



An
Bord
Pleanála

Inspector's Report ABP-314200-22

Development

Permission is sought for the raising of the roof of No. 31 Leeson Village to accommodate a first-floor level extension. In addition, all associated construction works, and services are sought.

Location

No. 31 Leeson Village, Ranelagh, Dublin 4, D04 Y2Y8.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

WEB1294/22.

Applicant(s)

Paul Galvin & Louise Duffy.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

Third Party.

Appellant(s)

1. Residents of Leeson Village and Leeson Park Avenue.
2. Rory & Michelle Butler.

Observer(s)

1. Anna Sweeney.

Date of Site Inspection

4th day of November, 2022.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. No. 31 Leeson Village, the irregular shaped appeal site has a stated area of 109m², and it contains an end-of-terrace single storey red brick terrace dwelling setback c50m to the north of Leeson Park Avenue, in the gated residential development called 'Leeson Village'. The site itself is situated c75m to the west of Appian Way and c125m to the south of Leeson Street Upper, as the bird would fly, with the area in between accommodating a variety of residential typologies of varying architectural styles and periods together with a hierarchy of spaces, in the Dublin city suburb of Ranelagh, in Dublin 4.
- 1.2. The site addresses a modest pocket of green space and the dwelling that it contains is located at the eastern most end of a group of three. Its front façade has a feature gable red brick front. There is a modest in width pedestrian passage running along the south eastern side of the site with this providing external access to a modest pocket of open space that is located in the northernmost corner of the site. The western boundary of the site immediately adjoins No. 30 Leeson Village and its southern as well as northern boundaries are landlocked.
- 1.3. The aforementioned pedestrian passage that runs between the two single storey terrace groups of three single storey dwellings that are positioned along the south eastern most corner of Leeson Village. At western end of the terrace group the subject site forms part of an adjoining No. 29 Leeson Village there is an area of shared car parking. Vehicle and pedestrian access to Leeson Village is via an access-controlled entrance onto Leeson Street Upper to the north of the site. The immediate area has a strong residential and period character.

2.0 Proposed Development

- 2.1. Planning permission is sought for the raising of the roof of the existing house (Note: 71m² floor area) with this facilitating the creation of a new first floor level of habitable accommodation containing no. 3 new bedrooms. This would result in an additional 56m² of floor area. The submitted public notices also indicate that the proposed development would also include additional sanitary conveniences; the provision of 2 no. windows first floor to the front elevation; 1 no. first floor window to the side elevation; 2 no. rooflights to the front elevation; 2 no. rooflights to the rear elevation

together with associated internal remodelling, including the remodelling of the ground floor to integrate the existing bedroom space into the living space; elevational changes and the provision of a new canopy to the side elevation as well as all associated site works. The proposed development would result in a total floor area of 136m².

2.2. According to the planning application the floor area for demolition is 12m²; the proposed site coverage would be 74% and the plot ratio would be 1:2.

2.3. On the 7th day of June, 2022, the applicant submitted their further information response to the Planning Authority. This resulted in the rear eaves being lowered by 606mm than that originally sought. This revision was not deemed to be significant by the Planning Authority and therefore no new public notices were sought.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 4th day of July, 2022, the Planning Authority **granted** permission for the proposed development subject to 11 no. mainly standard conditions including:

Condition No. 4(a): Sets out that the rear eaves of the first-floor extension shall not exceed 4m in height and requires the reorganisation of the master bedroom.

Condition No. 4(b): Sets out privacy measures on the eastern elevation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The final Planning Officer's report, dated the 14th day of June, 2022, is the basis of the Planning Authority's decision. This report considered that the applicant's further information did not attempt to reorganise the master bedroom layout, reduce the habitable area of the bedroom to incorporate a meaningful reduction in the eaves height. It was considered that a smaller habitable double bedroom at first floor level together with a 4m eaves height would mitigate against the proposals overbearing impact as viewed from adjoining property. In relation to this concern, it was considered

that measures could be imposed by way of condition to safeguard residential amenities of properties in the vicinity.

The initial Planning Officers report, dated the 24th day of May, 2022, concluded with a recommendation for further information on the following matter:

Item No. 1: Sought the lowering in eaves height of the first-floor extension.

3.2.2. **Other Technical Reports**

Engineering: No objection, subject to safeguards.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. During the course of the Planning Authority's determination of the subject planning application they received 6 No. Third Party Observations. Copies of these observations are attached to file. I consider that the substantive planning matters raised in them correlate with the Third-Party Appeal Submissions as well as the Third Party Observations received by the Board. These are summarised under Section 6 of this report below.

4.0 **Planning History**

4.1. **Site:**

- **P.A. Ref. No. 2004/13:** Retention permission was **granted** subject to conditions for a development consisting of the conversion of a two-bedroom dwelling to a one bedroom; construction of an extension to the side and the insertion of rooflights at the subject appeal site. (Decision date: 20th day of February, 2013).

4.2. **Setting:**

No. 12 Leeson Village, adjoining site to the east.

P.A. Ref. No. 4600/18: Permission was **granted** subject to conditions for development consisting of: a) The incorporation of the existing 11.8sqm ground floor conservatory within the building; b) extension of first floor by 38.8 sqm; c) general alterations to the

plans of the building; d) reconfiguration of fenestration to all elevations ; e) the removal of the chimney and its replacement with a steel flue; f) the provision of 2 no. new flat glass roof-lights in lieu of and in different locations to three existing; g) the replacement of the brick outer leaf to the original parts of the southwest elevation; e) the provision of a glass canopy above the entrance door. (Decision date: 13th day of February, 2019).

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Dublin City Development Plan, 2022-2028, is applicable, under which the site is zoned 'Z2' (Note: Residential Neighbourhoods (Conservation Areas)) which has a stated objective: *"to protect and/or improve the amenities of residential conservation areas"*.
- 5.1.2. Section 14.7.2 of the Development Plan in relation to conservation areas states that: *"residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale" ... "the general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area."*
- 5.1.3. Chapters 11 of the Development Plan deals with Built Heritage.
- 5.1.4. Chapter 15 of the Development Plan sets out Development Standards.
- 5.1.5. Appendix 18 Section 1.1 of the Development Plan in relation to residential extensions acknowledges that these play an important role in promoting a compact city as well as providing for sustainable neighbourhoods and areas where a wide range of families can live. It states that the: *" design of residential extensions should have regard to the amenities of adjoining properties and in particular, the need for light and privacy. In addition, the form of the existing building should be respected"*. It also sets out the following design principles for residential extensions:
 - Not have an adverse impact on the scale and character of the existing dwelling.
 - Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight and sunlight.
 - Achieve a high quality of design.

- Make a positive contribution to the streetscape (front extensions).

5.1.6. Section 1.5 of the Development Plan on deals with the matter of separation distances.

5.1.7. Section 1.7 of the Development Plan state that: *“the extension should not dominate the existing building and should normally be of an overall scale and size to harmonise with the existing house and adjoining buildings”*.

5.1.8. Section 4.0 of the Development Plan deals with the matter of alterations at roof level.

5.1.9. Section 5.1 of the Development Plan deals with the matter of additional floor levels to existing residential dwellings.

5.2. Natural Heritage Designations

5.2.1. None relevant.

5.3. EIA Screening

5.3.1. Having regard to the nature, scale and extent of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. On the 29th day of July, 2022, the Board received a 3rd Party Appeal from Michelle & Rory Butler, of an address of No. 31 Leeson Park Avenue, which can be summarised as follows:

- The appellants live to the south of the subject site and are separated from it by a boundary wall.
- No.s 26 to 31 Leeson Village were limited to single storey dwellings so as not to impact on other houses in Leeson’s Village and Leeson Park Avenue. These properties were marketed as step down properties, and they have fulfilled this purpose for more than 30 years.

- The fact that this growing family wish to remain in the area should not be to the detriment of its environs.
- The proposed development would have an overbearing and adverse impact on their privacy.
- The proposed development would set an unacceptable precedent for other similar developments.
- The existing situation does not give rise to overlooking.
- The Board is requested to overturn the decision of the Planning Authority.

6.1.2. On the 27th day of July, 2022, the Board received a 3rd Party Appeal from Residents of Leeson Village and Leeson Park Avenue, which can be summarised as follows:

- The first floor extension would be significantly overbearing when viewed from the rear of No. 15 Leeson Village. The revised design does not overcome this concern.
- A refusal of permission was warranted on the basis of serious residential amenity impacts from the proposed development for properties in its vicinity.
- This proposal has had no regard to its surrounding site context.
- The second-floor level has a length of 11m and would run along the length of the boundary with No.s 14 to 16 Leeson Village. This is not deemed acceptable nor is the lack of setback from this boundary.
- The pattern of development of adjacent properties does not include second floor levels on boundaries of adjacent properties.
- Even at a reduced eaves height of 4m the proposed development would create an unacceptable sense of enclosure to the private amenity spaces serving No.s 14 to 16 Leeson Village.
- The proposed first floor level would be visually dominant when viewed in its surrounding context.
- The private open space is inadequate for the size of dwelling that would result.
- There is inadequate setback between the first floor levels of the proposed extension and No. 17 Leeson Park Avenue.

- The proposed development would give rise to significant loss of daylighting and overshadowing of adjoining properties.
- This proposal fails to achieve the required 22m separation distance between opposing first floor level windows.
- The first-floor windows in the south east elevation would directly address and overlook the private amenity space of adjacent properties.
- Timber fin screening as proposed does not prevent overlooking.
- The first-floor level lacks setback from the communal open space adjoining it.
- The proposed extension can not be considered to be subordinate to the existing dwelling given its two storey nature.
- There is a significant change in ground levels between the site and the rear of the back gardens of Leeson Park Avenue.
- The adjoining single storey dwelling is reliant on two velux rooflights for natural light. This is the only source of light to the rear of this property. These rooflights would be overshadowed in the morning by the proposed additional storey.
- If permitted the proposed development will materially alter the character of Leeson Village.
- The proposed development would give rise to a substandard residential accommodation for future occupants of the host dwelling. Particularly in terms of private open space, internal daylight, and ventilation.
- The proposed development would result in overdevelopment of a constrained site.
- The proposed development would require the cutting of trees to facilitate it.
- There is no vehicle access to serve this property. As a result, this will give rise to considerable nuisance for other residents during the construction phase.
- This development would result in a depreciation of property values for properties in its vicinity.
- The Board is sought to overturn the decision of the Planning Authority in this case.

6.2. Applicant Response

6.2.1. The First Party response can be summarised as follows:

- The design, layout and scale of the proposed development respects the character of its setting.
- The proposed development results in improved efficiency in the use of this site.
- Drawings are provided to show how the compliance with the requirements of Condition No. 4.
- The proposed development has been designed to avoid any undue impact on the residential amenity of properties in its vicinity.
- The proposed development provides improvements to the residential quality of this dwelling for occupants of the subject property. This development does not require any additional car parking provision as a maximum of 1 car parking space provision is required for a dwelling at this location.
- The proposed development is consistent with planning provisions.
- Reference is made to various residential development permitted in the area.
- The Board is requested to uphold the Planning Authority's decision.

6.3. Planning Authority Response

6.3.1. The Planning Authority response can be summarised as follows:

- The Board is sought to uphold its decision.
- A Section 48 contribution should condition be imposed to any grant of permission.

6.4. Observations

6.4.1. On the 21st day of August, 2022, an observation was received by the Board from an Anna Sweeney, of No. 30 Leeson Village, which can be summarised as follows:

- The overshadowing arising from this development would result in an over reliance on artificial light.

- The daylight analysis provided by the applicants show the severity of the impact that would arise from the proposed development, if permitted.
- The shadow analysis omitted the rooflights of their property and the communal open space.
- The narrow passageway is not suitable to cater for increased foot traffic arising from the construction and completion stages of the proposed development.
- A second floor level would ruin the harmony the subject twin terraces.
- A second floor level would have a domineering and claustrophobic effect on the other two bungalows in the subject terrace group.
- The proposed development would give rise to increase noise and loss of privacy to the front of their property.
- The private open space of the subject property is not suitable for the size of property that would result. It would result in more reliance on the communal open space to the front.
- There are currently five spaces shared between 6 dwellings and the lack of car parking space has caused friction in the past between residents. The loss of parking during the build associated with the proposed development would give rise to nuisance for other residents.
- There is deficiency in 1 and 2 bed houses for sale in Dublin 4.
- This development, if permitted, would result in a precedent for similar developments to the two single storey terrace groups.

6.5. Further Responses

- 6.5.1. On the 19th day of September, 2022, the Third-Party Appellant, Residents of Leeson Village & Leeson Park Avenue, submitted a further response. I have noted the content of this response, which is attached to file and I consider that it does not raise any new planning issues.
- 6.5.2. On the 19th day of September, 2022, the Third Party Appellant, Michelle & Rory Butler, submitted a further response. I have noted the content of this response, which is attached to file. I consider that it does not raise any new planning issues.

7.0 Assessment

7.1. Overview

7.1.1. Having inspected the site and its setting together with having had regard to the information presented by the parties to the appeal and in the course of the planning application and all relevant planning provisions and guidance, I consider the key planning issues relating to the assessment of the appeal can be considered under the following broad headings.

- Principle of the Proposed Development
- Amenity Impact – Residential
- Amenity Impact – Visual
- Planning Precedent
- Depreciation of Property Values
- Civil Matters

7.1.2. The matter of '*Appropriate Assessment*' also requires examination.

7.1.3. During the course of the Planning Authority's determination of this application further information was sought. The applicants further information response was received by the Planning Authority on the 7th day of June, 2022, and its marginal lowering of eaves height of the additional floor level over extension resulted in a qualitative improvement. With this improvement mainly in the form of reduction in overshadowing and the reduced built form lessened the potential for the proposed additional floor level to be visually overbearing when observed from other properties. Therefore, my assessment below is based upon the proposed development as revised.

7.1.4. I also note that procedural concerns in relation to the Planning Authority's handling of this application are raised by the 3rd Parties in their submissions to the Board. On this matter and for clarity I note that the Board does not have an ombudsman's role and its remit in this appeal case is the de novo consideration of the proposed development in accordance with proper planning and sustainable development considerations only.

7.2. Principle of the Proposed Development

- 7.2.1. The proposed development includes the construction of an additional floor level to an end of terrace single storey dwelling in the gated residential scheme of Leeson Village in Dublin 4. The site is zoned residential conservation area under the applicable Development Plan (Note: 'Z2'). The land use zoning objective for 'Z2' zoned land is: *"to protect and/or improve the amenities of residential conservation areas"* and residential development are considered to be generally acceptable development in principle, subject however, to the acceptance or otherwise of site specifics/other policies within the development plan and government guidance.

7.3. Residential Amenity Impact

- 7.3.1. The proposed development sought under this application in summary consists of the raising of the roof structure over No. 31 Leeson Village, a single storey end-of-terrace dwelling, in order to create an additional habitable floor area for its occupants together with all associated site works and services.
- 7.3.2. The grounds of appeal the Third-Party appeal submissions and the concerns raised in relation to the proposed development in the Observers submission to the Board, in my view, are primarily concerned with its potential to give rise to a diminishment of established residential amenity by way of overlooking, overshadowing, visual overbearance through to the additional pressures as well as nuisances it would give rise to during demolition, construction, and occupation phases.
- 7.3.3. I consider that such concerns are not unreasonable on a number of basis including: the nature and scale of development sought; the backland nature of the site, the restricted area the site relates to through to the fact that the site is essentially landlocked on its side and rear boundaries with the only access to it via a shared modest in width pedestrian pathway that serves five other similar in nature, built form, scale and mass terrace single storey structures. With the sites southern boundary adjoining a very modest communal green open space that is situated at the end of the footpaths cul-de-sac and with these dwellings served by a shared parking area accessed from an internal main access road serving properties within this gated residential scheme.
- 7.3.4. In relation to the overlooking concerns, the proposed design includes windows at first floor level on its front elevation which has a southerly aspect and its eastern elevation.

The two windows on the front elevation would be setback c27m from the rear elevation of No. 29 Leeson Park Avenue.

- 7.3.5. This exceeds general standards in terms of separation distance between opposing first floor level windows under the Development Plan.
- 7.3.6. In relation to the first-floor elevation side window, the revised design includes timber fins and opaque glazing.
- 7.3.7. The timber fin screening adds to the contemporary nature of the proposed design providing architectural interest of its time and the I consider that the use of opaque glazing is appropriate given that it would appear that the lateral separation distance between the proposed extension at first floor level and the rear of No. 18 and 19 Leeson Park Avenue is c18.5m.
- 7.3.8. These design mitigation measures together with appropriate window restrictions, would together ensure that no actual overlooking would arise from the proposed development and the rear of properties bounding the eastern and north eastern boundary of the site.
- 7.3.9. Moreover, an appropriate worded condition would ensure that should any non-compliance occur in the future that it could be dealt with by the Planning Authority as an enforcement matter as they see fit.
- 7.3.10. The remainder of the windows proposed are roof lights over the proposed new hipped shaped roof. These would not give rise to any overlooking concerns.
- 7.3.11. I therefore do not consider that the level of overlooking that would arise from the proposed development, if permitted, in relation to the properties to the south, could be reasonably be considered as significant or out of context with its setting. A built-up tight grained residential setting where there is established levels of overlooking present.
- 7.3.12. In relation to the overshadowing concerns, I note that the site has a general north south orientation and that the subject property of No. 31 Leeson Village is located on the eastern end of a group of three.
- 7.3.13. The existing gable fronted dwelling's original structure has a stated ridged height of 4.77m. The eaves height of the original structure are given as 2.87m.

- 7.3.14. Aerial views of the terrace group the subject property forms part of shows that the adjoining property of No. 30 Leeson Village contains two rooflights.
- 7.3.15. These are located to the north west and downward slope of its ridge. In addition, they show a number of mature deciduous trees in close proximity of the site boundaries of this largely landlocked site.
- 7.3.16. According to the submitted drawings the first-floor level would be confined over the extent of the original ground floor building envelope of the subject property and would have a hipped roof over with a gable end elevation.
- 7.3.17. The given ridge height of the proposed additional first floor level extension is 7.2m. With its southerly aspect sloping down to an eave's height of 5.15m and with its rear northerly aspect sloping to an eave's height of 4.87m. The submitted drawings also show that the subject property has a finished floor level that sits above that of the adjoining land to the north, is slightly raised above the communal shared realm to the south and significantly above the adjoining rear private amenity space of the properties to the east. It also shows that the proposed length of the first floor level extension is c9.8m with the internal ground floor to ceiling height given as 2.445m and at first floor level for the most part 2.4m.
- 7.3.18. The pattern of development together with the maturity of the planting in private amenity spaces and the nature of boundary treatments is such that this residential setting is one where there is already established levels of overshadowing.
- 7.3.19. I consider that the design of this proposal has sought to minimise the extent any additional overshadowing by minimising the internal floor to ceiling heights at ground and first floor level, minimising the eaves height and overall ridge height.
- 7.3.20. Arguably the inclusion of a hipped roof structure is in keeping with the single, two and three storey roof structures within the site's context, including the terrace group it forms part of.
- 7.3.21. Notwithstanding, it could also be considered that a flat or a mono-pitched roof shaped structure over the first-floor addition could have given rise to marginal improvements in terms of level of overshadowing that would arise from it. As well as these types of roof structure shapes are more characteristic of contemporary architectural approaches for new builds through to extensions to existing dwellings. Particularly

considering the attic loft as detailed in the submitted drawings does not appear to incorporate any access for future occupants for storage.

- 7.3.22. I note that the requirements imposed by the Planning Authority in their notification to grant permission, i.e., Condition No. 4, seeks a more meaningful reduction of the northern elevation eaves height to 4m. This reduction would result in a reduction in overshadowing arising from the proposed development on adjoining properties and in so doing reduce the residential impact on these properties.
- 7.3.23. I have noted the daylight and shadow analysis provided.
- 7.3.24. I am of the view that the nature, built form, mass through to height of the proposed additional floor when taken together with the orientation of the subject property which is generally north south but with an easterly tilt, its relationship to other receptors sensitive to change, the presence of natural and built features, that the proposed development, if permitted, would not give rise to an additional level of overshadowing that could be considered as significantly injurious and/or out of character with the pattern of development in this setting.
- 7.3.25. I further note that Section 1.6 of Volume 2, Appendix 18 of the Development Plan states that the Council recognise: *“that the city is an urban context and some degree of overshadowing is inevitable and unavoidable”*.
- 7.3.26. In relation to the design and layout of the proposed extension, I consider that this seeks to marry a contemporary design approach together with the character of the terrace group it forms part of and the architectural style through to palette of materials that characterises this gated residential scheme that is likely to date back four decades.
- 7.3.27. As said the design seeks to minimise the height of the 2-storey built form by keeping the internal floor to ceiling heights to close to the minimum Building Regulations standards. The amendments proposed by the Planning Authority under Condition No. 4 of its notification to grant permission would result in the rear eaves having a reduced maximum height of 4m.
- 7.3.28. When this is taken with the low sloping hipped roof over and other design details like the carrying through of the existing palette of materials ensures that the first floor level whilst undoubtedly giving rise to a change to its immediate single storey context is not

unduly dominant, overbearing or could it be considered to be out of character with the built forms that characterise Leeson Village as well as that of adjoining Leeson Park Avenue.

- 7.3.29. I am not satisfied that the design is one that is out of character with its setting and one that would give rise to undue sense of being visually overbearing when viewed from adjoining as well as neighbouring properties. Particularly to the north and east of the site.
- 7.3.30. Whilst concerns are raised by Third Parties that the proposed development would give rise to a greater demand for car parking, if permitted, there is no requirement for this proposed development to provide additional car parking provision. This is due to the fact that it is a development that relates to a single dwelling and the proposed development does not change this. Alongside the original internal layout was that this property was a two-bedroom property and this proposal effectively results in one additional bedroom to it as well as maintains it in single occupation.
- 7.3.31. In relation to the demolition and construction phases, given the constrained nature of the site and its limited access it is reasonable to conclude that issues and/or varying nuisances would arise during this time. This is magnified by the restricted pedestrian access available to the site, the limited parking areas and sundry spaces that can accommodate the additional demands arising from the demolition and construction phases, the limited space on site for the storage of building materials and the like.
- 7.3.32. Notwithstanding, it is standard for these issues to be dealt with as part of the submission of a demolition and construction management plan prior to the commencement. With such a plan requiring measures to reasonably mitigate the nuisances that could potentially arise in order to minimize resulting impact on properties in its vicinity during the duration of time associated with the demolition and construction. It is also considered that the demolition and construction would arise for a limited and finite time period of time.
- 7.3.33. In relation to other nuisances arising from occupation, as said the subject property was originally permitted and originally used as a two-bedroom dwelling unit. This proposal increases the bedrooms by one and maintains its function as a single dwelling. I am not convinced that the proposed development during occupation of the completed

property would give rise to any additional noise nuisance over and above its existing permitted and established use.

- 7.3.34. In relation to the improvements sought to this existing dwelling by way of the proposed first floor level extension I note that the room sizes comply with the minimum standards in Table 5.1 of the national guidelines '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*', (2007).
- 7.3.35. In relation to private open space amenity provision I note that this proposal does not seek to reduce the existing modest area of private open space amenity that serves the occupants of this dwelling unit. Nor does this proposal give rise to any additional excessive overshadowing of this space.
- 7.3.36. I note that Section 1.4 of Volume 2 of Appendix 18 in relation to amenity states that: "*extensions should not result in any significant loss of privacy to the residents of adjoining properties*" and that: "*private amenity space will be considered on a case-by-case basis*".
- 7.3.37. I further note that the Planning Authority raised no concerns in relation to the private amenity space that would serve this established dwelling were the proposed extension to be implemented.
- 7.3.38. The site is adjoined by a pocket of communal open space and is in an urban landscape where it can be expected that the private amenity standards set out in the Development Plan can not always be achieved. This is not, however, a new dwelling but is an existing dwelling where the proposed development effectively gives rise to improvements to its habitable space without any reduction or serious diminishment of private open space amenity for its occupants.
- 7.3.39. The site is also within easy reach of quality open spaces like Herbert Park and outdoor recreational amenity including Beechwood FC, Merrion Cricket Grounds, Mespil Swimming Pool. The site is also one that is in easy reach of public transport to gain access to other passive and recreational amenity in the surrounding cityscape.
- 7.3.40. I am not therefore convinced that the proposed development would place a greater reliance on the use of the communal open space adjoining the site and I am of the view that in this established urbanscape the area is one that is well served by a variety of outdoor and other amenities to serve its residential population.

7.3.41. Based on the above considerations I am satisfied that the proposed development would not give rise to serious residential amenities to properties in its vicinity or a poor standard of residential amenities that would support its refusal of permission.

7.4. Amenity Impact – Visual

7.4.1. Concerns are raised that the proposed first floor extension would be at odds with the terrace group if forms part of a terrace group that is noted to form two such modest groups of single storey dwellings located to the rear of Leeson Village. As an end of terrace property I note that the subject property is unlike the other two terrace properties in its subject group presents with a gable front which in itself gives this property its own unique and distinct character.

7.4.2. This character is added to by the fact that its gable front faces onto a pocket of communal open space and it is located at the north easternmost end of Leeson Village at the end of the modest in length cul-de-sac that the other two terrace properties within its group address.

7.4.3. This results in the property as observed within its terrace group having a more open relationship with the space in which it sits through to a site that whilst restricted in area is one despite its backland setting is not visually very prominent within its setting.

7.4.4. The wider setting is one that contains a wide variety of dwelling types, residential built forms through to building heights as well as varying tight to medium grained residential plots.

7.4.5. Within its context a two storey compliments the built form modulation of the wider Leeson Village and the more period in character that adjoin it to the south, i.e., Leeson Park Avenue.

7.4.6. The overall modulation of residential buildings in its setting varies from single, two storey, three and in places taller buildings. Against this context the additional floor area which would give rise to a not overly dominant in built form, including height structure is not in my view out of context with its setting.

7.4.7. Of further consideration is the terrace group it forms part of is of no architectural or other merit that would warrant its retention and the period properties within its urbane context the site is backland to it and subservient in-built form to them.

- 7.4.8. I note that Section 4.0 of Volume 2 Appendix 18 of the Development Plan sets out that any proposal to change the shape, pitch or cladding of a roof is carefully considered.
- 7.4.9. In addition, it sets out a number of criteria for the assessment of such alterations. Based on the above considerations I consider that the proposed development is consistent with these four criteria which are:
- 1) The careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.
 - 2) Existing roof variations on the streetscape.
 - 3) Distance/contrast/visibility of proposed roof end.
 - 4) Harmony with the rest of the structure, adjacent structures, and prominence.
- 7.4.10. Further, Section 5.1 of Volume 2 Appendix 18 of the Development Plan on the matter of additional floors states that the Council will: *“support innovative design responses to the densification of suburban housing to consolidate existing built-up areas”...“where it can be demonstrated that such a proposal makes a positive contribution to the streetscape and has no adverse impact on the residential amenities of adjacent properties”*. It also sets out that the: *“provision of such densification solutions are often more suitable at the end of terrace or corner house sites where a feature/ bookend design can be facilitated. Each proposal will be assessed on a case-by-case basis”*.
- 7.4.11. As said this is an end of terrace property whose original design included a bookend feature of a gable front to different it from its terrace group and where the proposed additional floor would not give rise to any undue significant residential disamenity. Through to where the relationship of this property to the communal public realm of Leeson Village as well as overall building to space relationship is such that the proposed design of this additional floor can be absorbed as a subservient additional floor level that improves the residential amenity for occupants of this property. A property that is well located in relation to services, amenities through to public transport within Dublin 4. Alongside, it is a type of application where there is no onus on the applicant to demonstrate the acceptability of the bedspaces that would arise from the proposed development against the profile of dwelling types that there may or may not be a deficit of in its area.

- 7.4.12. In its context, I am not satisfied that the proposed development would give rise to any visual diminishment of its setting, or that the proposed development is one that has not had regard to its setting whilst also seeking to put forward an extension that is more representative of its time.
- 7.4.13. Further, views of the first-floor extension would be localised and there is adequate separation distance through to built and man-made features that would help to positively absorb as well as screen it.
- 7.4.14. Based on the above considerations I am of the view that there is no basis to refuse the proposed development on residential and/or visual amenity grounds.

7.5. Planning Precedent

- 7.5.1. Given the characteristics of this site and its setting, despite the subject property forming part of a single storey terrace group, I am not convinced that the grant of permission in itself would give rise to a precedent for other similar developments. In addition, it is in accordance with planning law that all planning applications are dealt with on their own individual planning merits having regard to the proper planning and sustainable development of the area. Further, the Board is not bound by decisions made by the Planning Authority in terms of establishing precedent and whilst I have noted the various planning precedents cited by the First Party in their grounds of appeal I am of the view that the site characteristics are not the same.

7.6. Depreciation of Property Values

- 7.6.1. Concern has been raised that the proposed development, if permitted, would result in a depreciation of property values, on the basis of the residential impact it would have on adjoining and neighbouring properties.
- 7.6.2. In relation to this particular concern, I am not satisfied on the basis of the information provided that this has been substantiated by any evidentiary proof prepared by a suitably qualified expert from the real estate profession. As such I am of the view that a refusal of permission on the basis of the depreciation of property values is not warranted or justified in this case.

7.7. Civil Matters

- 7.7.1. Given the potential of the proposed development as presented by the drawings submitted with this planning application to infringe or oversail onto adjoining property

outside of which the applicant has demonstrated any legal interest or consent as a precaution the Board is advised to attach an advisory note setting out Section 34(13) of the Planning and Development Act, 2000, as amended. This states that: '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

7.8. Other Matters Arising

- 7.8.1. **Compliance with Condition No. 4:** The First Party as part of their response to the grounds of appeal and the Third-Party observation include drawings showing that their architect has been engaged and has prepared plans to meet the requirements of this condition which they are willing to comply with. As set out above the requirements of this condition are reasonable as they give rise to further qualitative residential and visual amenity improvements in a constrained site setting. Alongside a site that bound a number of established mature residential properties that are sensitive to change. I therefore recommend that any grant of permission include the requirements set out in Condition No. 4 of the Planning Authority's notification to grant permission.
- 7.8.2. **Building Regulations:** In relation to Building Regulations and, also I note Fire Safety, such issues are subject to other regulatory control / legislative provisions and thus are not pertinent to the consideration of the subject appeal. Notwithstanding, I note that the drawings clearly show that the first floor level in terms of floor-to-ceiling heights are consistent with Building Regulation requirements.
- 7.8.3. **Development Contribution:** Under the current Dublin City Council Section 48 Development Contribution Scheme, the proposed development is liable to pay a financial contribution.
- 7.8.4. **Future Development on Site:** Should the Board be minded to grant permission I recommend that it include a condition limiting future development on site save for that permitted with a prior grant of permission in the interest of safeguarding the private amenity space to the rear for a dwelling of this size.

7.9. Appropriate Assessment

- 7.9.1. Having regard to the nature and scale of the proposed development, the distance from the nearest European site, the lack of any excavations and the serviced nature of the

site and intervening urban landscape, no Appropriate Assessment issues arise, and it is not considered that the proposed development would 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. I recommend that permission be **granted**.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dublin City Development Plan, 2022-2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development 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, as amended by further information submitted to Planning Authority on the 7th of June, 2022, 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 revised as follows:
 - (a) The rear eaves of the proposed first floor extension shall not exceed 4 metres in height and the master bedroom layout reorganised to ensure a satisfactory standard of accommodation is provided.

(b) The opening section of the first-floor window in the side (east facing) elevation shall comprise opaque glazing and a timber louvre screen, as shown on the submitted planning application drawings, shall be installed in front of the fixed section of the window. These measures shall be permanently maintained.

Prior to the commencement of development, the applicant shall submit, for the written agreement of the planning authority, revised drawings complying with these requirements.

Reason: To protect the residential amenity of the adjoining properties.

3. The first-floor level extension, including rain water goods, shall be wholly contained within the curtilage of No. 31 Leeson Village save where the consent of adjoining property owners has been obtained. Revised drawings showing this amendment alongside detailing the external treatment of elevations and works to the northern and western elevations of the proposed extension shall be submitted to the Planning Authority for their written agreement prior to the commencement of any works on site. The treatment of all elevations particularly at first floor level shall include appropriate qualitative detailing and finishing to ensure that they do not present as blank and poorly resolved elevations in terms of appearance within their visual setting.

Reason: In the interests of safeguarding the visual, residential, and built heritage amenity of the area.

4. The house and the extension shall be used as a single dwelling unit only.

Reason: To ensure an adequate standard of residential amenity.

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

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the dwelling.

6. The demolition and construction phases of the proposed development shall be managed in accordance with a Demolition and Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including traffic management and access, hours of working, noise management measures, dust management measures, protection of site boundary measures, off-site disposal of demolition and construction waste storage of materials including measures taken to deal with hazardous materials.

Reason: In the interests of public safety and residential amenity.

7. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Water supply and drainage arrangements, including the attenuation and 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.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

10. 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 and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

11. The site development works shall be carried out in such a manner as to ensure that the adjoining footpath, internal spaces within Leeson Village as well as adjoining public 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 developers expense.

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

12. During the construction and demolition phases, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control'.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

13. 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 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.

Advisory Note:

The applicant/developer is advised that Section 34(13) of the Planning and Development Act, 2000, as amended, states that: *'a person shall not be entitled solely by reason of a permission under this section to carry out any development'* and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property to carry out development.

Patricia-Marie Young
Planning Inspector - 31st January, 2023.