



An
Bord
Pleanála

Inspector's Report ABP-312327-21

Development

Permission for: a) Demolition of lean-to extension to rear, b) Proposed combination of single-storey flat roof, two-storey flat roof and two-storey hipped roof extensions to rear, c) Proposed new window & door openings to side, alterations to front elevation, internal modifications and all associated site works.

Location

25 Seabury Heights, Malahide, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F21A/0560

Applicant(s)

Brent & Mary Lawson

Type of Application

Permission

Planning Authority Decision

Grant Permission with conditions.

Type of Appeal

Third Party

Appellants

Colm Keogh, Geraldine Keogh,
Sinead Keogh, Philip Moran, Patrick
Ferguson, Michael Bell, Joseph
Power, David & Marion Cox.

Date of Site Inspection

18th March 2022

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. No. 25 consists of a two-storey semi-detached house located on the western side of Seabury Heights, Malahide, County Dublin. Seabury Heights forms part of the large Seabury residential area located to the west of Malahide. Estuary Road bisects the area and extends from the Swords Road to the south, continuing northwards until it reaches Malahide Estuary. This road then proceeds north west along the estuary to reach the eastern side of Swords. To the west/ rear of the site are agricultural fields that form part of the greenbelt between Swords and Malahide.
- 1.2. As stated, the existing house is a two-storey unit and provides for four bedrooms at first floor level, as indicated on the submitted floor plans. The floor area of the subject house is given as 116.1 sq m and is located on a stated site area of 0.0320 hectares.
- 1.3. The Seabury area is characterised by mostly two storey semi-detached houses with hipped roofs. The houses are primarily finished in plaster with brick on the front elevation, ground floor section only. The houses along this section of Seabury Heights are provided with generous private amenity space.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - The demolition of an existing lean-to annex to the rear with a stated area of 6.3 sq m.
 - The provision of a single-storey flat roof, a two-storey flat roof and a two-storey hipped roof extension to the rear. The proposed extension to provide for 47.1 sq m of floor area.
 - The provision of a new window and door to the side, and new joinery to the front elevation.
 - All associated internal alterations and all necessary site works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to conditions. The conditions are generally standard. Condition no.2 requires modifications to the proposed development as follows:

- (a) The depth of the proposed extension along the northern side of the dwelling, serving Bedroom no.1 shall be reduced such that the external length (east-west) of the extension shall not exceed 4m.
- (b) The window on the rear elevation at first floor level, indicated to serve Bedroom no.1 within the proposed first floor extension shall be amended to measure not more than 1.8m (w) x 1.2m(h) and shall be centred proportionately within the rear elevation.

Prior to the commencement of the development the developer shall submit for the written agreement of the Planning Authority, revised plans and elevations at scale 1:100 to demonstrate the above requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report reflects the decision to grant permission for the proposed development. The development would not be visible from the public street and would not therefore impact on the streetscape. The concerns of the third parties were noted and subject to some revisions through condition, it was considered that the development would not adversely impact on third parties. Overshadowing and overbearing were considered to not be an issue of concern.

3.2.2. Other Technical Reports

Water Services Department: No objection subject to recommended conditions.

3.2.3. Objections

A number of letters of objection were received to the proposed development. Detailed letters of objection were submitted by S. Keogh and G. Keogh and from the

Marston Planning Consultancy on behalf of C. Keogh. The following are the main items of concern that were raised:

- The proposed development would be visually incongruous in the context of the existing area through its design and disproportionate scale.
- The development would have a negative impact on the area and on Malahide Estuary, through its visual impact.
- The proposed development would have a negative impact on the adjoining greenbelt and would set an undesirable precedent for similar development in the area.
- The proposed development would negatively impact on the flora and fauna of the area.
- The proposed development would have a negative impact on the climate and environment.
- The proposed development contravenes a number of the objectives of the Fingal Development Plan.
- The development on site should be listed as a Home-Office and hence as a mixed-use development.
- The subject site is located within 500 m of Malahide Estuary, an SAC.
- Regard should be had to the proximity of the development to a recorded monument, DU012-021.
- There is a need for an Environmental Impact Assessment Report due to the proximity to the SAC and the nature of the development.
- The provision of a soakpit would have a negative impact on the area.
- The new side entrance contravenes the Fingal Development Plan and Section 28 Guidance.
- Potential loss of privacy from the first-floor windows.
- Request for a structural survey of adjoining property.
- Potential issues of overbearing on adjoining properties.

- Refers to a concurrent application at no.25 for a timber panel garden shed – submitted as a Section 5 referral to the Planning Authority.
- Technical/ legal issues over the fact that the Land Commission should be listed on the application form as an applicant and that the submitted drawings are not accurate.
- The application form states that demolition is not required though this is stated in the public notices.

4.0 Planning History

P.A. Ref. FS5/068/21 refers to a November 2021 decision, on a Section 5 referral, that the Building of an 8' x 10' timber panel garden shed in the rear garden of the property, adjacent to an exempted development Shomera garden studio, would be exempted development.

There is no other planning history relating to this site.

P.A. Ref. F19B/0148 refers to a September 2019 decision to grant permission at no. 20 Seabury Heights for (a) Demolition of existing conservatory to the rear (b) Construction of a two-storey extension to the side of the existing house (c) Construction of a single-storey extension to the rear of the house (d) All associated site works.

P.A. Ref. F18B/0160 refers to a September 2018 decision to grant permission at no. 28 Seabury Heights for a two-storey extension to the side of the existing house, a single storey extension to the rear of the house, a porch to the front of the house and all associated site works.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Under the Fingal Development Plan 2017 – 2023, the site is zoned 'RS' Residential, and which seeks to 'Provide for residential development and protect and improve residential amenity'. The site is located within the development boundary of Malahide.

5.1.2. Chapter 3: 'Placemaking' and the following is relevant:

Objective PM46

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

5.1.3. Chapter 12: 'Development Management Standards' is relevant. The following is relevant to the subject development:

'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.

First floor rear extensions will be considered on their merits, noting that they can often have potential for negative impacts on the amenities of adjacent properties. The Planning Authority must be satisfied there will be no significant negative impacts on surrounding residential or visual amenities. The following factors will be considered:

- Overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries.
- Remaining rear private open space, and its usability.
- External finishes and design, which shall generally match the existing.

Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space. Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation), and impacts on residential amenity. First floor side extensions built over existing structures and matching existing dwelling design and height will generally be acceptable. Though 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. External finishes shall generally match the existing.

Roof alterations/expansions to main roof profiles, for example, changing the hip-end roof of a semi-detached house to a gable/'A' frame end or 'half-hip', will be assessed

against a number of criteria including: • Consideration and regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.

- Existing roof variations on the streetscape.
- Distance/contrast/visibility of proposed roof end.
- Harmony with the rest of the structure, adjacent structures and prominence’.

The following objective is also relevant:

Objective DMS42: ‘Encourage more innovative design approaches for domestic extensions’.

Table 12.3 sets out the ‘Minimum Room Sizes and Widths for Houses and Apartments’. A single bedroom to have a minimum floor area of 7.1 sq m, a double to be 11.4 sq m and a double with en-suite to be 13 sq m.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or near the site.
- 5.2.2. Malahide Estuary, which is a pNHA, SPA and SAC is approximately 550 m to the north of the subject site. This is separated from the subject site by a lands in use for a mix of residential, agricultural and recreational purposes.

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 appellants have appealed the decision of Fingal County Council to grant permission for this development. The submission made in support of the appeal is extensive, references a significant number of legal judgements and references guidelines etc. I summarise the main points as follows:

- The proposed development is contrary to the common good.
- The development contravenes a number of objectives of the Fingal Development Plan.
- Works were carried out that do not form part of the submitted application/ supporting details.
- The reasoning of the Planning Authority is unclear and there was not full consideration of the information submission in the letters of objection to the original application.
- Full legal entitlement to make the application has not been established and the Land Commission should be included as the applicant for this development.
- The full extent of the development on site was not established by the Planning Authority.
- The planning history of the area has been detailed and development on the east side of Seabury Heights is different to that on the west side, where the subject site is located.
- The design of the extension is out of character with the area and would have a negative impact on the visual amenity of the area.
- The development would obstruct views of the Estuary to the north.
- Loss of sunlight/ daylight due to the location of the proposed extension.
- Potential impact to bats.
- The Planning Authority did not consider the visual impact of the development to the rear building line.

- The site is located in a Transitional Zonal Area between the Green Belt and Residentially zoned lands.
- Potential loss of privacy.
- Concern about overbearing from the proposed extension.

The appeal is supported with a number of photographs, copies of the letters of objection and a copy of the Code of Conduct for Employees (DEHLG, 2007),

6.2. Applicant Response

None received.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority have responded that the development was considered in the context of the Fingal Development Plan 2017 – 2023 in addition to the impact on adjoining properties and the character of the area. Full regard and consideration were had to the received third party submission. The Planning Authority request that the decision be upheld.

7.0 Assessment

- 7.1. The main issues that arise for assessment in relation to the appeal can be addressed under the following headings:

- Design/ Impact on the Character of the Area
- Residential Amenity
- Other Comments
- Appropriate Assessment Screening

7.2. Design, Impact on the Character of the Area

- 7.2.1. The submitted appeal has raised a long list of issues that include a range of planning and environmental issues. I have read the appeal, the report of the Planning Authority and their response to the appeal, in addition to having visited the site. The primary issues, as I consider them, are the impact on the visual and residential amenity of the area arising from the proposed development.

- 7.2.2. The proposed development is for the demolition of an existing single-storey annex with a stated floor area of 6.3 sq m to the rear of no. 25 Seabury Heights and for the construction of a part two-storey and single-storey extension to the rear of the house. The proposed extension, with a stated floor area of 47.1 sq m, would provide for an enlarged kitchen/ dining area and utility at ground floor level and enlarged bedrooms/ storage spaces at first floor level. Materials and finishes would integrate with the existing form of the house.
- 7.2.3. I note that the Planning Authority conditioned that the depth of the first-floor extension with reference to Bedroom 1 be reduced by 0.5 m to measure 4.5 m. I have no issue with retaining the extension at 4.5 m depth in terms of design and visual impact. I will consider the impact on residential amenity in the next section of this report. The provision of the extension will reduce the rear garden depth to between 18 m and 20 m from the rear wall of this addition, which is more than adequate.
- 7.2.4. The Planning Authority commented on the fact that the development would not have an impact when viewed from the public street, I concur with this. The appeal refers to a negative impact on the visual amenity of the area. The proposed development is located on a site that is established as a residential site and is located on a street of similar houses. I do not accept that the extension would be out of character with the area and would negatively impact on Malahide Estuary. The estuary is screened by the topography of the area and by other development such as houses to the north in Seabury Meadows. The extension of an existing house in a residential area by just under 50 sq m, located to the south of Malahide Estuary would not negatively impact on the visual character of this important amenity for the area.

7.3. Residential Amenity

- 7.3.1. The proposed extension will provide for room sizes that are in compliance with the requirements of the Fingal Development Plan 2017 – 2023 and the extension to the rear will ensure that adequate private amenity space is retained for the use of the occupants of this house. Comment was made about the provision of a home office in addition to an existing shed in the rear garden, this were visible on the site visit. The existing shed has a floor area of circa 7 sq m and the home office is circa 17 sq m. The Planning Authority considered this to be exempt under the Planning and

Development Regulations 2001 as amended. It is not a function of this appeal to consider such development, however I am satisfied that these works combined with the proposed development ensure the retention of adequate private amenity space on site.

- 7.3.2. I dismiss any concerns regarding overlooking as the proposed development does not increase the area that is overlooked. Proposed windows are only located to the rear/ west elevation, no windows are proposed in the side elevations of the extension at first floor level other than to serve an en-suite which will be fitted with obscured glazing in any case. I note that the Planning Authority conditioned that the window serving Bedroom 1 be reduced in size; I consider it appropriate that the base of the sill be raised to match that serving Bedroom no. 4/ be 1 m above the internal floor level.
- 7.3.3. I accept that there may be some loss of sunlight from the extension, however this will be limited to a very short period in the middle of the day, when the sun is at its highest point. The shadow at this time of day will be limited. There is a 1.25 m separation between the extension and the northern boundary and a separation of over 2 m between the proposed extension and the house to the north. This separation will ensure that the impact is reduced to an almost unnoticeable level. The vast majority of the garden of number 27 (the house to the north and the only unit likely to be affected by this development) will not suffer any change from this development.
- 7.3.4. Concern regarding overbearing is also noted, however I am satisfied that the separation distance is sufficient to ensure that the impact from this is limited.
- 7.3.5. I have no concern regarding the provision of a door in the side/ north elevation, this will provide access directly to the proposed utility room. I foresee no impact on residential amenity from this aspect of the development. This has no implications for the provision of a 2.3 m separation between no.25 and no. 27 Seabury Heights.

7.4. Other Issues

- 7.4.1. The appeal raised a long list of concerns regarding this proposed development and how it was assessed by the Planning Authority. It is not a function of the Board to consider how a Planning Authority assesses planning applications that are submitted

to it, however I have no issue with the thoroughness of the assessment undertaken by the Planning Authority in this case.

- 7.4.2. As I have already commented, this is an application for a modest domestic extension. The site is located in a residential area and one that is zoned for such use. The issue of transitional zoning does not arise as the development is not extending outside of the residentially zoned lands or outside of the curtilage of the existing house. In any case, the extension does not impact on the character or the ability of the lands to the west to continue to function in agricultural use.
- 7.4.3. The proposed development does not significantly increase the number of bedspaces to such an extent as it would impact on the public foul drainage system and similarly the development is not of such a scale as to impact on the surface water drainage network. I note the requirement for a soakpit, and this is acceptable and can be agreed with the local authority prior to the commencement of development on this site.
- 7.4.4. Comments made in relation to bats and other flora & fauna are noted, but the extent of development would not impact on these. There is no requirement for an Environmental Impact Assessment Report to be prepared as the proposed development does not meet the threshold for such. I therefore do not foresee any impact on the natural or public environment arising from this development.
- 7.4.5. I do not accept that the development would be contrary to the common good of the area. The extension provides for increased floor space allowing for improved residential amenity for those residing in this house. I have considered the impact on the area, and I do not accept that it would be adverse to the extent that consideration be given to refusing permission for this development.

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 designated European Sites, and the absence of an ecological and/ or a hydrological connection, 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

I recommend that permission be granted subject to the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the Fingal Development Plan 2017 - 2023, to the zoning of the site for residential purposes, to the location of the site in an established urban area and to the nature, form, 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 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 18th of October 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The window serving Bedroom 1 shall be revised such that the cill height is raised, such that no part is less than 1 m from the internal floor level.</p> <p>(b) No part of the flat roof of the extension shall be used as a balcony, terrace or private amenity area.</p>

	<p>Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of residential amenity.</p>
3.	<p>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. Details in relation to the provision of a soakpit shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
5.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
6.	<p>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</p>

<p>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.</p> <p>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.</p>
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Paul O'Brien

Planning Inspector

18th March 2022