



An
Bord
Pleanála

Inspector's Report

ABP-313596-22

Development	Permission for the provision of a two-storey extension to the rear and a single-storey extension to the front together with all associated site works.
Location	No. 17 Landscape Avenue, Churchtown, Dublin 14, D14C892.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D22B/0108.
Applicant(s)	Julie Keating.
Type of Application	Planning Permission.
Planning Authority Decision	Split Decision.
Type of Appeal	First-Party Vs Refusal.
Appellant(s)	Julie Keating.
Observer(s)	None.
Date of Site Inspection	27 th day of October, 2022.
Inspector	Patricia-Marie Young.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
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	8
5.3. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	9
6.3. Observations	10
7.0 Assessment.....	10
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	15

1.0 Site Location and Description

- 1.1. No. 17 Landscape Avenue, the appeal site has a given site area of 0.43ha, and it is located on the northern side of Landscape Avenue, c130m to the east of Landscape Road and c180 to the west of Braemor Road, in the southern suburbs of Dublin city, just under c10km from the city centre.
- 1.2. The site contains a 2-storey semi-detached dwelling that is setback from the public domain by a stone former front garden area and driveway that now accommodates off-street car parking via a solid timber electrically controlled gate with evergreen hedge planting around the front and side perimeter boundaries. At some point in time the subject property has been extended by way of a 2-storey extension to the side.
- 1.3. To the rear the garden is predominately soft landscaped but containing paved areas adjoining the rear elevation and at the rear most garden to accommodate outdoor amenity seating/recreational spaces for the occupants. In the north western corner, there is a single storey shed structure.
- 1.4. The subject property forms part of a group of originally matching semi-detached two storey residential properties that address the northern side of Landscape Avenue between Landscape Road and Braemor Road.
- 1.5. At the time of inspection, I observed that *ad hoc* on-street and on the public footpath car parking appears to be an issue on Landscape Avenue.
- 1.6. The surrounding area has a mature residential character.

2.0 Proposed Development

- 2.1. Planning permission is sought for the provision of a two-storey extension to the rear (34m² to the ground, 16.2m² to first floor) finished with T&G effect composite wall-external cladding; and a single-storey extension to the front comprising two x 1.5sqm bay windows with standing seam zinc to new roofs.
- 2.2. According to the submitted planning application form the existing gross floor area of buildings on site is 143m²; the gross floor area of proposed works is 50.2m² and no demolition is proposed. In addition, it is indicated that the site is served by an existing connection to the water supply and foul sewer.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 20th day of April, 2022, the Planning Authority decided with a **SPLIT DECISION** which **refused** planning permission for the construction of a rear roof level expansion and attic conversion for the following stated reason:

“Having regard to the design, scale and location of the first floor rear extension, it is considered that the proposed development would significantly detract from existing residential and visual amenity by way of appearing overbearing from the adjoining property and overshadowing of the neighbouring property to the east. The proposed development is therefore contrary to section 8.2.3.4(i) (Extensions to Dwellings) of the Dún Laoghaire Rathdown County Development Plan 2016 – 2022 and to the proper planning and sustainable development of the area.”

And which **granted** planning permission for the proposed ground floor front and rear extensions considering that this component of the proposed development sought under this application was consistent with the land use zoning objectives and relevant planning provisions. Alongside it was considered that the dormer to the front elevation and retention of the roof light would not detract from the amenities of the area. This was subject to six mainly standard conditions including:

Condition No. 2: Required the first-floor level extension to the rear to be omitted in its entirety in the interests of protecting adjoining residential amenity and so that effective control can be maintained.

Condition No. 4: Requires the velux roof lights to be fitted and permanently maintained with centre hung, swivel type window openings in the interest of visual amenity.

Condition No. 6: Deals with surface water runoff generated from the extension.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The planner's report recommended a **split decision** as per the manager's order set out under Section 3.1 above.

3.2.2. **Other Technical Reports**

Drainage: Further information requested.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

4.1. **Site**

4.1.1. None.

4.2. **Setting**

- **ABP-303144-18 (P.A. Ref. No. D18A/0879).**

20 Landscape Avenue, Churchtown, Dublin 14.

This First Party appeal case related to a planning application seeking permission for: (a) construction of a single storey flat roofed extension to rear, (b) dormer rooflight to attic to rear, (c) stairs to east elevation, (d) rooflight to North (front) and East (side) elevations and (e) widen existing vehicle entrance to the front. It was determined under Section 139 of the Planning & Development Act, 2000, as amended, and the Board decided not to omit Condition No. 2 from the Planning Authority's notification to grant permission on the basis it was warranted in the interest of proper planning and sustainable development.

Decision date: 29/03/2019.

- **ABP-304793-19 (P.A. Ref. No. D19A/0246)**

20 Landscape Avenue, Churchtown, Dublin 14.

This First Party appeal case related to a planning application seeking permission for: a) construction of a single storey flat roofed extension to rear; b) dormer roof light to attic to rear; c) Single storey flat roofed extension to front; d) roof light to north (front) and east (side) elevations; e) Widen existing vehicle entrance to front. It was determined under Section 139 of the Planning & Development Act, 2000, as amended, and the Board omitted Condition No. 3 from the Planning Authority's notification to grant permission on the basis it was warranted in the interest of visual and residential amenities.

Decision date: 01/10/2019.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dún Laoghaire Rathdown County Development Plan, 2022-2028, is the operative plan for the site and its wider setting. Under this plan the appeal site is located in an area zoned as 'A' with the stated land use zoning objective: "*to protect and/or improve residential amenity*".
- 5.1.2. Section 12.3.7 of the Development Plan is relevant. It deals with the matter of additional accommodation in existing built-up areas.
- 5.1.3. Section 12.3.7.1 of the Development Plan provides guidance with respect to porches, front extensions, side extensions, rear extensions, roof alterations, attic conversions and dormer extension.
- 5.1.4. Section 12.3.7.1(i) of the Development Plan provides guidance on extensions to the front and sets out that these: "*at both ground and first level will be considered acceptable in principle subject to scale, design, and impact on visual and residential amenities. A break in the front building line will be acceptable, over two floors to the front elevation, subject to scale and design however a significant break in the building line should be resisted unless the design can demonstrate to the Planning Authority that the proposal will not impact on the visual or residential amenities of directly adjoining dwellings. Excessive scale should be avoided. Front extensions, particularly at first floor level, should reflect the roof shape and slope of the main dwelling. A minimum driveway length of 6 metres should be maintained.*"

5.1.5. Section 12.3.7.1(ii) of the Development Plan provides guidance on extensions to the rear. It states the following: *“ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. The extension should match or complement the main house. First floor rear extensions will be considered on their merits, noting that they can 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.”*

5.1.6. Section 12.3.7.1(iv) of the Development Plan provides guidance on alterations at Roof/Attic Level. It states that: *“roof alterations/expansions to main roof profiles - changing the hip-end roof of a semi-detached house to a gable/ ‘A’ frame end or ‘half-hip’ for example – will be assessed against a number of criteria including:*

- *Careful consideration and special 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. M Distance/contrast/visibility of proposed roof end.*
- *Harmony with the rest of the structure, adjacent structures, and prominence.”*

5.1.7. It also sets out that: *“dormer extensions to roofs, i.e. to the front, side, and rear, will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions, and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions shall be set back from the eaves, gables and/or party boundaries. Dormer extensions should be set down from the existing ridge level so as to not read as a third storey extension at roof level to the rear. The proposed quality of*

materials/finishes for dormer extensions will be considered carefully as this can greatly improve their appearance. The level and type of glazing within a dormer extension should have regard to existing window treatments and fenestration of the dwelling. However, regard should also be had to size of fenestration proposed at attic level relative to adjoining residential amenities. Particular care will be taken in evaluating large, visually dominant dormer window structures, with a balance sought between quality residential amenity and the privacy of adjacent properties. Excessive overlooking of adjacent properties should be avoided.”

5.1.8. Section 12.8.7.1 of the Development Plan sets out that: “*a minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, for new developments*”.

5.1.9. Section 12.8.3.3 of the Development Plan sets out private open space minimum requirement for a four-bedroom house type as 75m² (Note: Table 12.10).

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site, it does not adjoin such a site nor is it within the zone of influence of such sites. The nearest Natura 2000 sites are located c4.5 to the east. This is South Dublin Bay & River Tolka SPA (Site Code: 004024).

5.3. EIA Screening

5.3.1. The proposed development is not of a nature or scale which would fall within the fifth schedule of the Planning and Development Regulations, 2001, (as amended), such as would necessitate the carrying out of an EIAR.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The First Party Appeal can be summarised as follows:

- The Board is sought to overturn the Planning Authority’s refusal of permission for the first-floor extension to the rear.

- The development standards for first floor extensions within the Development Plan apply to the average semi-detached dwelling with 11m depth of rear garden and 22m between opposing first floor windows. The plot size along the north side of Landscape Avenue is generous. Averaging 450m² with distance from the existing rear wall of the dwellings to the back garden approximately 25m.
- As the rear gardens are north facing the useability of the garden area is towards the end of the gardens.
- The proposed first floor extension is 2250mm from the neighbouring boundary of No. 19 Landscape Avenue and the proposed eaves height is 5450mm with the height dimension taken from the finished floor level of the existing dwelling and the adjoining dwelling at No. 19 Landscape Avenue.
- The second reason for refusal considers that the first-floor extension would compromise an undesirable precedent in this locality. This is not the case and there are examples of precedents for first floor extensions in the area. Examples of which are discussed.
- In relation to the third reason for refusal it is set out that there is an established building line and that no such developments have been granted in the area. This is not the case as there are examples of this type of development in the area as well as a variety of house types on Landscape Avenue.
- There is no front or rear building line in this area.
- The proposed development can be incorporated without any loss of amenity or visual intrusion.
- The Board is requested to grant permission for the first-floor level extension.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The Board is referred to their Planning Officer's report.
- No new issues raised that would justify a change in their decision.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. Preliminary Comment

- 7.1.1. Having inspected the site and its setting, having had regard to the information presented by the parties to this appeal and in the course of the planning application, I consider the key planning issues relate to the Planning Authority's split decision which refused planning permission for the first-floor extension to the rear of No. 17 Landscape Avenue, a two-storey semi-detached dwelling together with the issues raised by the First Party in this appeal case.
- 7.1.2. In relation to the remainder of the development sought under this application for planning permission, i.e., the construction of the front and ground floor rear extensions together with their associated site development works as these components of the proposed development.
- 7.1.3. These components of the proposed development in my considered opinion give rise to no serious injury to residential and/or the visual amenity of the area. They are also types of development deemed to be permissible under the site and its setting zoning Objective 'A' subject to safeguards. With Condition No. 2 providing further clarity on the scope of development permitted and Condition No. 4 dealing with mitigating the potential of the velux roof lights to give rise to any undue overlooking.
- 7.1.4. I also consider that the surface water drainage concerns raised by the Planning Authority's Drainage Planning Section can be appropriately and satisfactorily dealt with by way of Condition No. 6 of the notification order.
- 7.1.5. Based on these considerations I concur with the Planning Authority's decision to grant these components of the proposed development sought under this application, subject to the standard in nature conditions set out in the second schedule of their notification order.
- 7.1.6. I therefore consider it is appropriate that the appeal case in terms of the assessment of the proposed development should be confined to the proposed first floor extension

to the rear, as omitted under the Planning Authority's first schedule, in their decision notification order only.

7.1.7. For clarity I propose to deal with the issues that arise from the first-floor extension to the rear under the following headings:

- Principle of the Proposed Development
- Amenity Impact

7.1.8. In addition, the matter of '*Appropriate Assessment*' also requires examination. This matter I propose to deal with under a separate heading at the end of my assessment below.

7.2. Principle of the Proposed Development

7.2.1. The appeal site and its setting forms part of a larger parcel of land zoned '*Objective A*' under the applicable Development Plan. The land use objective for such lands is: "*to protect and/or improve residential amenity*" and on such zoned lands this type of development, i.e., alterations and additions to existing residential properties is deemed to be generally acceptable, subject to safeguards. I am therefore satisfied that that the principle of the development of proposed development is acceptable at this location subject to the acceptance or otherwise of site specifics / other policies within the Development Plan and / or other relevant government policies and guidance.

7.3. Amenity Impact

7.3.1. The Planning Authority's stated reason for refusal of the first-floor extension to the rear of No. 17 Landscape Avenue is based on its consideration that it would, if permitted, significantly detract from the existing residential and visual amenity by way of its overbearing design, scale and form. Alongside the serious injury of residential amenities of the adjoining property to the east, i.e., No. 19 Landscape Avenue. For these reasons it was considered that the proposed first floor level extension would be contrary to the provisions of Section 8.2.3.4 (i) of the Dún Laoghaire Rathdown County Development Plan, 2016-2022. It was also considered that the proposed development and to the proper planning as well as sustainable development of the area.

7.3.2. In relation to the local planning provisions, the said plan has been superseded by the Dún Laoghaire Rathdown County Development Plan, 2022-2028. Under this recently adopted Development Plan while the land use zoning objective applicable to the site

and its setting have remained the same, on the other hand the provisions as well as guidance for alterations and additions to existing dwellings have arguably become more robust though still essentially seeking to balance the protection of established residential amenities whilst allowing for improvements to existing dwellings to accommodate the changing requirements of their occupants like under the previous plan.

- 7.3.3. Whilst the appellants in this case contend that the proposed first floor level would not give rise to any visual overbearance or would it give rise to any undue overshadowing of the properties in its vicinity, of concern they have not submitted any daylighting/shadow analysis of the existing situation and proposed situation should the first-floor level rear extension be permitted. Particularly in terms of the potential for undue overshadowing to occur to the adjoining property to the east. Additional overshadowing to this property, despite the generous rear garden space, due to the northerly aspect of the private amenity space, could potentially result in significant loss of daylight and significant increase in overshadowing to the rear of No. 19, which forms part of No. 17's semi-detached pair. With the appellants acknowledging that the existing situation is such that the end point of their rear garden is the area less impacted from loss of daylight and overshadowing in its existing context.
- 7.3.4. Given the gable shaped built form of the proposed first floor extension, its ridge height of 7.580m; its projection at this height for c7.7m from the sloping rear roof of No. 17 Landscape Avenue which I note has a given ridge height of 8.875m; the depth of the extension being c5.7m from the original rear elevation; the 4.8m width of the first floor level extension; in combination with the height of the single storey rear extension which slopes from 4.24m to 2.68, the northerly orientation, the lateral separation distance of the extension which ranges from 950m (ground) and 6645m (first) with the property to the west as well as minimal setback of ground and 2.25m at first floor level with the property to the east, it is my view that the first floor extension, is of a design and built form that would give rise to adverse additional overshadowing of the property to the east if it were permitted.
- 7.3.5. I am also of the view that the first floor rear extension is of a design that fails to be subservient to the host dwelling with the eaves appearing to match that of the original rear elevation, the width of the extension when taken together with the ground floor level extensions design resulting in minimum original rear elevation visible through to

the gable roof structure over is at odds with the hipped roof design that characterises this semi-detached pair and also the group of semi-detached pairs it forms part of. Against this context the gabled designed first floor extension roof structure over would in my view be a visually incongruous built form that would project above the eaves level of the roof structure.

- 7.3.6. I further consider that the portioning of glazing serving the northern elevation of the rear first floor extension lacks harmony in terms of its placement and dimensions with the existing first floor level windows of the host dwelling and those present to first floor rear of the group of semi-detached properties it forms part of.
- 7.3.7. Whilst improvements could be achieved to the external appearance by way of omitting the T&G effect composite cladding by way of condition, this would not be sufficient in itself to reduce the overbearing and visually at odds design as well as built form of the proposed first floor level proposed under this application.
- 7.3.8. The appellant refutes that there is no precedent for this type of rear first floor extension, however, it would appear that in terms of the visual setting of No. 17 the semi-detached group the subject property forms part of, does not have any established precedent for rear first floor extensions.
- 7.3.9. Moreover, to the rear of these semi-detached properties where extensions have been provided these are characterised by single storey mainly flat roofed additions. There is no precedent for the type of rear first floor extension proposed under this application.
- 7.3.10. Having regards to the local planning provisions I draw the Boards attention to the overarching zoning objective for Objective 'A' zoned land. It is to protect and/or improve residential amenity.
- 7.3.11. Further, Section 12.3.7.1(ii) of the Development Plan provides guidance on extensions to the rear. It sets out that: *"first floor rear extensions will be considered on their merits"* and it notes: *"that they can 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"*.

- 7.3.12. In addition, this section of the Development Plan indicates that a number of factors will be considered. Including but not limited to overshadowing through to the design and external finishes and design shall generally be in harmony with existing.
- 7.3.13. In the context of local planning provisions, to permit the proposed first floor level extension given the residential and visual amenity concerns it would give rise to would be contrary to the zoning objective and Section 12.3.7.1 (ii) of the Development Plan. Together with the resulting amenity concerns such that they cannot in my view be appropriately and satisfactorily addressed by way of conditions. Nor has the appellant put forward any reasonable and balanced measures that would overcome them. I therefore concur with the omission of the first-floor extension as provided for under the first schedule of the Planning Authority's notification order and recommend that it is not omitted from the Planning Authority's Decision Notification Order for P.A. Ref. No. D22B/0108 in the interests of protecting and safeguarding residential as well as visual amenity of the area.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the development under consideration, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise, and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 **Recommendation**

- 8.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of Section 139 of the Planning and Development Act, to **NOT REMOVE** the First Schedule of Planning Authority's Decision Notification Order for P.A. Ref. No. D22B/0108 as follows for the reasons set out:

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the current Dún Laoghaire Rathdown County Development Plan 2022-2028, to the built form, design, height, depth and mass of the proposed first floor level rear extension, the orientation of the site, the relationship of the site with adjoining properties and other semi-detached pairs it forms part of a group with, the pattern of development in the area, it is considered that, the proposed ground floor extension would seriously injure the residential and visual amenities of the area, in particular the adjoining property to the east by way of overshadowing and visual overbearance. For these reasons the proposed first floor level rear extension would be contrary to the zoning objective as well as Section 12.3.7.1 (ii) of the said Development Plan and would therefore not be in accordance with the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

30th day of November, 2022.