



An
Bord
Pleanála

Inspector's Report

ABP-312713-22

Development	Construction of single storey extension to front of house. Increase in the roof profile between dormers on rear elevation.
Location	94 Braemor Road, Churchtown, Dublin 14.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21B/0629
Applicant(s)	Thomas and Trudy Keogan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party
Appellant(s)	Thomas and Trudy Keogan
Observer(s)	1. Avril Robinson 2. Danny Robbins
Date of Site Inspection	25/07/2022.
Inspector	Fiona Fair

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	7
5.3. EIA Screening	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	9
6.3. Planning Authority Response	10
6.4. Observations	10
6.5. Further Responses.....	10
7.0 Assessment.....	11
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	17
10.0 Conditions	17

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.037m² and comprises a semidetached house with front and rear gardens at 94 Braemore Road, Churchtown, Dublin 14. The area is residential in character and the site fronts onto the R112 an important east/west link road in the south city.

2.0 Proposed Development

- 2.1. The development will consist of proposed single storey extension (additional floor area of 12.70m.sq.) to front of dwelling, proposed enlargement of attic floor area (additional floor area of 5.56m.sq.) and associated modifications and increase in the roof profile between the existing dormers on rear elevation and associated site works.

3.0 Planning Authority Decision

Grant Permission, subject to 10 conditions.

3.1. Decision

Grant permission with conditions.

Condition 2 (a) limited the height of the front extension to 3m.

Condition 2(b) limited the depth of the front extension to 1.55m.

Condition 2(c) required rooms to be appropriately labelled.

Condition 3 requires that the entire dwelling shall be used as a single dwelling unit and shall not be subdivided.

Condition 4 relates to external finishes

Condition 5 The surface water generated by the proposed development shall be infiltrated to a soakaway or similar, as indicated in the application. The soakaway shall not have an overflow to the public sewer. The soakaway shall be designed to BRE Digest 365, shall be at a min. 5m from the house and shall have no impact on neighbouring properties. If a soakaway is not a feasible solution, the applicant shall

prove that by submitting a report signed by a Chartered Engineer, showing an infiltration test (with results, photos, etc.), and shall propose an alternative SuDS measure.

Condition 6 relates to parking, hard standing areas and SUDS

Condition 7 requires a development contribution of €31.49 as a development contribution towards surface water public infrastructure and facilities.

Condition 8 requires the payment of €720.41 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Planning Authority in respect of the provision of the Roads Public Infrastructure and Facilities benefiting development in the area of the Authority.

Condition 9 requires the sum of €467.28 to be paid to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Planning Authority in respect of the provision of the Community & Parks Public Infrastructure, Facilities and Amenities benefiting development in the area of the Authority.

Condition 10. This development shall not be carried out without prior agreement, in writing, between the Applicant and the Planning Authority relating to the payment of development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report recommended a grant with conditions as set out in the manager's order.

3.2.2. Other Technical Reports

- Drainage Division reported no objection subject to conditions relating to surface water disposal.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Two number third party submissions received (from No.'s 92 and 96 Braemore road – neighbouring properties), summarised as follows:

- Overshadowing
- Development is excessive, visually obtrusive and out of character with existing residential development.
- Height and depth of the front extension should be set back from side boundaries.
- Conflicting information with regard to size of the front extension.
- Part wall concerns and encroachment.
- Have not addressed previous condition requirements of D21B/0058.
- Request that the front extension is reduced in height and depth and stepped back from No. 96 Braemore Road
- The flat roof front extension would reduce day light to front rooms of No. 92, given its orientation, and be visually obtrusive.
- Internal floor plans do not annotate the individual rooms, and may not accurately reflect the current layout of the dwelling, particularly on the first floor.
- The proposed rear extension will reduce some evening sunlight, given the previous planning application was deemed acceptable in this regard and considered that it was not a material reduction, No. 92 has no objection to this aspect of the proposal.

4.0 Planning History

310106:94 Permission Granted at 94 Braemor Road, Churchtown, Dublin 14 (**D21B/0058**) for development consisting of proposed single storey extension to front of dwelling, proposed enlargement of attic floor area and associated site works.

D08A/0690 permission granted for rear attic windows and gable ended extension to 94 Braemor Road, which appears to have been implemented.

Adjoining Sites:

D08B/0365 permission granted for a rear attic extension at 92 Braemore Road, Churchtown, Dublin 14 which appears to have been implemented.

5.0 Policy Context

5.1. Development Plan

The application site is zoned objective A “protect and/or improve residential amenity” in the Dún Laoghaire-Rathdown County Development Plan 2022-2028, which is the current statutory Plan, adopted April 21st 2022.

Chapter 12 Development Management is of relevance. In particular:

12.3.7.1 Extensions to Dwellings

The following Section provides guidance with respect to porches, front extensions, side extensions, rear extensions, roof alterations, attic conversions and dormer extension.

(i) Extensions to the Front:

(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...”

12.3.2.2 Sustainable Neighbourhood Infrastructure – Future Provision

(ii) Existing Built Up Area

“For residential schemes within the existing built up area, the Council will consider a development contribution under the Council Section 48 Levy Scheme for the provision and/or improvement of community, cultural or civic facility that the residents of the proposed development will benefit from.”

5.2. Natural Heritage Designations

Not Relevant

5.3. EIA Screening

Having regard to the modest scale and nature of this proposed domestic extension I consider that the requirement for submission of an EIAR and carrying out of an EIA may be discounted at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- Appeal against conditions, namely, Condition 2, 7, 8, 9 and 10.
- Grounds of appeal against Condition No. 2 which requires a reduction of 378mm in height of the front extension. This would leave a height of only 197mm between the finished ceiling level of the front rooms of the house and the top of the roof of the extension. This small space would be inadequate to allow for proper construction of a roof and required level of insulation.
- Part (b) of Condition 2 requires that the depth of the front extension shall be reduced to no more than 1.550m forward of the front line of the dwelling façade. This would require no reduction in the section of the extension adjoining no. 96 Braemore Road and a reduction of the depth of the extension by 300mm at the side adjoining no. 92 Braemore Road. No explanation or reason is given for the reduction.
- No valid planning reason for the reduction of the height or depth of the front extension has been given in the planning report.
- There are numerous examples of similar front extensions in the immediate area to that proposed. E.g. 104 Braemore Road.
- The current application is generally similar, to that referred to in D21B/0058 which was the subject of an appeal to ABP – ABP-310106-21

- Condition 2(c) requires that the internal rooms in the house (existing and proposed) must be appropriately labelled in revised drawings. The reason for this part of the condition is not clarified.
- The use of the rooms within any house may vary from time to time depending on the requirements of the house.
- It is noted that the board Inspector, when dealing with the previous appeal omitted condition no. 2 in its entirety.
- The previous appeal, which was a third party appeal was rejected.
- The applicant owns the lands involved in the proposal. Arguments in relation to interference with the property of others are civil matters between the parties.
- Grounds of Appeal against conditions 7, 8, 9 and 10 (in relation to development contributions)
- The appellants contend that as the current application is essentially similar to that determined by the Board under reference ABP-310106 and as no such conditions were imposed in the Boards decision taken on the 4th August 2021, it is unreasonable and illogical to now require the payment of in excess of 1000 euros in contributions for the small – scale house extension proposed.
- No such conditions were contained in the previous planning application D21B/058 as presumably the development contribution scheme applicable did not provide for the payment of such contributions for such small-scale developments.
- The conditions refer to the DLRD Contribution Scheme of December 2015. It is noted that under 48(10) of the Planning and Development Act an appeal may be taken in relation to a development contribution under the section only in so far as the applicant considers that the terms of the scheme have not been properly applied.
- The December 2015 scheme which came into effect at the beginning of 2016 states in the relevant table that the contributions to be paid for extensions to

residential development's shall apply 'per square metre of domestic extensions in excess of 40 sq. m.'

- The DRDDCS 2015 states:

EXEMPTIONS AND REDUCTIONS

S10. The following categories of development will be exempted from the requirement to pay development contributions under the Scheme, or will be required to pay a reduced contribution:

- a) The first 40 square meters of any residential extension, including granny flats, shall be exempt from the contribution scheme. All house extensions in excess of 40 square meters, including family or "granny" flats, shall be assessed at €74.10 per square meter of residential development up to a maximum of 115 square meters reckonable development.

C) Attic and garage conversions.

- These provisions indicate that contributions may be sought only where proposed extensions exceed 40 sq. m. This is clearly not the case here where the proposed extension, at ground level prior to condition No. 2 being taken into account, amounts to only 12.7 sq. m.
- The terms of the DCS have not been correctly applied in this case.
- It is noted that condition 7 requires the payment of a contribution towards the cost of the provision of public surface water drainage facilities. Condition No. 5 however requires that surface water from the development must be discharged to the ground on site.
- There appears to be a clear contradiction between conditions 5 and 7.
- Request that the Board remove conditions 2, 7, 8, 9 and subsequently 10 in relation to development contributions from its decision if conditions 7, 8, and 9 is omitted.

6.2. Applicant Response

- Not applicable.

6.3. Planning Authority Response

- None received

6.4. Observations

Two number observations received (from No.'s 92 and 96 Braemore road – neighbouring properties), summarised as follows:

- Ongoing concerns of obtrusive and overbearing impact.
- There is significant difference between the works proposed and those carried out to the front of No. 96 Braemore Road.
- The flat roofed proposed front extension is not acceptable, and the roof should be sloping, to avoid overshadowing impact.
- Request that if permission is granted that it be set back from the boundary line with No. 96 and No. 92 Braemore Road.
- Development is excessive, visually obtrusive and out of character with existing residential development.
- Height and depth of the front extension should be set back from side boundaries.
- Conflicting information with regard to size of the front extension.
- Part wall concerns and encroachment.
- Have not addressed previous condition requirements of D21B/0058.
- Request that the front extension is reduced in height and depth and stepped back from No. 92 & No. 96 Braemore Road
- The flat roof front extension would reduce day light to front rooms of No. 92, given is orientation, and be visually obtrusive.
- Disagree that the proposed development is similar to other such front extensions in the surrounding area.

6.5. Further Responses

None.

7.0 Assessment

7.1.1. I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. I highlight that the subject appeal is a first party appeal, solely, against the attachment of conditions. Given the foregoing and having regard to section 139 (1) of the Planning and Development Act, 2000, as amended, I consider that a 'de novo' consideration of the development is not warranted in this instance.

7.1.2. In my judgement the principle factors for consideration in this appeal relate to evaluation of Condition no.'s 2, 7, 8, 9 and subsequently 10 of the decision to grant permission D21B/0629. I note that condition 2 requires alterations to the proposed single storey front extension and condition No.'s 7, 8, 9 and subsequently 10 are solely financial contributions. The first party argues that the terms of the Dun Laoghaire Rathdown County Council Development Contribution Scheme (DLRDCCDCS) 2016 – 2020 (as amended) has not been properly applied in respect of the said conditions laid down by the Planning Authority.

7.1.3. Condition no. 2 states:

“Prior to the commencement of development. The applicant shall submit amended floor plans and elevation, for the written agreement of the planning authority, to include the following.

a) A reduction in the height of the front extension to be no more than 3 metres in height.

b) A reduction in the depth of the front extension to no more than 1.550 metres forward of the dwelling façade.

c) Appropriately label the rooms (living rooms, garage, etc) on both the existing and proposed floor plans.

REASON: In the interests of residential amenity”.

Front Extension

7.1.4. Regard is had to the observations submitted from concerned neighbours, No. 92 attached to the southeast and No. 96 located attached to the northwest of the subject appeal dwelling. Concerns are raised with respect to negative impact upon

residential amenity, by way of overbearing and loss of sunlight and also that the proposed flat roof of the front extension would be visually obtrusive and out of character. Regard is also had to the Inspectors Report and subsequent decision of the Board in the case of ABP310106-21 which sought a similar front extension to that currently proposed at the subject site. I am of the opinion that Inspectors report in that case is wholly relevant and appropriate to the subject case.

- 7.1.5. The ground floor front extension is proposed to extend 1.85m beyond the original front wall of the house on the right (adjoining 92 Braemore Road – the appellant’s property) and 1.35m on the left (beside number 96). The planning authority in condition 2 reduced the depth of this extension from the maximum of 1.55m. I agree with the previous Inspectors assessment that having regard to the orientation, the extension would not impact upon the daylight or sunlight to No. 92 to the south east. I also note the front boundary wall and high hedge between No. 94 and No. 92. With respect to No. 96 to the north west, again, I do not consider overshadowing or overbearing would incur given the single storey nature of the front extension, the proposed depth of 1.35m and the high boundary timber fence between the properties. I conclude that no shadow impact will arise from the proposed porch / front extension.
- 7.1.6. I do not consider the scale of the proposed front extension to be excessive in its context. A height of 3.378 m is considered reasonable given the arguments set out by the first party in respect of proper construction of a roof support structure with the required level of insulation now required in the interests of energy efficiency. I see no benefit to a reduction in height of 378 mm. The aspect of the porch is south west and would benefit enjoyment of evening sun for residents of the dwelling, its extends across the width of the dwelling increasing the size of the garage / storage room and replacing the garage doors with a window. The amendment made by the planning authority is not necessary to protect the adjoining property I can see no good planning reason for this reduction.
- 7.1.7. With respect to appropriately labelling the rooms (living rooms, garage, etc) on both the existing and proposed floor plans. Again I agree with the point made by the applicant that the use of rooms within any house may change from time to time depending on the requirement of the house occupants. The dwelling is in one unit and condition 3, of the decision to grant permission, requires that the entire dwelling

shall be used as a single dwelling unit and shall not be subdivided. Therefore I agree this part of the condition is unnecessary.

Streetscape Impact

7.1.8. The observers make the point that the proposed porch will negatively impact on the visual amenity of the streetscape. Again, I wholly agree with the assessment and observations of the Inspector in the case of 310106-21, in this part of Breamore Road, characterised by two storey houses with front and rear gardens and off-street parking to the front, there is variety. Some houses which were originally attached at a single storey garage have built over the garage. There are several porches in the area (at numbers, 80, 85, 86 and 87 for example) and while most porches are single storey at least one is two storeys (number 113) on the opposite side of the road from the application site. Number 104 appears to have built over a garage and constructed a three-bay single storey extension to the front.

7.1.9. I do not consider that the proposed roof lights to the front plane of the roof would negatively impact on the visual or residential amenity of the area. Having regard to the scale of the proposed development and the variation of house front styles in the area I conclude that the proposed development will not contravene the residential zoning objective for the area, seriously injure the visual or residential amenity of property in the vicinity or detract from the streetscape in the area.

7.1.10. I recommend omitting condition 2(a) 2 (b) and 2(c)

Development Contributions

7.1.11. With respect to the first party appeal against Conditions, 7, 8 9 and 10. I highlight that Section 48(10)(b) provides that an appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the Development Contribution Scheme have not been properly applied in respect of any condition laid down by the planning Authority. The Conditions 7, 8 , 9 and 10 are set out in full below.

7.1.12. Condition 7. The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €31.49 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Planning Authority in respect of the provision of Surface Water Public Infrastructure

and Facilities benefiting development in the area of the Authority, as provided for in the Development Contribution Scheme made by Dún Laoghaire-Rathdown County Council on the 14th December, 2015. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSi Tender Price Index (See Article 12 of the Scheme) commencing from 1st January, 2018. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Note 1 to the Table at Article 9 of the Scheme. Outstanding balances may be subject to interest charges.

7.1.13. Condition 8. The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €720.41 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Planning Authority in respect of the provision of the Roads Public Infrastructure and Facilities benefiting development in the area of the Authority, as provided for in the Development Contribution Scheme made by Dún Laoghaire-Rathdown County Council on the 14th December, 2015. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSi Tender Price Index (See Article 12 of the Scheme) commencing from 1st January, 2018. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Note 1 to the Table at Article 9 of the Scheme. Outstanding balances may be subject to interest charges.

7.1.14. Condition 9. The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €467.28 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Planning Authority in respect of the provision of the Community & Parks Public Infrastructure, Facilities and Amenities benefiting development in the area of the Authority, as provided for in the Development Contribution Scheme made by Dún Laoghaire-Rathdown County Council on the 14th December, 2015. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSi Tender Price Index (See Article 12 of the Scheme) commencing from 1st January, 2018. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning

permission is commenced, as provided for in Note 1 to the Table at Article 9 of the Scheme. Outstanding balances may be subject to interest charges.

7.1.15. Condition 10. This development shall not be carried out without prior agreement, in writing, between the Applicant and the Planning Authority relating to the payment of development contributions.

7.1.16. I have had due regard to the DRDCCDCS 2016 – 2020 (as amended) originally adopted by DLRDCC on the 14th December 2015, in particular Paragraph 10 – ‘Exemptions and Reductions’, it clearly states:

“The following categories of development will be exempted from the requirement to pay development contributions under the Scheme, or will be required to pay a reduced contribution:

a) The first 40 square meters of any residential extension, including granny flats, shall be exempt from the contribution scheme. All house extensions in excess of 40 square meters, including family or “granny” flats, shall be assessed at €74.10 per square meter of residential development up to a maximum of 115 square meters reckonable development.

c) Attic and garage conversions”.

7.1.17. The dwelling has been extended previously to the rear and that extension from the plans and drawings submitted has a floor area of some 40 sq. m. I have reviewed the grant of planning permission on foot of Reg. Ref. D08A/0690 and while specific dimensions are not specified for the rear extension the dwelling has been extended by some 77 sq. m – this includes the attic conversion already permitted.

7.1.18. Therefore, I am of the opinion that the planning authority are in accordance with the terms of the DCS in applying development contributions of €74 per sq. m for residential development to the front porch extension. The attic in my opinion given Paragraph 10 (c) would be exempt. I am also of the opinion in agreement with the first party that Condition 7 is irrelevant considering Condition 5, attached to the decision to grant permission which states: “The surface water generated by the proposed development shall be infiltrated to a soakaway or similar, as indicated in the application. The soakaway shall not have an overflow to the public sewer. The soakaway shall be designed to BRE Digest 365, shall be at a min. 5m from the

house and shall have no impact on neighbouring properties. If a soakaway is not a feasible solution, the applicant shall prove that by submitting a report signed by a Chartered Engineer, showing an infiltration test (with results, photos, etc.), and shall propose an alternative SuDS measure”.

7.1.19. The development will consist of proposed single storey extension (additional floor area of 12.70m.sq.) to front of dwelling, proposed enlargement of attic floor area (additional floor area of 5.56m.sq.) and associated modifications and increase in the roof profile between the existing dormers on rear elevation and associated site works.

7.1.20. It is my recommendation that Condition 7 be omitted, given Condition 5.

7.1.21. With respect Condition 8 and 9 I am of the opinion that the DCS requires a development contribution of €74 per sq. m of residential development in excess of 40 sq. m. Therefore, the additional 12.7 m sq. to the front of the dwelling x €74 = €939.80. It is notable that Condition 8 requires the payment of €720.41 and Condition 9 requires the sum of €467.28 to be paid to the Planning Authority. This amounts to €1,187.69. While the conditions are set out separately, in respect of Road contribution and Parks contribution, the PA have not justified the amount and have not responded to the grounds of appeal. Given the DCS I consider that the relevant floor area is 12.7 sq. m and relevant development contribution is €74.10 per sq. m i.e. €939.80.

7.1.22. So, in this respect I recommend that Condition 8 and 9 be amended to €469.9 for Condition 8 and the same for Condition 9 (939.80/2) and I recommend that Condition 10 be omitted.

8.0 Recommendation

8.1. Having read the appeal and submissions on file, had due regard to the provisions of the Development Plan and the DLRDCCDCS 2016 – 2020 as amended, carried out a site visit and all other matters arising. I recommend that the planning authority be directed under section 139 (1) of the Planning and Development Act, 2000, as amended, to omit Condition 2 in its entirety, omit Condition 7, amend Condition 8 and 9 and omit condition 10.

9.0 Reasons and Considerations

Having regard to –

- (a) Dun Laoghaire Rathdown Country Development Plan 2022 – 2028
- (b) The Dun Laoghaire Rathdown Country Council Development Contribution Scheme 2016 – 2020, as amended.
- (c) Planning permission granted on foot of Reg. Ref. D08A/0690
- (d) Precedent set in the area and given the height, scale, depth and modest scale extension to an existing residential use in an area zoned to protect and improve residential amenity in the Dun Laoghaire Rathdown Country Development Plan 2022 to 2028. Subject to compliance with the conditions set out below it is considered that the proposed development would not seriously injure the visual or residential amenity of property in the vicinity and would otherwise accord with the provisions of the current County Development Plan and with the proper planning and sustainable development of the area

10.0 Conditions

1. Condition 2 be omitted in its entirety.
2. Condition 7 be omitted.
3. Condition 8 be amended to the sum of €467.28 to be paid to the Planning Authority.
4. Condition 9 be amended to the sum of €467.28 to be paid to the Planning Authority.
5. Condition 10 be omitted.

Fiona Fair
Senior Planning Inspector

26.07.2022