

Inspector's Report ABP-311892-21

Development Permission is sought for retention of

development consisting of alterations to previously approved plans (Reg.

Ref D20B/0172) for the setting forward

of the extension to the side by an

additional 0.38m and the enlargement of the dormer window structure to the

rear by 1.2m with proposed modifications for approval.

Location 9, Braemor Drive, Churchtown, Dublin

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Planning Authority Dun Laoghaire Rathdown County

Council

Planning Authority Reg. Ref. D21B/0442

Applicant(s) Oltian Dervishi

Type of Application Retention permission

Planning Authority Decision Refuse retention permission

Type of Appeal First Party

Appellant(s) Oltian Dervishi

Observer(s) Peter Scott

Alan Quinlan

Ronan O'Connor

Date of Site Inspection 24th June 2022

Inspector Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located at 9 Braemor Drive, Churchtown, Dublin 14. Braemor Drive is an established residential cul de sac extending in a northerly direction from Braemor Road. Braemor Drive comprises terrace rows of two storey dwellings, of uniform designs with stepped front building lines and external finishes, front and rear garden areas, some properties with off-street parking.
- 1.2. The site is located on the eastern side of the street, towards the northern end of the cul de sac. The site is rectangular in configuration with a stated area of 0.0293 ha. The subject dwelling is an end-of-terrace, two storey, three bay structure with a stated floor area of 165 sqm. The dwelling is sited on a west-east alignment within the site and attached to the southern side of 11 Braemor Drive.
- 1.3. The subject dwelling has been recently renovated and extended on foot of permission granted under D20B/0172. The two storey southern side extension and the dormer window in the rear roof slope, as constructed, do not accord with the development permitted, and are the subject of the current appeal to be retained. The area to be retained is stated as measuring 1.61 sqm.
- 1.4. To the east of the properties fronting onto Braemor Drive is a private laneway providing access to the rear entrances and/ or garages at the end of the rear gardens. The access lane serving the appeal site is accessed from Braemor Grove.

2.0 **Proposed Development**

- 2.1. The proposed development comprises the retention of alterations made to previously approved plans (Reg. Ref. D20B/0172) for the:
 - setting forward of the extension to the side by an additional 0.38m; and
 - enlargement of the dormer window structure to the rear by 1.2m (as stated in the description of development), with proposed modifications for approval.
- 2.2. From the plans and particulars, I identify the modifications for approval as including the replacement of the:
 - painted render on the dormer window structure with a cladding to match the existing roof material;

- existing dormer window roof capping (0.25m in height) with a reduced height capping (0.17m); and
- existing clear glazing in the northernmost window pane of the dormer window with opaque glazing.

3.0 Planning Authority Decision

3.1. Summary of the Decision

3.1.1. On the 11th October 2021, the planning authority issued a notification to refuse permission for retention for the proposed development citing one refusal reason as follows:

'Having regard to the location of the site, within a terrace of modest two story (sic) houses on narrow plots, it is considered that the dormer extension that is proposed to be retained by reason of its excessive height, width, scale, and bulk relative to the scale of the roof of the dwelling would result in a visually obtrusive and incongruous feature in the roofscape of the terrace which would be overbearing and out of character with the pattern of development in the vicinity and would seriously injured (sic) the visual and residential immunities (sic) of the area the proposed development would therefore contravene section 8.2.3.4 'Additional Accommodation in Built Up Areas' of the Dun Laoghaire Rathdown County Development Plan 2016-2022, would create an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Report

The planner's report is the basis for the planning authority decision. The key items from which are summarised as follows:

- Overview of proposed developments subject of the three applications at the site, D20B/0172 (granted), D20B/0428/ ABP 309755-21 (refused retention permission), and D21B/0442 (current proposal);
- Images of proposed developments (dwelling's front and rear elevations)
 subject of each application included within report for illustrative purposes;

- Setting forward of the side extension by 0.38m is considered a modest change, without impact, and acceptable;
- Notes the marginal reduction in width (0.06m) and height (0.08m) of the dormer extension, and inclusion of an obscured window pane;
- Reference made to the proposed reduction in height and opaque glazing, no reference to the proposed cladding panels to match the roof tiles finish;
- Obscure glazing element noted but does not address substantive concerns relating to the overall size, scale, and design of the dormer;
- Form and appearance/ size and bulk of the dormer are largely similar/ remain largely the same as that for which permission has been previously refused;
- Refusal reason has not been adequately addressed;
- Scale of the dormer is excessive relative to the size of the subject dwelling, rear garden, and terrace row;
- Design and scale of the dormer extension result in injury to the visual and residential amenities of adjoining properties; and
- Requirements for Appropriate Assessment and Environmental Impact Assessment are screened out.

3.2.2. Other Technical Reports

<u>Surface Water Drainage</u> – no objection, conditions of D20B/0172 apply.

3.3. Prescribed Bodies

There are no reports from prescribed bodies.

3.4. Third Party Observations

- 3.4.1. Submissions from three third party observers, with addresses given at 5 and 11 Braemor Drive, and 13 Braemor Grove, were received by the planning authority during the processing of the application. The main issues raised in the observations can be summarised as follows:
 - No material difference in the proposal to the previous retention application for which was refused (D20B/0428);

- Dormer window is incongruous, intrusive, effects privacy of adjacent properties, is out of character with the pattern of development in the vicinity, and creates an undesirable precedent for future development in the area;
- Changes to dormer (eg. replace existing window with obscure glazing) do not address or allay concerns cited in D20B/0428;
- Previous observations on planning application (D20B/0428) remain valid; and
- Previous refusal reasons by planning authority and An Bord Pleanála remain valid, and there is no reason to overturn these decisions.

4.0 **Planning History**

PA Ref. D20B/0428, ABP 309755-21

On the 24th May 2021, An Bord Pleanála upheld the decision of the planning authority and refused permission to the applicant for the retention of alterations to previously permitted development (D20B/0172) for side extension and dormer at rear of subject dwelling, for the following reason:

'Having regard to the location of the site within a terrace of modest two-storey houses on narrow plots, it is considered that the dormer extension that is proposed to be retained, by reason of its excessive height, width, scale and bulk relative to the scale of the roof of the dwelling, would result in a visually obtrusive and incongruous feature in the roofscape of the terrace which would be overbearing and out of character with the pattern of development in the vicinity and would seriously injure the visual and residential amenities of the area. The proposed development would, therefore, contravene Section 8.2.3.4(i) of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, would create an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.'

PA Ref. D20B/0172

On the 16th September 2020, permission was granted to the applicant for the demolition of the existing two storey extension to the side of the house, construction of a new enlarged two storey extension the side, new dormer window the rear, internal alterations and associated site works.

5.0 Policy Context

5.1. Local Planning Context

Change between Dún Laoghaire Rathdown County Development Plans

- 5.1.1. The Dún Laoghaire Rathdown County Development Plan 2016-2022 (2016 CDP) was in effect at the time the planning application was assessed, the appeal was lodged, and the observations were received. As such, the application and appeal documentation both refer to policy in the 2016 CDP (cited in Section 3.0 Planning Authority Decision and Section 6.0 The Appeal in this report).
- 5.1.2. In the interim, the Dún Laoghaire Rathdown County Development Plan 2022-2028 (2022 CDP) came into effect on the 21st April 2022 (the Draft Ministerial Direction issued to the planning authority is not applicable to the appeal case). Accordingly, therefore, this appeal is assessed with regard had to the provisions of the 2022 CDP.
 Dún Laoghaire Rathdown County Development Plan 2022-2028
- 5.1.3. The site is zoned as 'A' with the stated objective 'To provide residential development and improve residential amenity while protecting the existing residential amenities'.

 The proposal, comprising retention of extensions, is permissible therein.
- 5.1.4. The relevant 2016 CDP policy for the application was in section 8.2.3.4: Additional Accommodation in Existing Built-Up Areas, section 8.2.3.4(i): Extensions to Dwellings. I identify the equivalent 2022 CDP policy relevant for the appeal determination as being section 12.3.7.1: Extensions to Dwellings.
- 5.1.5. Section 12.3.7.1: Extensions to Dwellings outlines policy on extensions to (i) front, (ii) rear, (iii) side, and (iv) alterations at roof/ attic level. Of relevance to the proposed development is policy relating to front extensions (as the previously permitted side extension is constructed further forward of the front building line) and alterations at roof level (rear dormer structure). The policy requirements for consideration include:
 - (i) Extensions to the front:
 - acceptable in principle at both ground and first level subject to scale,
 design, and impact on visual and residential amenities, and
 - a break in the front building line will be acceptable, over two floors to the front elevation, subject to scale and design;

- (iv) Alterations at roof/ attic level:
 - Dormer extensions to roofs, i.e. to the front, side, and rear, will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions, and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions shall be set back from the eaves, gables and/ or party boundaries. Dormer extensions should be set down from the existing ridge level so as to not read as a third storey extension at roof level to the rear;
 - The proposed quality of materials/ finishes for dormer extensions will be considered carefully as this can greatly improve their appearance. The level and type of glazing within a dormer extension should have regard to existing window treatments and fenestration of the dwelling. However, regard should also be had to size of fenestration proposed at attic level relative to adjoining residential amenities; and
 - Particular care will be taken in evaluating large, visually dominant dormer window structures, with a balance sought between quality residential amenity and the privacy of adjacent properties. Excessive overlooking of adjacent properties should be avoided.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or near the site.
- 5.2.2. The European Site designations in proximity to the referral site include (measured at closest proximity):
 - South Dublin Bay SAC (site code 000210) is c.4,330m to the northeast; and
 - South Dublin Bay and River Tolka Estuary SPA (site code 004024) is c.4,332m to the northeast.

5.3. Environmental Impact Assessment Screening

5.3.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The following is a summary of the main issues raised in the grounds of the first party appeal:
 - Side extension projecting forward is barely noticeable from the streetscape and will not have any negative impact on surrounding dwellings;
 - Planning inspector of ABP 309755-21 (D20B/0428) determined the side extension to be acceptable;
 - Planning officer of D20B/0172 found dormer window to be acceptable in design and scale (proportions), and due to there being no directly opposing dwellings;
 - Dormer window is not intrusive, and will not provide any overlooking or overshadowing issues;
 - Cladding design proposed for the dormer extension will form part of the roof which will give a natural look, with no standout appearance from a distance;
 - Proposal will fit in with the surrounding area and will bare no negative impacts;
 - Several examples of dormer extensions from the area are cited (extracts from planning applications and/ or aerial photographic images from Google Earth);
 - Provides a high level of residential amenity for future residents without negatively impacting on the residential amenity of adjacent sites;

- Not setting an undesirable precedent for dormer extensions, but following precedents already set in the area/ County, and will create a positive precedent for similar styles of development in the area;
- Represents an intensification of residential use at a serviced site in an area well served by public amenities;
- Refers to national and local policy in respect of encouraging densification in urban areas and increasing building heights; and
- Requests retention permission for all elements of the proposal be granted.

6.2. Planning Authority Response

A response received from the planning authority states that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

6.3. Observations

- 6.3.1. Three observations have been received on the first party appeal. The observers of this appeal case are the same third party observers that made submissions on the planning application (with addresses given at 5 and 11 Braemor Drive, and 13 Braemor Grove).
- 6.3.2. The main issues raised in the observations can be summarised as follows:
 - No material difference/ no significant changes/ nothing has changed in the proposal;
 - DLR County Council and An Bord Pleanála have now refused retention permission for the proposal three times;
 - Dormer window found to be a visually obtrusive and incongruous feature in the terrace roofscape, overbearing and out of character with the pattern of development in the vicinity, injurious to the visual and residential amenities of the area, and in contravention of section 8.2.3.4(i) of the 2016 CDP;
 - Minor changes proposed to the dormer window structure do not address the issues included in the refusal reason (listed above), which are also a major concern for residents; and

 Permission for retention in particular the dormer window structure should be denied.

6.4. Further Responses

No further responses were made or received on the appeal.

7.0 Assessment

7.1. Introduction

- 7.1.1. Having examined the appeal and application documentation, reviewed the planning history, inspected the site, and having regard to the relevant local policies, I consider the main issues in the appeal to be as follows:
 - Planning History;
 - Visual Amenity;
 - · Residential Amenity; and
 - Appropriate Assessment Screening.

7.2. Planning History

- 7.2.1. Under PA Ref. D20B/0172, permission was granted for extended floorspace with resultant amendments to the front and rear elevations of the dwelling. These included a new stepped front building line, associated with the front and southern side extensions, and rear ground floor and attic level extensions (dormer window in the roof plane). In this regard, I consider the parent permission established a staggered front building line and a rear dormer window were acceptable in principle.
- 7.2.2. The proposed development seeks retention permission of works that have been undertaken and that are not as approved under the parent permission. The two storey side extension has been constructed forward of the permitted front building line by 0.38m, and the dormer structure in the rear roof plane has been constructed 1.2m wider (as stated in the description of development) than that previously permitted.
- 7.2.3. Permission for retention of these works has been refused previously under ABP 309755-21 (PA Ref. D20B/0428) and by the planning authority in the current

- application decision, PA Ref. D21B/0442. The refusal reason cited in the current application is largely the same as that cited by the Board under ABP 309755-21. The refusal reason relates to the dormer window being a visually obtrusive and incongruous feature which would be overbearing and out of character with development in the vicinity, injure the visual and residential amenities of the area, and contravene 2016 CDP policy in section 8.2.3.4.
- 7.2.4. To address the refusal reason cited under ABP 309755-21, the applicant proposes amendments to the as-constructed dormer window structure. These include the replacement of the following components: the painted render on the dormer structure with a cladding to match the existing roof material, existing dormer window roof capping (0.25m in height) with a reduced height capping (0.17m), and the existing clear glazing in the northernmost window pane of the dormer window with opaque glazing.
- 7.2.5. In the assessment of the application, the planning authority found the form, appearance, size, and bulk of the dormer to be largely similar as that for which permission has been previously refused, and that the refusal reason had not been adequately addressed. The planning authority cited a similar refusal reason to that of ABP 309755-21. In the interests of clarity, the following assessment is based on an incorporation of the proposed amendments as I have outlined above.

7.3. Visual Amenity

- 7.3.1. The proposed development comprises two elements, setting forward of the two storey side extension and the insertion of a larger rear dormer structure. Of the latter, in the interests of clarity, I highlight that the applicant's description of development states a difference of 1.2m from that permitted, the particulars refer to different external and internal measurements for the dormer window/ structure, and that, for assessment purposes, I refer to external total measurements of the dormer structure (which I calculate as granted 4.17m width, 1.9m in height, and proposed 6.14m in width, 2.27m in height). I propose to address the design, scale and associated visual impact of each element in turn.
- 7.3.2. Firstly, in relation to the setting forward of the side extension, I find the projection to be modest in dimensions and with minimal visual impact. Applicable 2022 CDP policy in section 12.3.7.1(i) favourably considers front extensions and the breaking of

front building lines (I consider this to be the applicable policy as the previously permitted side extension is now constructed further forward of the front building line), once of an acceptable design and scale. The principle of a stepped front building line was established in the parent permission, and I consider that the further setting forward of the side extension element by 0.38m does not materially alter the façade of the subject dwelling, for instance, by overly exaggerating or unbalancing the staggered effect. Otherwise, the front elevational treatment, fenestration proportions and finishes of the dwelling are as granted. The planning inspector in ABP 309755-21 and the planning officer in PA Ref. D21B/0442 both found the setting forward of the side extension to be acceptable. I concur, considering this element to be without undue impact on the visual amenities of the area and to be acceptable.

- 7.3.3. Secondly, in relation to the larger than permitted dormer structure in the rear roof plane of the dwelling, which the planning authority found to be excessive in scale, out of character with the area, and visually obtrusive and incongruous, a key consideration of this appeal case is the associated visual impact. As outlined above, I have incorporated the proposed amendments in the following assessment, which include attaching a cladding finish on the dormer structure to match the roof tiles, reducing the capping height, and the installing opaque glass.
- 7.3.4. From a review of the particulars on the case file and my site inspection, I highlight that the dormer extension is not visible from/ along Braemor Drive, including southerly views from the cul de sac turning head and northerly views from the junction with Braemor Avenue. Intermittent views of the dormer extension are available from the public road/ footpath at the junction of the private laneway and Braemor Grove to the east of the subject site (c.60m separation distance). I walked along the laneway and found the dormer extension to be most visible from the laneway directly to the rear of the subject dwelling (c.25m) and the remaining terrace row (c.30m).
- 7.3.5. That being, there are far-distant, intermittent, or no views of the dormer extension from public roads/ publicly accessible vantage points. The most significant visual impact associated with the dormer extension is from the rear gardens of immediately adjacent dwellings and along part of the private laneway. Views of the dormer extension are also apparent from the opposing properties on Braemor Grove, but I do not consider views from these properties to be adversely affected or unduly

- injured because of the notable separation distances, which are of between 45m and 68m.
- 7.3.6. I acknowledge the concerns of the planning authority in finding that the dormer extension was largely the same as the development previously refused retention permission, and that it continued to seriously injure the visual amenities of the area. However, following my review of the plans and particulars in the appeal case, the planning history cases, my site inspection, and incorporating the proposed amendments, on balance I do not concur.
- 7.3.7. Applicable 2022 CDP policy in section 12.3.7.1(iv) favourably considers dormer extensions at roof level once of an acceptable design and scale. The dormer structure is symmetrically positioned within the roof plane, inserted below the ridge line, and set-off from the eaves line, the southern gable and northern party boundary. The dormer structure is of a design (simple rectangular forms, streamlined, subtle external finishes including the replacement of the painted render (presently a light colour which contributes to the visibility of the dormer structure) with a cladding to match the subject dwelling's roof tiles (a dark brown/ black colour)), and scale (6.14m width and 2.27m in height, with a reduced capping height and a smaller window than previously permitted) that are within acceptable design parameters. I consider the dormer structure to be consistent with the applicable 2022 CDP policy in section 12.3.7.1(iv).
- 7.3.8. I accept that this element of the proposal represents the first such dormer extension on the cul de sac and, as such, is a new architectural feature in the rear roof spaces of the terrace row, and one that gives rise to a new visual impact. However, for the reasons outlined above, I do not consider it to be an adverse or unduly injurious impact. The subject dwelling is located towards the end of a lightly trafficked cul de sac and is not visually prominent. The rear dormer extension is not visible from Braemor Drive or Braemor Avenue, and is only visible at a far-distance from Braemor Grove. These streets and dwellings thereon are not subject to any architectural protection or designation. The dormer extension is a new feature though, with the proposed amendments, is of a nature, scale or design that will not alter the character of the subject dwelling or dwellings in the vicinity. The subject dwelling will continue to be visually interpreted as a two storey dwelling in an

- established residential street, that is an example of older housing stock adapted for modern living.
- 7.3.9. In summary, having regard to the above factors and considerations, in my opinion the setting forward of the side extension and the insertion of a larger rear dormer structure are not, either in combination or in and of themselves, overbearing or harmful to the visual amenities of the main dwelling, adjacent properties, or the streetscape. On balance, I find the nature, scale, and design of the proposal with the proposed amendments to be acceptable and in compliance with the applicable visual amenity requirements of section 12.3.7.1 of the 2022 CDP.

7.4. Residential Amenity

- 7.4.1. The negative impact on the residential amenity of adjacent properties is included in the planning authority's refusal reason. The planning authority's assessment does not expressly indicate the manner of the impact, focussing more on the design, scale, and visual impact of the dormer extension. Factors determining residential amenity include overlooking, overshadowing, overbearance (which I have addressed in the Visual Amenity subsection above), and nuisance/ disturbance associated with construction activities.
- 7.4.2. The planning authority's refusal reason is based on that cited in ABP 309755-21, and I note that in respect of residential amenity the planning inspector's assessment found there to be a perception of being overlooked and that the sense of being overlooked would result in some loss of residential amenity to adjoining neighbours.
- 7.4.3. From my site inspection, I noted that there are oblique outlooks towards neighbouring properties from the window in the dormer structure. The window comprises three panes of clear glass. On balance, I do not consider the proposal to result in any materially increased/ greater overlooking from the extent which exists at present from the first floor windows. I note that the dormer window serves a bedroom space, and not a more actively used living space.
- 7.4.4. Notwithstanding, I positively note that the proposal includes for the replacement of the northernmost pane of clear glass with opaque glass. I consider this amendment will reduce intermittent instances of overlooking, particularly of the rear garden area of 11 Braemor Drive, adjacent to the north, assist in reducing the perception of being overlooked, and thereby improve the residential amenity of adjacent properties.

- 7.4.5. There are no overshadowing impacts arising from the proposal, and in the event of a grant of retention permission, the construction works associated with undertaking the proposed amendments will be temporary, short-term in duration, and subject to condition relating to the hours of operation.
- 7.4.6. In summary, having regard to the above factors and considerations, in my opinion the overlooking associated with the alterations and extensions to be retained are within acceptable parameters in terms of impact on the residential amenity of the adjacent properties. I do not consider that the proposed development would seriously injure the residential amenity of adjacent properties subject to the proposed amendments being undertaken. On balance, I find the nature of the proposal to comply with the applicable residential amenity requirements of section 12.3.7.1 of the 2022 CDP.

7.5. Appropriate Assessment Screening

7.5.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

8.0 **Recommendation**

8.1. I recommend that permission be granted for retention based on the following reasons and considerations, and subject to the attached conditions.

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective of the site and the provisions of section 12.3.7.1 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, and to the nature, scale, and design of the proposed development, 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 residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

The development shall be retained 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. Within three months of the date of this order, the developer shall have agreed in writing with the planning authority a phasing plan for undertaking and completing the proposed amendments to the rear dormer extension. The amendments include the replacement of the:
 - render finish with a cladding to match the existing roof material (details of the material, colour, and texture of the cladding to be agreed with the planning authority),
 - ii. roof capping (0.25m in height) with a capping of reduced height (0.17m), and
 - iii. clear glazing in the northernmost window pane with opaque glazing.

On competition of the works, photographic evidence shall be submitted to the planning authority indicating same.

Reason: In the interest of visual and residential amenity.

3. 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. b

4. Site development and building works shall be carried out only between the hours of 0800 to1900 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.

Phillippa Joyce Senior Planning Inspector

27th June 2022