



An
Bord
Pleanála

Inspector's Report

ABP-311810-21

Development	Two-storey extension to side of house
Location	35, Oaklands Park, Swords, Co. Dublin, K67 XY06
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21B/0306
Applicant(s)	Garvin Harte
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant of Permission
Appellant(s)	Patrick Murphy
Observer(s)	None
Date of Site Inspection	12 th March 2022
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is in Swords town, approx. 50 metres south of the grounds of St. Colmcille's church and graveyard, and approx. 200 metres north of Pavilions Shopping Centre.
- 1.2. The site is occupied by an end-of-terrace house close to the cul-de-sac of a residential road. The house is two-storeys in height and is typical of the streetscape. Given its end-of-terrace location on a corner close to the cul-de-sac the side/rear garden area is larger than most other properties in the area.
- 1.3. The site has an area of 0.0333 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for a two-storey extension to the side of the existing house, internal reconfiguration, and rear elevational alterations.
- 2.2. The existing house has a floor area of 80sqm and a height of 7.735 metres. It is externally finished in render with a small area of brick and painted timber on the front elevation. The floor area of the proposed works is 85.5sqm, giving an overall floor area of 165.5sqm. The existing ridge height is retained for the two-storey element. The proposed single-storey element to the side has a height of 3.34 metres. The proposed external finish is render with what appears to be an additional small area of brick to the front elevation of the proposed extension.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission was granted subject to eight conditions including amendments to the proposed design, use of the property as a single housing unit, external finishes, surface water drainage, construction practices, and development contributions.
- 3.1.2. Amendments to the proposed design were set out under condition 2, as follows.

2. The proposal shall be constructed subject to the following amendments:

(a) The front wall extension element shall be set back from the front building line by 0.5m

(b) The roof ridgeline of the 2-storey side extension shall be set down by at least 0.3m below the existing roof ridgeline of the main roof of the dwelling.

Reason: In the interest of visual amenity and the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. The Planning Report forms the basis of the planning authority's decision. In terms of design, the report considers that the two-storey element of the proposed extension would be prominent and disproportionate to the scale of the existing house. The report considers the proposed two-storey element should be set back by 0.5 metres and the ridge line reduced by 0.3 metres-0.5 metres so it would appear visually subordinate to the existing house and would not result in a detrimental impact to the character or visual amenity of the locality.

3.2.2. The report concludes that the proposed development is acceptable in terms of the zoning objective and the development would not have a negative impact on the visual or general amenity of the area, subject to conditions, and would be in accordance with the proper planning and sustainable development of the area.

3.2.3. **Other Technical Reports**

Water Services Department – No objection subject to three standard conditions.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. Nine submissions were received from residents of Nos. 25, 26, 31, 33, 34, 36, 37, and 39 Oaklands Park and No. 41 Oaklands Avenue. The issues raised are largely covered by the grounds of appeal with the exception of the following:

- Construction nuisance in the area.

- Change of a single-family house to multi-tenancy / social problems associated with large rental properties.
- Existing houses photographed without knowledge or permission.
- Overlooking and overshadowing of No. 41 Oaklands Avenue.

4.0 Planning History

4.1.1. There has been one previous relevant planning application on site. This is.

P.A. Reg. Ref. F21B/0025 – Permission was refused in 2021 for a 129sqm two-storey extension to the rear and side of the house, including internal reconfiguration and rear elevational alterations. Permission was refused for two reasons: (i) overdevelopment of the site, out of character, would seriously injure the amenities of adjoining property and would be contrary to the zoning objective of the area, and (ii) undesirable precedent.

5.0 Policy Context

5.1. Fingal Development Plan 2017-2023

5.1.1. The site is in an area zoned 'RS – Residential', which has a zoning objective 'Provide for residential development and protect and improve residential amenity'. The 'Vision' is cited as 'Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'. Residential development is 'permitted in principle' in this zoning.

5.1.2. 'Extensions to Dwellings' is in both section 3.4 and 12.4 of the Plan.

5.2. Natural Heritage Designations

5.2.1. Malahide Estuary SAC (site code 000205), Malahide Estuary SPA (site code 004025), and Malahide Estuary pNHA (site code 000205) are all approx. 1.2km to the north east.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal are submitted by Patrick Murphy, 34 Oaklands Park, Swords (the property adjacent to the east of the site). I note the submission is the same as that submitted by the appellant to the planning authority. The main points made can be summarised as follows:

- Residents were restricted in their opportunity to submit observations to the planning authority because the site notice was erected late and the previous site notice had not been removed, contrary to the planning authority's instructions, leaving many neighbours unaware a new application had been made.
- The applicant suggests moving the proposed two-storey element forward, from the development previously refused, will mitigate overlooking of neighbouring properties, but it will make it worse by reducing the distance between the proposed extension and No. 34 to 4.2 metres.
- Reference is made and photographs submitted by the applicant of two-storey extensions in the area. They are not similar or representative of the situation where two terraces converge at right angles to each other. It is impossible to extend either, particularly if two-storey, without very seriously infringing on the rights of the adjacent house.
- The stated intention is to accommodate an extra bedroom and living space. It is difficult to understand the requirement for such an elaborate extension to achieve this. It would be a very large property in the context of other houses in the estate. It is crammed between the gable and boundary and will encroach even more onto No. 34. It is surely an example of overdevelopment.
- As both Nos. 34 and 35 are end-of-terrace houses at right angles to each other, any extension from the gable wall of either reduces the distance between the houses so any two-storey extension would have a devastating effect on the other. Part of the two-storey extension is only 1 metre from the boundary wall.

A two-storey extension 4.2 metres from a neighbouring house must contravene planning rules.

- Proposed ground and first floor windows would overlook the entire front of No.34 in an unacceptable way. The first floor window will overlook the bedrooms and the entire garden.
- The height and proximity of the proposed development would greatly reduce the amount of natural daylight and sunlight to the front, side, and rear of the house and garden.
- The proposed height and orientation will have an overbearing presence, will overshadow the facades of houses in the adjacent terrace, and will create a claustrophobic effect.
- The visual impact of the proposed split-level building would be asymmetric to the terrace and not in sympathy with the established pattern in the estate.
- The sewer pipe connects Nos. 34-38 and runs directly under the site of the proposed extension. It is not very deep and was laid over 47 years ago making it more prone to damage. Concern is expressed about the impact on this pipe during construction work, the weight of the proposed extension, and accessibility should there be a problem with the pipe. Concern is also expressed about rerouting the pipe, as per applicant's Drawing No. 005.
- Concern about the impact on the structural integrity of No. 34 during the construction phase.
- Nuisance to No. 34 during the construction phase e.g. health and safety issues, danger to property and family, debris, noise, vibration, restricting safe access, restrict use of the driveway and side garden.
- No. 35 has been rented during the current ownership. The increased bedroom capacity could accommodate eight tenants. It is currently difficult to access the driveways of Nos. 34 and 35. There is a shortage of car parking spaces on the road. Concern is expressed about congestion for residents, difficulty for emergency services access, and a threat to child safety due to increased traffic.

- The remaining garden area may not have the soakage necessary to prevent flooding of the site, and potentially affect adjoining properties.
- The appellant comments on the applicant's statement regarding the possibility of extending the house by way of exempted development should permission not be granted.

6.2. **Applicant Response**

6.2.1. None received.

6.3. **Planning Authority Response**

6.3.1. It remains the opinion of the planning authority that the overall development is acceptable subject to the conditions attached. The issues raised by the appellant have been addressed in the Planner's Report. If the planning authority's decision is upheld the planning authority requests the development contribution condition is included in the Board's determination.

6.4. **Observations**

6.4.1. None.

6.5. **Further Responses**

6.5.1. None sought.

7.0 **Assessment**

The main issues are those raised in the grounds of appeal and the Planning Report and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Proposed Design and Planning Authority Condition 2

- Impact on Adjacent Residential Amenity
- Appropriate Assessment

7.1. Zoning

7.1.1. The proposed development is located in an area zoned for residential use. Residential development is permitted in principle under this zoning in the Fingal Development Plan 2017-2023. The principle of development is therefore acceptable, subject to the detailed considerations below.

7.2. Proposed Design and Planning Authority Condition 2

7.2.1. The grounds of appeal refer to, inter alia, the scale and design of the proposed development, and the planning authority altered the submitted proposal by way of condition 2. The proposed design and the planning authority's condition are significant issues, but I consider the proposed development's compliance with development management standards should first be considered.

Development Management Standards

7.2.2. It is proposed to alter the existing 80sqm two-storey, three bedroom end-of-terrace house to a 165sqm, four-bedroom house. Development management standards are in place to ensure that a development achieves minimum standards of amenity for occupants, and that overdevelopment of a site does not occur. The site is relatively large in terms of existing property in the area at 0.0333 hectares.

7.2.3. The minimum floor area for a two-storey four bedroom house as set out in both the Quality Housing for Sustainable Communities Guidelines (2007) and the Fingal Development Plan 2017-2023 (table 12.1) is 110sqm, so this is significantly exceeded in the proposed development.

7.2.4. Objective DMS87 of the Plan requires a four bedroom house to have a minimum of 75sqm of private open space located behind the front building line of the house. From the site layout plan submitted with the application the area of private open space to be retained is approx. 155sq. I note that external access from the front to the rear of the house is retained by way of a minimum 1 metre wide side passage.

- 7.2.5. Table 12.8 of the Plan sets out car parking standards. Car parking has been raised as a significant concern in the area. An urban house with three or more bedrooms requires two car parking spaces within the curtilage of the property. From the submitted site layout plan and a site inspection it is clear two cars can be accommodated on site. Notwithstanding, the existing house is a three-bedroom house and the increase of one bedroom does not require any increase in car parking provision.
- 7.2.6. Therefore, having regard to the fact that the private open space area retained would be more than double the minimum required space, an external passage along the side of the proposed house would be provided, and there is adequate car parking provision within the curtilage, I consider there would be an acceptable level of residential amenity for occupants, and it would not comprise overdevelopment in terms of relevant development management standards.

Design

- 7.2.7. The existing house is a two-storey end-of-terrace unit and it is typical of the streetscape. The two-storey side extension element maintains the existing ridge height and general window styles and proportions. The proposed extension would be similar to the end-of-terrace houses at, for example, Nos. 27, 31, 39, and 44, all within 60 metres of No. 35 and on the same road. The proposed two-storey extension would be 4 metres wide, increasing the overall two-storey width to 9.3 metres. The two-storey element would not go beyond the building line of the terrace of which No. 34 forms part. The site layout plan drawing (Drawing No. 002) shows that the two-storey element would be approx. 1 metre to the front of/ahead of the building line of No. 34.
- 7.2.8. There are also a number of houses in the vicinity which have single storey elements to their front/side. The proposed single storey side extension is set back behind the two-storey building line and would have a height of 3.34 metres. As it is an end-of-terrace site, and is adjacent to another terrace at right angles, the proposed single-storey element would not be visually prominent from public areas. I note the planning authority Planning Report states, 'it is not considered that the proposed single storey side extension will have a negative impact on the visual amenity of the area'.
- 7.2.9. Section 12.4 of the Fingal Development Plan 2017-2023 states, 'in certain cases a set-back of an extension's front facade and its roof profile and ridge may be sought to

protect amenities, integrate into the streetscape and avoid a 'terracing' effect'. Given that similar houses already exist in the vicinity, and it is an end-of-terrace house, I do not consider setting the extension back either to integrate into the streetscape, or to avoid a 'terracing' effect, is relevant in this instance.

7.2.10. I do not concur with the planning authority's Planning Report that the proposed extension would appear to be prominent and disproportionate to the scale of the existing/host house. Given there are similar end-of-terrace houses on the same street I do not agree with the planning authority's position or consider that the proposed extension would be visually obtrusive or incongruous. The proposed north contiguous elevation drawing submitted (Drawing No. 007) shows the two-storey extension, and the single storey extension, sitting comfortably in the terrace.

7.2.11. I consider the proposed development design to be acceptable in principle.

Condition 2

7.2.12. In order for the proposed extension to appear subservient to the existing/host house, and to increase the separation distance to No. 34, the planning authority attached condition 2 to the grant of permission. Subject to compliance with this condition the Planning Report considers the proposed two-storey element, 'would not result in a detrimental impact to the character or visual amenity of the locality'. Condition 2 is set out in section 3.1.2 of this inspector's report. It requires the setting back of the proposed extension by 0.5 metres from the building line and the reduction in the ridge height by 0.3 metres. The condition does not require the submission of compliance drawings to the planning authority for agreement.

7.2.13. I consider that there are significant implications to this condition. The interior of the proposed extension/overall house has been laid out on the assumption that the proposed development would be acceptable. Any alteration to the extension footprint is likely to have knock-on consequences for construction and the internal layout at both ground and first floor levels. It is unclear if the setting back of the front building line means that the rear building line can be set back an additional 0.5 metres to compensate. The reduction in ridge height may require an alternative roof structure. A condition of this nature can lead to difficulties in carrying out the permission and, in the absence of the requirement for submission of a compliance drawing for the agreement

of the planning authority, could lead to future uncertainty as to what is the actual extent of the permission.

7.2.14. Notwithstanding the impact on property in the vicinity, which I shall address in section 7.3 of this report, I am of the opinion, as set out under the 'Design' part of this section, that the proposed development as applied for is generally acceptable in terms of its design, having regard to the established and existing pattern of development in the vicinity. However, should the Board consider that a condition similar to the planning authority's condition 2 is appropriate in the event the Board decides to grant permission, I recommend that revised floor plans, elevations, and section drawings should be submitted for the approval of the planning authority prior to commencement of development. This would remove any future uncertainty as to the extent of the permission granted.

Conclusion

7.2.15. The proposed development would have an acceptable level of amenity for occupants, and it would have adequate private open space and car parking provision.

7.2.16. In my opinion, the proposed two-storey extension element would be similar to existing houses in the vicinity of the site and would not be visually incongruous or obtrusive. The development is for the extension of a house in an urban area and the Fingal Development Plan does not have a requirement that any such extension must be subservient to the original house. I consider the design to be acceptable in principle.

7.2.17. I do not consider the planning authority's condition 2 is necessary or reasonable in terms of the design of the proposed extension area. Notwithstanding, should the Board decide to grant permission and attach a similar condition, I recommend that a compliance condition is also attached requiring revised floor plans, elevations, and section drawings to be agreed with the planning authority, in the interest of clarity.

7.2.18. In conclusion, I consider that the proposed development, as applied for, is acceptable in principle.

7.3. Impact on Adjacent Residential Amenity

7.3.1. The various impacts of the proposed development on the residential amenity of the adjoining property, and on property in the vicinity, is the main issue raised in the

grounds of appeal. I note that, as set out in section 7.2, I do not consider the proposed development would comprise overdevelopment of the site.

Overlooking

- 7.3.2. I do not consider undue adverse overlooking can occur from ground floor windows. There is a ground floor front elevation window proposed which would overlook the front of the house. There is also a ground floor window to the side elevation which is approx. 1.9 metres from the site boundary.
- 7.3.3. An additional first floor bedroom window is proposed to the front elevation. While this window would be between approx. 2.0-3.5 metres from the site boundary, the area of the adjacent property(s) that would be directly overlooked is the front areas of these properties which have no private amenity value given they are adjacent to the public footpath and visible from the public area. I acknowledge the appellant's concern as a window is proposed closer to No. 34 but given the oblique angle, I do not consider that there would any undue overlooking potential to the private amenity spaces of the adjacent property or to adjacent first floor windows. There is no first floor side elevation window proposed.
- 7.3.4. There is a separation distance of 10.775 metres from the existing house to the rear boundary. A second bedroom window is proposed at first floor level to the rear elevation. The same separation distance would be achieved, notwithstanding the kink along the rear boundary line.
- 7.3.5. Therefore, given the obliqueness of the angle of any potential overlooking to the private area of No. 34, I do not consider any undue overlooking impact would arise.

Overbearing Impact

- 7.3.6. The proposed development would clearly have an impact on the immediate receiving environment, and in particular that of the appellant. However, a change in the receiving environment is an inevitable consequence of all development. Notwithstanding, the proposed structure would be the same height as the existing house on site and there would still be a separation distance of approx. 4.5 metres between the respective two storey elements. A side passage area accessing the rear of the house is retained so the proposed extension is not constructed onto the boundary. While there would be a

'new' overbearing impact, I do not consider that it would be excessive and the concerns expressed in this regard are, in my view, overstated.

Daylight/Sunlight

- 7.3.7. The proposed development comprises an extension to an existing house. It is 4 metres in width at first floor level with a height matching that of the existing terrace. Any impact on daylight or sunlight would, in my opinion, be limited and it would not have any undue impact on the enjoyment of the private open space areas of any adjacent property.

Drainage

- 7.3.8. Concern is expressed about on-site drainage. I note the Water Services Department of the planning authority considered this issue and had no objection subject to standard conditions. A rear garden area of over 150 metres would be retained.

Construction Nuisance

- 7.3.9. Impact on the amenity of the adjacent property, and property in the vicinity, during the construction phase is referenced in the grounds of appeal. I acknowledge this concern, but construction nuisance is an unavoidable consequence of any development.
- 7.3.10. Construction working hours can be included as a condition of a grant of permission in the interest of residential amenity but, generally speaking, this is a relatively modest construction project for a domestic extension. There is nothing unusual or unique about this site, whether that be related to underground services or the structural integrity of adjacent property.
- 7.3.11. Adverse impact on neighbouring properties as a result of the construction phase is not a reasonable basis to refuse planning permission.

Conclusion

- 7.3.12. I do not consider that the proposed development would have the adverse impacts set out in the grounds of appeal. The design is consistent with existing houses in the vicinity, there would be limited overlooking potential, limited impact from shadowing, and, while I agree that there would be an increase in overbearing impact to the adjacent property, I consider that it would not be unduly dominating. In conclusion, I consider the proposed development to be acceptable as proposed.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location in Swords, relatively remote from and with no hydrological pathway to any European site, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan 2017-2023, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions as set out below, the proposed development would not seriously injure the residential or visual 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. 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. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Drainage arrangements, including the disposal of surface water, 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 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.

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

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.

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.

Anthony Kelly

Planning Inspector

14th March 2022