



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312804-22

#### Development

Alterations to front elevation window , obscured windows to the side elevations at first floor level and window at ground floor level, pitched roof with rooflights over groundfloor level side extension and front porch , and 2-storey pitched roof rear extension with Juliet balconies.

#### Location

The Gables, Kill Lane, Dublin 18, D18 A9N9

#### Planning Authority

Dun Laoghaire Rathdown County Council

#### Planning Authority Reg. Ref.

D21B/0644

#### Applicant(s)

Fionan O'Sullivan

#### Type of Application

Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

Third Party

#### Appellant(s)

Sean and Rebecca Byrne

#### Observer(s)

None

**Date of Site Inspection**

26/03/2022

**Inspector**

Gillian Kane

## 1.0 Site Location and Description

- 1.1.1. The subject site is located on the northern side of Kill Lane, a mature residential road running from the N11 (to the south) to Deansgrange Village in the north.
- 1.1.2. Currently on site is a detached dwelling, which appears vacant, with a single storey extension to the side. To the south-west is a similar dwelling 'Simla'. To the north-east are two detached dwellings that address the junction of Kill Lane and Foxrock Park and so are at an angle to The Gables and Simla.

## 2.0 Proposed Development

- 2.1.1. On the 25<sup>th</sup> November 2021 planning permission was sought for alterations to an existing dwelling comprising – alteration to existing front elevation window, addition of obscured windows to side elevations at first floor level, and an unobscured window at ground floor, construction of a pitched roof with rooflights over existing ground floor extension and front porch, and construction of a two-storey pitched roof rear extension with Juliet balconies.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 26<sup>th</sup> January 2022, the Planning Authority issued a notification of their intention to GRANT permission subject to 9 no. standard conditions.

Condition no. 2 requires the omission of the proposed Juliet balconies and the replacement of the sliding doors with standard sized window.

### 3.2. Planning Authority Reports

- 3.2.1. **Drainage:** No objection subject to standard conditions.
- 3.2.2. **Planning Report:** Minor increase in overshadowing of the adjoining site but this is negligible. Proposed Juliet balconies will result in loss of privacy and residential amenity and should be omitted. Two storey extension will not be visible and will not be over bearing. Proposed visual impact is acceptable. Recommendation to grant permission.

### 3.3. Prescribed Bodies

- 3.3.1. None on file.

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

- 3.4.1. One objection to the proposed development was submitted. Issues raised include the impact of the proposed two storey extension on the rear elevation of the adjoining dwelling The Elms, due to the angle of the boundary between the two properties. The proposed development is stated to be overbearing, over scaled and will injure the residential amenity of the adjoining dwelling.

### 4.0 **Planning History**

- 4.1.1. None on file.

### 5.0 **Policy Context**

#### 5.1. **Dun Laoghaire Rathdown County Development Plan 2016-2022.**

- 5.1.1. The Board will note that the Dun Laoghaire Rathdown Draft County Development Plan 2022-2028 was adopted by the Elected Members at a Special County Development Plan meeting held on the 10th March 2022. The adopted Plan will come into force 6 weeks after it was adopted, namely the **21st April 2022**.
- 5.1.2. Therefore the operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned objective A – to protect and/or improve residential amenity.
- 5.1.3. Relevant policies and objectives include section **8.2.3.4 Additional Accommodation in Existing Built-up Areas**. Section 8.2.3.4 (i) states that 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, and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions the following factors will be considered: • Overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries. • Remaining rear private open space, its orientation and usability. • Degree of set-back from mutual side boundaries • External finishes and design, which shall generally be in harmony with existing.

## 5.2. Natural Heritage Designations

- 5.2.1. The South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024) are to the north and east of the subject site.

## 5.3. EIA Screening

- 5.3.1. Having regard to nature and scale of the proposed development and the urban location of the site 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. An agent for the applicant has submitted a third-party appeal against the decision of the Planning Authority to refuse permission. The appellants live in 'The Elms', to the north-east of the site. The grounds of the appeal can be summarised as follows:
- The development remains the same as originally applied for.
  - The proposed omission of the Juliet balconies and replacement of sliding doors with standard window do not alter the negative impact of the proposed development on the appellants residential amenity.
  - The appellants and subject property lie at 45<sup>0</sup> to each other. The size, height and scale of the proposed development will be significantly overbearing when viewed from the appellants property.
  - The over-scaled extension would be contrary to the Dun Laoghaire Rathdown County Development Plan and would form an incongruous and overbearing feature when viewed from the rear of the appellants property.
  - The proposed extension, due to its length, the angle of the boundary and location to the south-west, will result in serious overshadowing of the appellants property.
  - The assessment of the proposal by the Planning Authority fails to meet the requirements of the Site Layout for Daylight and Sunlight: A Guide to Good Practice and the BRE Standards. The Planning Authority dismissed the appellants concerns based on the size of their rear garden.

- The proposed alteration of the roofscape will have a negative impact on the streetscape. The Board conditioned out a change under ABP-311214-21 and this precedent is requested for the subject proposal.
- Upholding the Planning Authority's decision would set a highly undesirable precedent.
- The proposed development is contrary to the proper planning and sustainable development of the area and should be refused permission.

## 6.2. Planning Authority Response

6.2.1. None on file.

## 6.3. Observations

6.3.1. None on file.

## 6.4. Further Responses

6.4.1. An agent for the applicant responded to the third-party appeal, the details of which can be summarised as follows:

- The existing pitch roof will not be altered. The rear roof extension will be subservient – the ridge is 350mm below the existing ridge, mimics the existing roof and matches the tiles. In the example ABP-311214-21, the roof was to be altered.
- The initial plans for the rear extension were modelled on the roof. The extension increased by 850mm to accommodate first floor rooms.
- The proposed rear extension has no prejudicial impact on The Elms natural light. It does not dominate their view and should not be reduced in size. The 45<sup>0</sup> angle increases privacy and results in minimal overshadowing.
- The BRE guidance is not mandatory. The shadow analysis undertaken for the development complies with section 3.2 and 3.3 of the guidelines. Analysis was undertaken for the March and September equinox and 21<sup>st</sup> August and 21<sup>st</sup> November. From November to February the sun is too low to produce meaningful results.

- A supplementary shadow analysis demonstrates the impact on the adjoining property. The model used Google Earth, 3D modelling and Vray technology. BRE calculations do not normally include vegetation but was retained in this instance as it was embedded in the imagery.
- There will be overshadowing between the hours 12.00 and 17.00 on the 21<sup>st</sup> March, with shadows cast over a confined portion of the private amenity space at the rear of the dwelling. the reduction in sunlight is less than 0.8 times its former value.
- It is not practical to carry out detailed internal light reduction assessments for small scale domestic projects.
- Pre-planning is not normally asked for small projects.
- There is no requirement to provide floor areas on planning drawings.
- Condition no 2 of the Planning Authority decision omits the proposed Juliet balcony.
- The Board is requested to grant permission.

## 7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered all policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Residential Amenity
- Appropriate Assessment

### 7.2. **Principle of Development**

7.2.1. The subject site is located in an area zoned to protect and / or improve residential amenity. The principle of the proposed development is acceptable, subject to other planning considerations.

### 7.3. Impact on Residential Amenity

- 7.3.1. The proposed pitched roof over the existing single storey extension and porch are acceptable. As are the proposed alteration to the stairwell window on the front elevation and the proposed obscured windows on the northern elevation.
- 7.3.2. The proposed Juliet balconies and sliding windows to the rear, do not facilitate any greater overlooking than would occur from a standard window and I see no reason for their omission.
- 7.3.3. The proposed two-storey extension to the rear has a length of 5.5m from the rear wall at ground level and 4.3m at first floor level. The overall height of the proposed rear extension is just under 8m at the ridge point and 7.7m at the two-storey extension. The appellants dwelling The Elms, is located to the north-east of the subject site, at an angle of approx. 45°. Both dwellings have north, north-east facing rear gardens and as such the penetration of sunlight into the rear ground floor rooms is limited. The proposed two storey extension which has a pitched roof, is set back 1.2m from the boundary and 8m from the rear elevation of the appellant dwelling. The rear elevation and private open space of the appellants dwelling will receive west light unchanged from the existing situation. The shadow analysis submitted with the application demonstrates that the impact on the adjoining properties will be negligible. I concur with that assessment and consider the impact to be not significant. I am satisfied that there will be no significant negative impacts on surrounding residential or visual amenities.
- 7.3.4. I am satisfied that the proposed development is acceptable, in keeping with the criteria outlined in section 8.2.3.4(i) of the development plan and in keeping with the proper planning and sustainable development of the area.
- 7.3.5. The appellants submission that ABP-311214-21 forms a precedent for the proposed development to be refused is not accepted. ABP-311214-21 refers to the extension and alteration of an existing dwelling. Condition no. 2 of the Boards decision required that the proposed alterations to the geometry of the front roof and existing dormer windows be omitted. The development is not comparable to that currently proposed.



#### 7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development proposed in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

#### 8.0 **Recommendation**

- 8.1.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions:

#### 9.0 **Reasons and Considerations**

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed window, would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### 10.0 **Conditions**

1. The development shall be carried out 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. 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 and to ensure a proper standard of development.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

**Reason:** In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process

4. 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. The contribution shall be paid prior to the 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 Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Gillian Kane  
Senior Planning Inspector

28 March 2022