



An
Bord
Pleanála

Inspector's Report

ABP-312471-22

Development	Demolition of existing extensions and removal of existing roof. Construction of first floor accommodation under new roof with raised ridge height plus new single storey extension to the side and rear of existing dwelling with alterations to existing ground floor plan and elevations plus associated site works.
Location	11 Deerpark Road, Mount Merrion, Blackrock.
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D21A/0609
Applicant(s)	Ailbhe Murphy & Dean Kelly
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party vs. Grant
Appellant(s)	Frank Vaughan
Observer(s)	None
Date of Site Inspection	15 th June 2022
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The appeal site is located along Deerpark Road in Mount Merrion, at a distance of c. 500m west of Mount Merrion neighbourhood centre. Deerpark public park itself is located to the south of the site and consists of a large open space with associated playing pitches, courts etc. The site has a stated area of 534 sq.m, with approximately 12m of frontage onto Deerpark Road and an overall site depth in excess of 42m. It contains a single-storey detached house with single-storey extensions to the side and rear. There is a vehicular entrance at the northwest corner and gardens to the front and rear of the dwelling.
- 1.2. The site is located within a row of detached dwellings. The four dwellings to the west are of similar design. The dwellings to the east are of more varied design but are mainly single storey, with some dormer conversions/extensions. There are detached and semi-detached dwellings on the opposite side of the road, which are more substantial in scale and of dormer or 2-storey design, albeit that they are on lower ground than the appeal site.

2.0 Proposed Development

- 2.1. In summary, the proposed works involve the following:
 - Demolition of single storey extensions to the side and rear of existing dwelling and removal of existing roof.
 - Construct new first floor extension with raised ridge height.
 - Construct new single storey extensions to side and rear of existing dwelling with associated alterations to ground floor plan and elevations.
- 2.2. It is stated that the floor area of the existing dwelling (142m²) would be increased to a gross floor area of 242m². The external finishes would mainly include painted render walls and a slate roof, along with some cladding consisting of timber and zinc. The existing entrance arrangements would be unchanged. It is proposed to connect to the existing public water and wastewater services, and surface water would be diverted to a soakpit.

3.0 Planning Authority Decision

3.1. Decision

By order dated 13th December 2021, Dun Laoghaire-Rathdown County Council (DLRCC) issued notification of the decision to grant permission subject to 10 conditions. Condition no. 2 states as follows:

The proposed front/side covered entrance porch, and proposed side extension (utility/laundry/bikes – indicated in orange colour in floor plans) on the west elevation, shall be omitted from the development.

Reason: In the interests of residential amenity.

3.2. Planning Authority Reports

Planner's Report

3.2.1. The initial planner's assessment can be summarised as follows:

- The site is zoned under zoning objective A, under which extensions to dwellings are acceptable in principle.
- The drawings would indicate substantial/full demolition of the existing dwelling and no written justification has been submitted for same in accordance with Section 8.2.3.4 (xiv) of the Development Plan.
- The proposed ground floor rear and side extensions are of an acceptable scale and design and would not negatively impact on visual or residential amenity.
- The revised height, scale and design of the roof/attic space is acceptable having regard to the varied designs in the area.
- The proposed changes to elevations are acceptable having regard to the varied character of dwellings in the area.
- The submitted contiguous elevations do not accurately reflect adjoining development.

- A Further Information Request was recommended on the following matters (as summarised):
 - 1) Details of compliance with Section 8.2.3.4 (xiv) of the Development Plan regarding demolition and replacement dwellings, including details of energy performance for the existing/proposed dwelling and structural integrity of the existing dwelling.
 - 2) Contiguous elevation drawings to accurately reflect adjoining development.

3.2.2. A Further Information Request was issued in accordance with the above recommendation. Following the applicant's response, the Planner's final assessment can be summarised as follows:

- The applicant's revised floor plan has satisfactorily demonstrated that the proposed development does not involve substantial demolition of the existing dwelling.
- Contiguous elevations have been submitted providing a more accurate representation of adjoining dwellings.
- In light of the additional detail and assessment, the planning authority has concerns about the impact of the height/length of the side extension on the east-facing windows of No. 9 to the west. This would not be consistent with the existing pattern of development. It would result in the loss of daylight/sunlight, particularly to the bedroom window, and would appear overbearing. This can be addressed through the omission of part of the side extension (as outlined in condition no. 2).
- A grant of permission was recommended, subject to conditions. This forms the basis of the DLRCC decision.

Technical Reports

3.2.3. The Drainage Planning report outlines that there are no objections subject to standard conditions.

No report was received from the Transport Planning section.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Two no. 3rd Party submissions were received. In summary, the following points were raised:

- Support for regeneration of houses subject to suitable design.
- Support for some aspects of the proposed design.
- The proposed design is out of character with existing and permitted developments.
- The full height window and balcony is a radical design change and will overlook bedrooms on the opposite side of the road.
- Plans do not clearly demonstrate the effect of the increased ridge height on the road and adjoining properties, particularly in relation to overshadowing.
- Increased overshadowing will lead to increased frost and hazardous road conditions.

4.0 Planning History

There would not appear to be any relevant planning history pertaining to this site. The following applies to adjoining sites:

P.A. Reg. Ref D15A/0680: Permission granted (January 2016) at 13 Deerpark Road for widening existing vehicular access, side extension and the modification of the roof arrangement to facilitate habitable rooms at first floor level.

P.A. Reg. Ref D07A/1491: Permission granted (February 2008) at 9 Deerpark Road for enlargement of existing vehicular entrance, existing front bay windows replaced with matching timber bay windows, existing chimney to front to be removed, existing attic converted into new storage room with toilet, new opening out dormer rooflights,

existing garage to be converted and linked into the existing kitchen, with new timber window replacing existing garage door to front and new timber French doors replacing existing kitchen window to rear of the house.

P.A. Reg. Ref D18A/1224: Permission granted (March 2019) at 5 Deerpark Road for demolition of the existing single storey garage and kitchen to rear, construction of a single storey extension to the side with new front door and part 2 storey with flat roof to rear with accommodation in the attic space and dormer window to the front, widening of the existing driveway entrance.

5.0 Policy Context

5.1. Development Plan

5.1.1 Although the DLRCC decision was made on the basis of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, that plan has since been replaced by new Dun Laoghaire-Rathdown County Development Plan 2022-2028, which came into effect on 21st April 2022 and is now the operational plan for the purposes of the Board decision.

5.1.2 The site is zoned as 'Objective A', which is '*To provide residential development and improve residential amenity while protecting the existing residential amenities*'. Table 13.1.2 confirms that residential uses are 'permitted in principle' in this zone.

5.1.3 Section 4.3 of the Plan acknowledges the desire of many residents to improve and adapt existing homes, which will be facilitated by suitably designed domestic extensions. Retention and deep retrofit (rather than demolition and replacement) is encouraged in cases of structurally sound, habitable dwellings, or dwellings which contribute to the amenity/character of the area. Policy PHP19 aims to conserve and improve existing housing stock through supporting improvements and adaption.

5.1.4 Chapter 11 deals with Heritage and Conservation. In summary, the following objectives apply:

HER20: Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive

contribution to the character and appearance of the area and streetscape in preference to their demolition and redevelopment.

HER21: Encourage the appropriate development of exemplar 19th and 20th century buildings and estates, including the protection of character features and suitable design of developments on adjacent lands.

5.1.5 Chapter 12 of the Plan deals with Development Management. Section 12.3 outlines guidance on criteria for residential developments and aims for high quality design to improve the living environment for residents. Relevant guidance is summarised below.

12.3.7.1 – The design of extensions to dwellings will be considered having regard to:

- the scale, character, and design of the existing dwelling
- impact on visual amenity and residential amenity of adjoining dwellings
- Proximity to boundaries and retention of open space
- Overshadowing, overbearing, and overlooking impacts
- Clarification of the extent and structural condition of walls to be retained
- Interface with the public realm.

12.3.9 – The retention and retrofit of dwellings will be promoted in preference to demolition and replacement unless a strong justification is put forward.

5.2. **Natural Heritage Designations**

The site is located c. 2km from the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC to the northeast. There are several other Natura 2000 sites within the Dublin Bay area.

5.3 **Environmental Impact Assessment – Preliminary Examination**

Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any 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 decision of DLRCC to grant permission has been appealed by Frank Vaughan of No. 10 Deerpark Road. The grounds of appeal can be summarised as follows:

- Uniqueness / visual impact of the 1st floor terrace and roof addition will be prominent and out of character with adjoining structures.
- The 1st floor terrace and excessive upstairs windows will result in overlooking of properties on the opposite side of the road.
- The house is one of 5 similar houses built in the 1940s/1950s and the proposed development will materially change this aspect.
- The ground floor and 1st floor windows are excessive in size and out of character with adjoining buildings.
- Overshadowing as a result of the roof design has not been clearly demonstrated.
- The design is contrary to recent house extensions with stepped back ridge heights.
- The purpose of the 1st floor terrace is questioned, and it is stated that it conflicts with the substance of condition no. 4 of the DLRCC decision, which prohibits the use of the flat roof area as a balcony / terrace.

6.2. Applicant Response

The applicant's response to the grounds of appeal was not received within the statutory time period and was returned accordingly.

6.3. **Planning Authority Response**

The response refers to the Planner's report and contends that no new grounds have been raised to justify a change a change of attitude towards the proposed development.

6.4. **Observations**

None.

7.0 **Assessment**

7.1 **Introduction**

7.1.1 Having inspected the site and examined the application details and all other documentation on file, including the grounds of appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues for assessment in this appeal case are as follows:

- Principle of the development
- Visual amenity
- Residential amenity
- Traffic

7.2 **The principle of the development**

7.2.1. The site is located within the 'Objective A' zone, where residential uses are 'permitted in principle'. The proposal involves alterations and extensions to an existing residential use, and I am satisfied that this is acceptable in accordance with the zoning objective for the site and Policy PHP19.

7.2.2. The planning authority raised concerns about the principle of significant demolition and replacement of the existing dwelling. I note that the Development Plan contains various objectives in this regard, which generally encourage the retention of existing dwellings on grounds of sustainability and energy efficiency. However, the applicant's further information response has clarified that the foundations and walls

of the existing dwelling will be substantially retained. A report has been submitted outlining that the proposed development will fully comply with NZEB requirements for deep retrofits and would have an A2 BER rating.

7.2.3. Having regard to the above, I have no objection in principle to the extent of demolition and proposals to improve and extend the existing dwelling.

7.3 Visual Amenity

7.3.1 I acknowledge that the existing dwelling is one of 5 similar dwellings which were likely constructed at the same time in the mid-20th century. I also acknowledge that there is a prevalence of low-profile dwellings in the area as a result of single storey dwellings or larger dormer/2-storey dwellings on lower ground on the opposite (northern) side of Deerpark Road. Notwithstanding this however, there is generally a wide variety of design styles in the area as more modern dwellings have been constructed and older dwellings have been subject to various extensions and alterations. Accordingly, I do not consider that the area is of a particularly distinctive character or that it is particularly sensitive in terms of built heritage value.

7.3.2 The proposed development involves an overall height increase of c. 1.2m and I would acknowledge that this will be emphasised further by the replacement of the front hip of the roof with a flat gable-front wall. However, it would still be lower than the adjoining dwelling to the east and the recessed terrace at first-floor level would help to mitigate the visual impact.

7.3.3 I acknowledge that the terrace feature and the extent of glazing on the front elevation would be a unique design feature in the area. However, having regard to the mix of styles in the area, I do not consider that a contemporary design approach such as this should be prohibited. In my opinion, the proposed design would not be excessive in height or scale and would not be of a style that is unacceptable for the area. I am satisfied that it can be accommodated at this location without seriously detracting from the visual amenity or character of the area. Accordingly, I have no objection to the development on grounds of visual amenity.

7.4 Residential Amenity

The proposed dwelling

- 7.4.1 The proposed development would result in a significant increase in living space and an improved layout to contemporary standards. It has also been demonstrated that the energy performance of the dwelling would be significantly upgraded to NZEB standards.
- 7.4.2 In terms of external space, the proposed development would only marginally increase site coverage and a generous rear private amenity space would be retained in terms of depth and overall area. This would comfortably exceed the minimum garden area (75 sq.m.) for 4+ bed houses as per Development Plan standards.
- 7.4.3 Having regard to the above, I am satisfied that the proposed development would significantly improve the internal residential standards of the dwelling, while also maintaining a high standard of external space.

Overlooking and privacy

- 7.4.4 I note the concerns raised about the first-floor terrace and the extent of glazing to the front of the proposed dwelling. However, it should be noted that front facade of the dwelling would still be c. 39 metres from the front of the existing dwellings on the opposite side of Deerpark Road. This is comfortably adequate separation and I do not consider that any significant overlooking or privacy impacts would occur. Conversely, I concur with the planning authority's reasoning for the prohibition of a balcony/terrace to the rear/side of the dwelling as the proximity to adjoining properties would result in unacceptable overlooking.
- 7.4.5 As is the case with the existing dwelling and other properties in the area, the proposed dwelling would contain ground floor windows on the eastern side elevation. However, such low-level windows would generally be screened by boundary treatment, and I would have no privacy concerns in this regard. At first-floor level, the side elevations contain 4 no. velux type rooflights which serve the stair core, bathrooms, and a wardrobe space, and the rear elevation bedroom windows overlook the public park to the rear. I am satisfied that no significant overlooking or privacy impacts will arise from these openings.

Daylight/Sunlight

- 7.4.6 Concerns have been raised about the impact of the development on sunlight and daylight levels to adjoining properties. Based on the height and proximity of the development to the windows of the adjoining property to the west, this largely forms the basis of the planning authority's decision to require a reduction in the proposed side extension.
- 7.4.7 In this regard, the general design criteria outlined in section 12.3.1.1 of the Development Plan highlight the need to consider sunlight/daylight standards. Section 12.3.7.1 deals more specifically with extensions to dwellings and highlights the need to consider overshadowing impacts and other impacts on the residential amenity of adjoining properties. However, unlike guidance for larger residential schemes, guidance for dwelling extensions does not refer to any particular standard (such as Site Layout Planning for Daylight and Sunlight, A guide to good practice, Building Research Establishment (BRE) Report, 2011) or require the submission of a daylight/sunlight assessment.
- 7.4.8. I acknowledge that local and national policy/practice is commonly guided by the principles of the BRE guidelines. However, I would highlight that the guidelines allow for flexibility in their application, stating in paragraph 1.6 that '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The BRE Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.
- 7.4.9. With regard to 'light from the sky', section 2.2.2 of the Guide outlines that the guidelines are intended for living rooms, kitchens, and bedrooms, while section 2.2.8 states that bedrooms are less important. Section 2.2.4 of the BRE guide outlines that loss of light to existing windows need not be analysed if the distance of each part of the new development is three or more times the height above the centre of the existing window. In cases where this test cannot be satisfied, the BRE Guide recommends a modified assessment as to whether the angle to the horizontal

subtended by the new development at the centre of the existing window is less than 25°. If both tests cannot be satisfied, the Guide states that diffuse daylighting may be adversely affected.

7.4.10 Having compared the height and proximity of the proposed development to the windows in adjoining properties to the east and west, I would accept that the proposed development would not satisfy the above tests and diffuse daylighting to the windows may be adversely affected. However, from my site inspection and a review of the floor plans submitted with the applications for adjoining sites, I am satisfied that none of the opposing windows to the east or west are main living rooms. Therefore, they are less sensitive to daylight impacts.

7.4.11 The windows in no. 13 (to the east) would be only marginally affected by the raised eaves height and roof level associated with the proposed development. The angle of obstruction would increase to some degree, but I am satisfied that daylight conditions would be only marginally affected, particularly given that main living rooms are not affected.

7.4.12 I acknowledge that the bedroom window in no. 9 (to the west) would be largely screened by the proposed development and is likely to experience adverse daylight impacts. However, I consider that the extent of alterations required by condition no. 2 of the DLRCC decision is excessive. Having reviewed the floor plans associated with the previous application for no. 9, I consider that the omission of the covered porch alone would ensure that approximately half of the existing window would remain uncovered. I am satisfied that this would maintain acceptable daylight conditions.

7.4.13 Section 3.2 of the BRE Guide outlines that obstruction to sunlight may become an issue if a living room of an existing dwelling has a main window facing within 90° of due south, and any part of a new development subtends an angle of more than 25° to the horizontal measured from the centre of the window in a vertical section perpendicular to the window. In this case, no. 9 to the west does not include windows opposing the proposed development which face within 90° of due south. Similarly, the opposing windows in no. 11 face west and are only marginally within 90° of due south. And as previously outlined, the opposing windows to the east and west of the appeal site are not serving main living rooms and are not, therefore, as sensitive to sunlight impacts. Accordingly, I am satisfied that no significant adverse

impacts are likely to occur and no further assessment is required in relation to sunlight impacts on the adjoining windows.

7.4.14 Section 3.3 of the BRE Guide states that existing gardens and open spaces would be adequately sunlit if at least half of the space receives at least 2 hours of sunshine on 21st March, and that if, as a result of the new development, an existing space does not meet the above and the area which receives 2 hours of sunshine on 21st March is reduced to less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. Having regard to the limited scale and extent of the proposed development and the extensive and unobstructed south-facing nature of the adjoining gardens, I am satisfied that the proposed development would comply with the BRE standards outlined above and that the adjoining gardens would not be unacceptably affected by loss of sunlight.

7.4.15 In conclusion regarding sunlight and daylight, I would contend that the impacts on adjoining properties would be largely as a result of their proximity to the site boundary, rather than any exceptional scale or height associated with the proposed development. In this regard, the BRE Guide states that an important issue is whether the existing building is itself a good neighbour, standing a reasonable distance from the boundary and taking no more than its fair share of light. Furthermore, I would again highlight the stated need for flexibility in the application of standards as stated in the BRE Guide itself.

7.4.16 Having regard to the details outlined in my assessment and subject to the omission of the proposed covered porch to the side of the dwelling, I am satisfied that the proposed development will not result in any unacceptable daylight/sunlight impacts for neighbouring properties.

Overbearing Impacts

7.4.17 Similar to the issues of daylight and sunlight, I consider that overbearing impacts are largely determined as a result of the height/scale of a proposed development and its proximity to adjoining properties. As previously outlined, I do not consider that the height and scale of the proposed development is excessive. Furthermore, it would not be directly opposed by main living rooms or open spaces. Therefore, subject to the removal of the proposed covered porch, I am satisfied that the proposed

development would not have any significant overbearing impacts on adjoining properties or the public realm.

7.5 Traffic

7.5.1 It is not proposed to alter the existing access arrangements and it is not considered that the proposed development would generate any significant additional traffic movements. Therefore, the proposed development would not have any significant impacts on the safety or convenience of vehicular traffic or other vulnerable road users. I note the concerns raised about overshadowing of the road and potentially hazardous conditions as a result of frost. However, I do not consider that the proposed development would have significant impacts in this regard and any such hazard would be the responsibility of the roads authority to address.

8.0 Appropriate Assessment

Having regard to the minor scale of the proposed development, and to the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the pattern and character of development in the area, the design and scale of the proposed development, and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not seriously injure the visual amenities of the area or the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 to the planning authority on the 22nd day of November, 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 proposed development shall be amended as follows:

The proposed covered porch and its supporting wall along the western site boundary shall be omitted.

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

Reason: In the interests of clarity and to protect residential amenity.

3. Water supply and drainage requirements, including surface water collection and disposal, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

4. 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.

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

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

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

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

7. The flat roof area of the proposed side and rear extensions shall not be used a balcony, terrace, or otherwise as an external amenity area.

Reason: In the interest of 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 the 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.

Stephen Ward
Senior Planning Inspector

15th June 2022