenities of properties in its setting and the streetscape scene character in a manner that is in excess of providing positive visual surveillance of the public domain of Dale View as contended by the appellant.
- 7.1.16. Altogether the design resolution shows a disregard to its real potential if permitted to adversely impact on the residential amenities of properties in the immediate vicinity of it, the visual amenities of the streetscape setting through to blatantly fails to be respectful and of a scale that is subservient in its built form to the main dwelling. Moreover, it does not show a lightness of contemporary touch or sufficient regard or understanding of site context to be a robustly successful new insertion to be permitted without changes to lessen the adverse visual and residential amenity impacts that would arise.
- 7.1.17. In terms of remaining open space and mutual setbacks these remain unchanged as the footprint of the building remains the same with the first-floor level essentially echoing that of the existing single storey extension.
- 7.1.18. In terms of past precedent cases cited by the appellant in their submission to the Board I consider that the site contexts vary, and it is appropriate that all applications are

determined on their individual merits. In terms of the proposed development, if permitted, I am not convinced that it would set an undesirable precedent for other similar developments that would in themselves and cumulatively be harmful to the visual and residential amenities of the area as it is in accordance with planning law that applications for developments must be assessed on their individual merits by reference to the proper planning and sustainable development of the area.

7.2. In Conclusion

- 7.2.1. It is appropriate to consider at this juncture could the substantive concerns raised in terms of overlooking and overbearance, both of which if the proposed development were to be granted as proposed, would result in serious visual and residential injury to the amenities of the area, be overcome.
- 7.2.2. On this question I consider that significant potential improvements to the proposed developments could be achieved by:
 - 7.2.3. Firstly, revising the built form so that the ground levels to the rear of the historic main dwelling's footprint are lowered so that the overall height of the proposed rear extension can sit below and not protrude above the ridge height of the main dwelling in its totality. This amendment would help achieve needed subservience between the proposed rear extension and the main dwelling as appreciated in the round as well as from the streetscape scene the property forms part of. I consider that this amendment to the design of the built form would require marginal further excavation of the site. The design as put forward already proposes a change of ground level between the historic main dwelling's footprint and the footprint of the ground floor of the extension to the rear. With permeability between the two spaces achieved by a number of steps.
 - 7.2.4. Secondly, the glazing at first floor level should be sufficiently reduced in terms of its overall dimensions, i.e., their height and width so that it corresponds more harmoniously with first floor level windows of existing buildings in its setting. In addition, given the changes in ground level between the site and properties to the rear there would still be the need to incorporate measures to mitigate adverse overlooking of properties in its immediate vicinity. There are several approaches that could be taken to achieve this ranging from permanently angled external louvres which may add to the contemporary design ethic through to designed box angled window opens

and/or the use of opaque glazing. In addition, clerestory windows may also be a suitable solution to provide light and ventilation to the first-floor level habitable space.

7.2.5. Thirdly, the palette of materials, finishes and external treatments should more appropriately respond to the streetscape scene. Sensitive use of appropriate to context stone or brick as a feature finish would help to achieve better assimilation with the streetscape scene particular as viewed from Church Road where localised views to the side of the proposed extension would be visible. These types of materials are also more durable and have the potential to improve in their appearance as they age.

7.2.6. The above three suggested amendments could be achieved by way of condition attached to a grant of permission should the Board be minded to grant permission and, in my view, would substantially overcome the Planning Authority's concerns that the proposed development, if permitted, would be inconsistent with Section 8.2.3.4(i) of the Development Plan. Subject to these amendments in totality I consider that the proposed development would be consistent with the aforementioned section of the Development Plan, it would not give rise to any serious visual and/or residential amenity impacts, and it would be, therefore, consistent with the proper planning and sustainable development of the area.

7.3. **Appropriate Assessment**

7.3.1. Having regard to the minor nature and scale of the development proposed, the site location in a built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the topography of the site setting, the availability of public services together with the lateral separation distance from the nearest 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.

7.4. **Other Matters Arising**

7.4.1. **Development Contributions:** None applicable.

7.4.2. **Oversailing:** Should the Board be minded to grant permission for the proposed development and having regard to the proximity of the first-floor extension to site boundaries I recommend that it includes Section 34(13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely*

by reason of a permission under this section to carry out development' as an advisory note.

8.0 Recommendation

8.1. I recommend that permission be **granted**.

9.0 Reasons and Considerations

9.1. Having regard to the pattern of development in the area, the established nature of the residential use of the site, the modest scale of the existing dwelling on site and the modest scale additional floor area proposed together with the provisions of the Dún Laoghaire-Rathdown County Development Plan, 2016 to 2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the character of the streetscape and would not seriously injure the amenities of nearby dwellings. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The height of the roof structure over the first-floor extension shall sit below the ridge height of the main dwelling.

(b) The first-floor rear elevation glazing shall be redesigned in order to reduce the level of glazing by a minimum of 50% and with this redesign including design measures that eliminate overlooking of neighbouring properties. In this regard the use of clerestory windows, opaque glazing and/or external angled louvres should be considered.

(c) The external palette of materials shall be revised to be more sympathetic and harmonious with its setting. In this regard, the use of stone or brick in a contemporary in place of timber cladding is advised.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the

development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

Advisory Note: Section 34(13) of the Planning and Development Act, 2000 as amended, indicates that “*a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development*”.

Patricia-Marie Young
Planning Inspector

8th day of November, 2021.