



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311858-21

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<b>Development</b>	Alterations and additions to existing dwelling house together with all associated site works.
<b>Location</b>	Hand's Lane, Rush, Co Dublin, K56 RW14.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F21B/0226.
<b>Applicant(s)</b>	Marie Williams.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	John Hughes.
<b>Observer(s)</b>	None.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. No. 8 Hands Lane, the appeal site has a stated site area of 0.08ha and it is located on the eastern side of Hands Lane, c35m to the north of Hands Lane's junction with Saint Josephs Road and Sundrive Road, and c225m to the south of Hands Lane's junction with Upper Main Street (R128), in Rush County Dublin.
- 1.2. The site contains a detached gable fronted dormer dwelling house with a modest mono-pitched rear extension which is setback from Hands Lane by a large pebbled driveway, which at the time of inspection accommodated off-street car parking. There is modest area of soft landscaping remaining in its south westernmost corner. Within the rear private open space amenity space there is a single storey ancillary residential timber structure with associated decked area located in the north easternmost corner of the site. The main rear garden area is in grass.
- 1.3. The overall site levels are relatively flat as are those surrounding it.
- 1.4. The surrounding area could be described as having a strong residential character with the dwellings consisting of a mixture of single, dormer and two storey built forms of varying architectural design and finishes. The most prevalent built form along this stretch of Hands Lane is dormer style detached dwellings.

## 2.0 Proposed Development

- 2.1. By way of this application planning permission is sought for alterations and a two-storey addition (Note: 109m<sup>2</sup>) to the existing house with the works including improvements to the surface water drainage on site. The existing dwelling house has a given total floor area of 110m<sup>2</sup>.
- 2.2. On the 10<sup>th</sup> day of September, 2021, the applicant submitted their further information response to the Planning Authority. This sets out in further detail the family circumstance for the proposed extension and the revised drawings include the reduction in size of the north west-facing window.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 7<sup>th</sup> day of October, 2021, the Planning Authority decided to **grant** planning permission for the proposed development subject to 11 no. mainly standard conditions which included:

Condition No. 2: Indicates that the grant of permission relates only to the description of development set out in the public notices.

Condition No. 3: Restricts the use of the use to a single dwelling unit.

Condition No. 8: Restricts the use of any floorspace that does not comply with Building Regulations.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The **final Planning Officer's report** dated the 5<sup>th</sup> day of October, 2021, considered that the applicant by way of the revisions made in their further information response had satisfactorily addressed the residential amenity impact concerns arising from the initial proposal by way of omitting the windows that would were giving rise to this issue. This report concluded with a recommendation to grant planning permission for the proposed development, as revised, and subject to a number of standard in nature conditions.

The **initial Planning Officer's report** (undated) concluded with a recommendation for further information based on the proposed development potential to give rise to adverse levels of overlooking on properties in its immediate vicinity. The further information request reads

- *“Objective PM46 of the Fingal Development Plan 2017-2023 seeks to ‘encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area’. The applicant is required to submit a design demonstrating how the issues of overlooking and overbearance of adjacent private open space (to south-east, south-west, north-*

*east and to north-west) have been addressed in the design of the proposed first floor extension in line with Objective PM46”.*

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

**Water Services:** No objection, subject to safeguards.

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. During the course of the Planning Authority’s determination of this application they received three number Third-Party submissions all objecting to the proposed first floor element proposed on residential and visual amenity grounds. Further concerns are raised in relation to the potential for adverse impact on the health of an adjoining occupier of ‘Ruin Na Mara’, which bounds the appeal site to the north.

## 4.0 **Planning History**

### 4.1. **Site:**

4.1.1. The dwelling house on site was granted under P.A. Ref. No. 90A/0229.

### 4.2. **Setting:**

4.2.1. There are no recent and/or relevant appeal cases in the setting of the appeal site.

## 5.0 **Policy & Context**

### 5.1. **Development Plan**

5.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, as varied applies. The site lies within an area zoned ‘RS’ which has an aim to: *“provide for residential development and protect and improve residential amenity”*.

5.1.2. Chapter 3 of the Development Plan deals residential development.

5.1.3. Chapter 12 of the Development Plan in relation to extensions to dwellings states that: *“the need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. First floor extensions will be considered on their own merits, noting that they can often have the potential for negative impacts on the amenities of adjacent properties. The Planning Authority must be satisfied that there will be no significant negative impacts on surrounding residential or visual amenities”.* It goes on to set out a number of factors that will be considered including but not limited to harmony with the rest of the structure, adjacent structures, and prominence through to impacts on adjoining properties by way of overshadowing, overbearing, and overlooking.

5.1.4. The following Development Plan provisions are considered relevant:

- Extensions to Dwellings: The need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.
- Objective DMS28: Ensure a laterals separation distance of a minimum of 22m between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy.
- Objective DMS29: Ensure a separation distance of at least 2.3m between side walls of detached, semi-detached, and end-of-terrace units.
- Objective DMS42: Encourage innovate 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.
- Objective DMS87: Sets out the open space provisions for dwelling houses with 4 bedrooms or more having a minimum requirement of 75m<sup>2</sup> of private open space.

5.1.5. **Specific Objective:** The site is designated a ‘Highly Sensitive Landscape’ on Sheet No. 14 ‘Green Infrastructure 1’ of the Development Plan.

## 5.2. Natural Heritage Designations

- 5.2.1. This appeal site is located at its nearest point c216m to the north of Rogerstown Estuary SPA (Site Code: 004015) and c240m to the north of Rogerstown Estuary SAC (Site Code: 000208). Of note pNHA Rogerstown Estuary at its nearest point is located c184m to the south of the site.

## 5.3. EIA Screening

- 5.3.1. Having regard to the nature, scale and scope of the proposed development, the established built-up residential setting of the suburban area surrounding it, in north County Dublin and within the development boundaries of Rush, the nature of the receiving environment, the serviced nature of the site and its surroundings, I consider that 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 Third-Party grounds of appeal can be summarised as follows:
- This development would negatively impact upon their residential amenities by way of overlooking, overbearing and would result in a severe loss of light and views currently enjoyed by them.
  - The provision of this extension would have detrimental impacts on their son's health and wellbeing who it is contended to have complex health issues.
  - The proposed two-storey extension due to its height and proximity to the common boundary would be visually overbearing as viewed from their property, would obstruct seaward views and give rise to adverse overlooking.
  - Their concerns were not adequately addressed by the applicant in their further information response.

- Protection of residential amenities is afforded in residentially zoned land.
- The rear first floor level elevation of the proposed extension would result in adverse overlooking over their property.
- Chapter 12 of the Development Plan requires a minimum standard of 22m separation distance at first floor level between properties.
- The extension is incorrectly positioned on site and should have been sited southwards away from their property.
- It is sought that the Board refuse planning permission.

## 6.2. Applicant

6.2.1. The First Party's response to the grounds of appeal can be summarised as follows:

- The dwelling is inadequate to meet the applicants current and future requirements.
- The design as well as the layout of the proposed extension is appropriate to meet their needs whilst limiting impacts on properties in its vicinity.
- There are no windows facing into the appellants property at first floor level. No undue overlooking would arise.
- The 22m separation distance requirement relates to opposing first floor windows of rear facing properties and is therefore not applicable to the appellants property.
- The subject dwelling when approved included a first-floor level bay window and there were no houses to the north, south and east of the site.
- The single and first floor extension would not give rise to any significant loss of light or overshadowing of the appellants property.
- This development would not give rise to overbearing and/or other adverse visual impact.
- It is sought that the Planning Authority's decision is upheld.

## 6.3. Planning Authority Response

6.3.1. The Planning Authority's response can be summarised as follows:



- No further comments to make.
- Board is requested to uphold its decision.
- Requests that Condition No. 11 is attached to any grant of permission.

#### 6.4. **Observations**

6.4.1. None.

### 7.0 **Assessment**

#### 7.1. *Preliminary Comment:*

7.1.1. Having carried out an inspection of the site and its setting, had regard to all documentation on file including responses received together with having had regard to relevant planning policy provisions and guidance I consider that the main issues that arise in this appeal are those arising from the Third-Party grounds of appeal submission appeal.

7.1.2. For clarity I propose to deal with my assessment below under the following headings:

- Principle of the Proposed Development
- Residential and Visual Amenity Impact

7.1.3. The matter of 'Appropriate Assessment' screening also needs to be addressed.

7.1.4. Prior to the commencement of my assessment below I note that the Applicant seeks permission for the extension to meet their present and future family circumstances which appears would include the care of the aged owner of this property. The Third-Party appellant in this case also raises concerns with regards to the proposed developments impact on their son's health and wellbeing. They provide details in relation to the same. In this regard I note that the Boards remit in this appeal case is to assess the proposed development on an entirely *de novo* basis and from this to make a decision on the appropriateness of this development at this location based upon the proper planning and sustainable development of the area.

7.1.5. I also note that the Third-Party Appellants raise concerns that the proposed development would give rise to a loss of view and right to light. I note that they have provided no proof of any easement establishing any legal rights to the same over the

applicant's property from side window facing southwards. These matters I consider are civil matters and outside of the Boards remit to adjudicate upon.

- 7.1.6. Having examined the proposed development in detail as part of my assessment of this case, with this development consisting of alterations and additions to an existing dwelling, I concur with the Planning Authority that the principle of the proposed development is generally acceptable given the established residential dwelling on the site together with the site and its setting 'RS' land use zoning under the Development Plan which provides in part for the improvement of residential amenity, subject to safeguards.
- 7.1.7. In addition, I concur with the proposed development meets the qualitative and quantitative spatial and amenity standards set out in the Development Plan for additional accommodation for existing dwellings. There is adequate car parking on site in the setback area between the principal façade and the roadside boundary with Hands Lane to meet the Development Plan standard of 2 car parking spaces.
- 7.1.8. Moreover, in terms of meeting lateral separation distances between opposing first floor level of properties to the rear there is in excess of the 22m requirement under Development Plan Objective DMS28; and, the lateral side separation distance of 1.3m from the proposed extension from the site boundary when taken together with the separation distance between the extension and the side walls of the appellants detached property to the north at their nearest point is at c5.3m in excess of the required 2.3m minimum separation distance required under Development Plan Objective DMS29 (Note: 5.3m lateral separation distance).
- 7.1.9. Furthermore, the remaining private amenity space provision in excess of the minimum 75m<sup>2</sup> for dwelling units with 4 or more bedrooms required under Development Plan Objective DMS87.
- 7.1.10. Given the above considerations I propose to examine the design and layout of the proposed extension against its potential to give rise residential and visual amenity impact on properties in its vicinity. In particular the appellants property which is situated to the north with a common boundary shared between the two. In relation to this assessment, it is based on the proposed development as revised by way of the applicant's further information response received by the Planning Authority on the 10<sup>th</sup> day of September, 2021. The basis for this is the improvements it includes to minimise

adverse impact on adjoining properties in its vicinity by omitting windows that would, if permitted, given rise to serious injury to the established residential amenities of adjoining property by way of overlooking and additional perception of being overlooked than the existing context. I therefore consider that this is a positive improvement to the proposed development sought under this application and should the Board be minded to grant planning permission for the proposed development that it should be subject to the applicants further information response revisions.

## **7.2. Residential and Visual Amenity Impact**

- 7.2.1. This proposal essentially seeks a part single storey and part two storey extension which would add an additional 109m<sup>2</sup> floor area to an existing dormer style dwelling with a given floor area of 110m<sup>2</sup>. Both the single and two storey extensions are flat roof structures with the two-storey element projecting additional measured 4.2m from the original rear elevation with a height of 5.75m and the single storey element projecting a measured 8.5m from the original rear elevation with a height of 3.15m. This maintains the rear building line, including the rear building line of the adjoining property to the norths two-storey element.
- 7.2.2. I also note that the single storey element also includes a single storey side lobby that would be positioned towards the eastern most end of the northern side elevation.
- 7.2.3. It effectively projects 2.24m from the northern side elevation of the subject property with the extension to the rear of the original building line including this 2.24m in its overall width which encompasses the entirety of the property's original ground floor width. This therefore results in the single and two-storey extension having a combined 11.025m length at this point. At ground floor level the extension would provide for a large kitchen, dining, and lounge area and at upper floor the extension would comprise of two bedrooms with a walk-in-wardrobe.
- 7.2.4. Altogether the proposed internal alterations would give rise to this dwelling unit having the internal space to accommodate 4 bedrooms.
- 7.2.5. The Third-Party in their appeal submission to the Board seek that the Board overturn the Planning Authority's decision to grant planning permission based on the proposed developments adverse impacts on their property by way of overlooking, overshadowing through to visual overbearance.

- 7.2.6. Chapter 12 of the Development Plan sets out that the Council will consider extensions favourably where there will be no negative impact on adjoining properties or on the nature of the surrounding area.
- 7.2.7. In relation to first floor extensions, it sets out that these will be considered on their merits and that a number of factors will be considered:
- 1) Overshadowing, overbearing, and overlooking, along with proximity, height, and length along mutual boundaries.
  - 2) Remaining rear private open space and its usability.
  - 3) External finishes and design, which shall generally match the existing.
- 7.2.8. In relation to ground floor rear extensions it sets out that these will be considered in terms of their length, height, mutual boundaries and remaining usable rear private open space.
- 7.2.9. In relation to side extensions it indicates these will be evaluated against proximity to boundaries, size and visual harmony with existing together with impacts on residential amenities.
- 7.2.10. In relation to roof alterations, it sets out that regard to the character and size of the structure should be had, proximity to adjacent structures, through to existing roof variations in the streetscape scene.
- 7.2.11. In general, it sets out that external finishes should match the existing.
- 7.2.12. In this context I note that the overall height of the part single and part two storey structure is subservient to the overall height of this gable shaped in built form dwelling. Though the two-storey structure would be visible from the public domain of Hands Road and Saint Josephs Road it would form part of a setting where there is a wide variety of architectural resolutions for the residential dwellings it contains. With these including later extensions.
- 7.2.13. The addition of a flat roofed part single and part two storey extension to this modest in size dwelling is not inconsistent with the pattern of residential development in this context nor is the use of a more contemporary design approach and palette of materials for later building layers to existing dwellings which like in this case lessen the height and visual overbearance of providing an additional two storey structure as

part of the overall extension to this property's design solution to meet the changing circumstances and needs of the occupier.

- 7.2.14. In addition, the resulting 229m<sup>2</sup> floor area would not be out of character with properties within this setting and as previously noted the lateral separation distances between side and rear properties as provided for in the design put forward is consistent with the Development Plan requirements but also from examination of the pattern of development in this area is consistent with the building to space relationship on what are in suburban contexts not ungenerous in size residential plots.
- 7.2.15. In terms of the overall design and layout of the proposed development I consider that it is not unreasonable in terms of its size, built form, architectural response, positioning on the site through to it is consistent with Development Plan policies for this type of development in relation to protecting the visual amenities of the area. I therefore do not agree with the appellants in this case that, if permitted, it would be visually overbearing or give rise to any other significant visual amenity concern.
- 7.2.16. In terms of overlooking, I do not accept that the first-floor windows as revised would give rise to any significant additional levels of overlooking or perception of being overlooked. I also consider that the nature of the pattern of development in what has become over recent decades a suburban type of landscape predominantly characterised by residential dwellings on the settlement fringes of Rush is one where there is an established level of overlooking arising from windows at first floor level. In this instance this development would not give rise to any significant levels of overlooking and views over the appellants rear garden area would be oblique together with there being in excess of the required 22m between first floor level windows with the nearest properties to the east of it.
- 7.2.17. In relation to overshadowing and loss of daylight, I accept that the proposed development would give rise to some levels of additional overshadowing and loss of daylight to their property. Notwithstanding, despite the lack of detailed analysis provided by the applicant and the appellant in their appeal submissions I do not consider it could be considered to be material, significant and out of character with the suburban character of this setting. I have also had regard to the orientation of the appellants property, the overall built form of the proposed development which includes a flat roof over the first floor level extension which reduces the level of overshadowing

that would arise from it, the separation distance between it and other features natural/built present together with the sensitivity of adjoining residential properties.

7.2.18. In relation to the introduction of timber cladding, I consider that this when weathered would not be an overly visually external finish or one that would be out of character with the existing external finishes on this dwelling or the palette of external materials, finishes and treatments that characterise buildings within this setting.

7.2.19. Based on the above considerations, I consider that the proposed extension to this dwelling is consistent with the requirements set out in Chapter 12 of the Development Plan as well as other provisions within the Development Plan relating to such developments. I do not consider that the proposed development warrants refusal on the grounds that it would, if permitted, give rise to adverse visual and residential amenity impacts on its setting. Including on the appellants property as they have contended in their grounds of appeal submission. In conclusion, I recommend that the Board uphold the Planning Authority's decision in this case as it is a type of development that is consistent with the proper planning and sustainable development of the area.

### **7.3. Appropriate Assessment**

7.3.1. As set out under Section 5.2.1 above Rogerstown Estuary SPA (Site Code: 004015) and Rogerstown Estuary SAC (Site Code: 000208) are located c216m and 241m to the south of the site respectively. In addition, the site is a brownfield, serviced site with the proposed development also including standard surface water drainage measures. In addition, the intervening land between the site and the above identified Natura 2000 sites consists of significantly developed suburban land that are also served by public mains water and drainage. There are no capacity issues in the public mains drainage supply to accommodate the additional loading the additional bedspaces would give rise to from this development. There are no known hydrological links to the aforementioned protected sites. Given the nature, scale and extent of the development sought under this application, the distances involved, the characteristics of the intervening landscape which is an established suburban area on the fringes of the settlement of Rush, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

9.1. Having regard to the location of the site on residentially zoned lands under the Fingal County Development Plan, 2017 to 2023; to the provisions set out in the said Development Plan for this type of development; alongside the nature, scale and design of the development sought under this application, it is considered that, subject to compliance with the conditions set out below, that this development would not give rise to seriously injury to the residential and visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 9.2. Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 10<sup>th</sup> day of September, 2021, 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 external finishes of the proposed works shall harmonise and respect those of the existing dwelling in respect of colour, texture and patina.

**Reason:** In the interests of architectural harmony and visual amenity.

3. The entire premises shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

**Reason:** To prevent unauthorised development.

4. Water supply and 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.

5. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

6. The site development works, and construction works shall be carried out in such a manner as to ensure that the public roads are kept clear of debris, soil, and other materials and if the need arises for cleaning works or repair to be carried out to the same, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining lane and roads are kept in a clean and safe condition during construction works in the interests of orderly development.

7. The construction of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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



8. 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.

**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.

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Patricia-Marie Young  
Planning Inspector – 21<sup>st</sup> day of February, 2022.