



An
Bord
Pleanála

Inspector's Report ABP315226-22

Development	Permission for rear extension to dwelling
Location	6 Delbrook Park, Ballinteer Dublin 16 D16 E0A4
Planning Authority	Dun Laoghaire County Council
Planning Authority Reg. Ref.	D22B/0404
Applicant(s)	David and Sheenagh Carroll
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	William and Nicola Maher
Observer(s)	None
Date of Site Inspection	9 th September 2023

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1.0 Site Location and Description

- 1.1. The proposed development is located in a suburban estate in Ballinteer, Dublin. The site comprises of a semi-detached two storey house with front garden and driveway and gardens to the side and rear, all on a site area comprising of 0.0442ha.
- 1.2. There is an area of public open space to the south side of the site.
- 1.3. There is a single storey mono-pitched roofed extension on the adjoining house to north at No 7 Delbrook Park. A 2.0 metre high timber fence delineates the rear garden party boundary between the two houses.
- 1.4. There is a clerestory window on a flat roofed garage or extension on No17 Delbrook Manor to the east which overlooks the rear garden of the subject site.

2.0 Proposed Development

- 2.1. The proposed development comprises of the following: Permission for:
 - demolition to the existing gable (south facade) and rear facade (east) and
 - the construction of a new sunken two storey, flat roof timber clad extension to the rear (east) of the existing dwelling.
 - the demolition of existing garden walls and the provision of new timber fencing to the front and rear garden and all ancillary site works.
 - The proposal also includes for elevational changes to the southern façade in the form of altered fenestration from that which currently exists
 - All within a proposed floorspace of 50sq.m.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to conditions. Condition No. 2 stipulates that the applicant is to submit revised drawings to show for the depth of the first floor of the rear extension to be reduced by 3.0 metres for reasons of protection of residential amenities (of adjacent property)

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (dated 2nd November 2022) reflects the decision of the Planning Authority.

3.2.2. Other Technical Reports

- Drainage Planning Report (13th October 2022) - No objection subject to conditions
- There is a public foul sewer and public surface water sewer running through the garden of the proposed development site. A wayleave of 6.0 metres is required over the line of each of these sewers (3.0 metre either side). The applicant is not to be permitted permission to build within 3.0 metres of the sewer line.

3.3. Submissions/Observations

There is one submission on file as follows:

William and Nicola Maher of No. 7 Delbrook Park (received 14th October 2022) reside in the adjacent house to north of the proposed development site. They objected to the proposed development on the following grounds:

- That the proposed extension is to be constructed directly on the party boundary between the proposed development site and No. 7 Delbrook Park.
- The height of the extension is in excess of 5.0 metres and the length almost 9.0 meters.
- The proposal represents overdevelopment of the applicant site
- It will block daylight and sunlight to the rear of the house and garden at No. 7 Delbrook Park and would overshadow the garden
- No consent has been granted for the development of this extension directly over the party boundary wall.
- Potential to undermine the foundations of No. 7 Delbrook as a consequence of the proposed FFL which is 1.7 to 2.0 metres below ground level.

- The elevation facing the garden of No. 7 Delbrook would be 5.0 metres in height by 9.0 metres in length. The objectors note from the drawings that this is to be a rendered finish. The extension would therefore have an overbearing impact on their garden
- That the Shadow Study submitted with the application is not accurate.

4.0 Planning History

On Site

- None

Adjacent

- D06B/0691 granted permission for 2 storey side extension to 7 Delbrook Park (adjacent adjoining dwelling)
- D17/0325 granted permission for extensions to 17 Delbrook Manor to east.

5.0 Policy and Context

5.1. Development Plan

- Dun Laoghaire Rathdown County Development Plan 2022-2028 is the statutory development plan in the area where the proposed development site is located.
- Within the plan the site is subject to zoning objective A, which seeks *'to provide residential development and improve residential amenity while protecting the existing residential amenities'*

- Section 12.2.1 Built Environment

The Planning Authority will encourage and promote the repair, retrofitting and reuse of buildings in preference to their demolition and reconstruction where possible.

- Section 12.3.7.1 Extensions to Dwelling

- (i) Extensions to the Front: Porch extensions, other than those deemed to be exempted development, should be of appropriate design and scale relative to the design of the original house.
- (ii) Extensions to the Rear: 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.

5.2. Natural Heritage Designations

There are no designated areas in the immediate vicinity of the site.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

- A third party appeal was lodged on the 29th November 2022 by William and Nicola Maher of 7 Delbrook Park c/o Armstrong Planning

6.1. Grounds of Appeal

- That the proposed development would result in a two storey extension right up against the side northern boundary which is a shared boundary between No. 6 & 7 Delbrook Park.
- The extension would extend back from the rear elevation by 5.9 metres in depth and over 5.0 metres in height. These measurements take into account Condition No 2 of the planning permission which sought a reduction in the depth of the extension by 3.0 metres at first floor level.
- The proposal would result in overbearing and loss of light from the appellants property and depreciate the amenity of their property.

- The proposal would block direct sunlight for most of the day
- This would contravene Zoning Objective A of the Dun Laoghaire Rathdown County Development Plan 2022-2028
- That there is no precedent in the vicinity for two storey rear extensions.
- The appeal notes that an application for development at 17 Delbrook Manor for a two storey extension to the side was considered inappropriate by the case planner and that it was conditioned that the two storey side extension which is located directly to the east of the proposed development site be replaced with a single storey flat roofed extension
- The proposed development is out of scale and out of keeping with the established character of the area and that permission should be refused on this basis
- That the requirement to retain a wayleave around a public utility does not justify the impact of a two storey extension at the location of the proposed development
- No consent has been given by the appellant to build over the party boundary wall.

6.2. **Planning Authority Response**

The Planning Authority responded on the 8th December 2022 asking the Board to refer to the planners report on the file

6.3. **Observations**

None

6.4. **Further Responses**

The applicants/first parties have submitted a response to the appeal (c/o Thornton O'Connor Town Planning (received 5th January 2023). In summary the response states that:

- Condition No. 2 which seeks for revised drawings to be submitted with the depth of the extension at first floor be reduced by 3.0 metres should be omitted by the Board
- That theoretically a single storey structure of up to 40sq.m could be constructed without the benefit of planning permission and up to the height of eaves level which in terms of height is the same as the development proposed.
- That there will be no loss of light from first floor windows on the rear elevation of the appellants property
- That the principal of building up to a shared boundary and extending to the rear is common practice
- That the rear garden of No. 7 Delbrook is expansive in nature and that as a consequence the proposed extension will not be overbearing as suggested in the appeal.
- That the design and scale of the extension is appropriate in this suburban context. The proposal is tucked away behind the main building and will not be easily visible from the street.
- That there are precedents for two storey rear extensions in the locality
- That the applicants are willing to furnish a report setting out details with respect of the safe demolition of the boundary and the construction of the extension whilst ensuring the structural integrity of the residences at No.6 and No.7 Delbrook Park.

7.0 Assessment

7.1. Introduction

7.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to the relevant local development plan policies, history files and other relevant guidance documents.

7.1.2. I am satisfied the substantive issues arising from the grounds of this third party appeal relate to the following matters-

- Principle of Development
- Services
- Visual Amenity Issues
- Residential Amenity Issues
- Issues with respect of the party boundary

7.2. Principle of Development

- 7.2.1. The proposed development site is located within an area designated as zoning objective A, in the Dun Laoghaire Rathdown County Development Plan 2022-2028. Zoning objective A seeks *'to provide residential development and improve residential amenity while protecting the existing residential amenities'*
- 7.2.2. Residential Extensions such as the one proposed are acceptable in principle under this land use zoning objective.
- 7.2.3. With respect of the above, I am satisfied that the principle of an extension to an existing dwelling is acceptable at this location.

7.3. Services

- 7.3.1. It is noted that there is both a mains surface water pipe and mains foul water pipe running parallel to the southern boundary with the applicants garden. As per the Drainage Planning Report on file a 3 metre separation distance is required where no development can take place along the length of these two pipes. This in effect sterilises the side garden from any development
- 7.3.2. I note that there is an existing connection to the foul, surface water and mains water to serve the proposed development.

7.4. Visual Amenity Issues

- 7.4.1. The proposed development comprises of the demolition of the side and rear elevations of the existing house on site, the reconstruction of the side elevation with altered fenestration, and the extension of the rear with two story flat roofed timber clad extension.

7.4.2. The extension is tucked behind the house and as such will not easily be visible from the street. The floorspace proposed is a modest 50sq.m.

7.4.3. I consider that the design, scale and form of the proposed extension and altered side façade with new fenestration is generally acceptable in visual amenity terms and complies with the policies with respect of residential extensions as set out in the Dun Laoghaire Rathdown County Development Plan 2022-2028

7.5. Residential Amenity Issues

7.5.1. This is the principal issue raised in the third party appeal. The appellants reside in the adjoining dwelling to the north of the proposed development site and they share a party boundary with the site.

7.5.2. The north façade of the proposed extension is to be constructed on the party boundary will face towards their garden and I understand that this is to be a nap plaster finish. The appellants are therefore concerned with respect to the scale of this elevation which is just over 5 metres high by 9 metres in depth

7.5.3. The local authority case planner raised this in his report and recommended that the depth be reduced by 3 metres at first floor level. This requirement is set out in condition 2 of the planning decision and in effect the condition omits the main bathroom at first floor. I note that due to the fact that the first floor is lower than the existing ground level this results in the first floor height being at the same height as the party boundary fence.

7.5.4. There are no windows proposed on this northern elevation so the impact will be as a respect of overshadowing and overbearance on the part of their garden which they mostly use as it is located just outside the rear door of their house. I also note a sunken seating area in this part of the garden which will potentially be overshadowed as a consequence of the same

7.5.5. The applicants have submitted a shadow study with the application which shows that overshadowing impact is negligible. The appellant raises doubts as to the accuracy of this analysis. A site visit was carried out in the early afternoon on 9th September 2022. Access was made to the rear garden of the proposed development site and the sun was shining towards the northern boundary of the site at that time. In this respect,

there will be an overshadowing impact as a consequence of the proposed development. However, and depending on the time of the year there will be a short window when the sun shines between the gap between No 17 Delbrook Manor to the east, 16 Delbrook Park to the south east and the dwelling house subject to the proposed development. These houses create shadow which will be long and short shadows depending on the time of the year. However, there will be a part of the day that there will be direct sunlight into the appellants garden between the gap in the houses.

- 7.5.6. I note the first parties rationale that the applicant could in theory build a single storey extension up to the height of the eaves of the house on the boundary as it is exempt under Class 1 Schedule 2 of the Planning and Development Regulations 2001 (as amended). However, this is a two storey extension and as such the first floor must be a minimum of 2 metres away from the party boundary. Notwithstanding the same, there is some merit in the first parties rationale on this matter.
- 7.5.7. I also note the first parties rationale for locating the extension where it is proposed, on the grounds that there is a mains surface water and mains foul sewer running through the southwestern part of their garden. Having regard to the required 3 metre separation distances to these services this in effect sterilises much of the garden from development. The only potential location is where the proposed extension is located.
- 7.5.8. The proposed extension is also modest in scale 50sq.m. on top of an existing building of 88.9 sq metres still results in a modest house.
- 7.5.9. I would also consider that it is appropriate, sustainable, and in line with government policy to renovate and extend older housing stock in low density suburban locations.
- 7.5.10. I am also of the opinion that the case planners recommendation to reduce the first floor of the extension is an appropriate compromise for both parties. By doing so the degree of overshadowing will be reduced to the appellants property and the applicants will lose the first floor main bathroom internally – however I am of the opinion that this can be accommodated elsewhere at first floor level. The resultant second storey will only protrude out 1.85 metres further than the appellants single single storey rear elevation extension.
- 7.5.11. I note that the first party did not appeal this condition and that a request to omit this condition arose in the response to the appeal submitted by the first party.

7.5.12. On this basis and in the event that the Board decides to grant permission for this development it is recommended that it be conditioned that the depth of the first floor be reduced by 3 meters in accordance with the case planners recommendation.

7.6. Issues with respect of the party boundary

7.6.1. Concerns have been raised by the third party with respect of the proposal to build on the party boundary. They have made it clear in the appeal that they have not given their consent for this.

7.6.2. Section 5.13 of the S28 Development Management Guidelines for Planning Authorities (June 2007) states that *The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development.*

7.6.3. With respect of the above, I do not consider it is necessary for the Board to comment further on the matter. As stated under Section 34 (13) of the Planning and Development Act 2000 (as amended), whilst permission may be granted for the development of land consent is still required by the owner to carry out that development. If there is a dispute then that is a matter for the courts not the Board.

7.7. Other issues

7.7.1. I note the case planners concern with respect to the fact that there is a direct access to the proposed office from the front elevation to the property and that it therefore maybe used for commercial purposes and for visiting members of the public.

7.7.2. I agree with the case planner that the proposed development be used for residential purposes only and not for commercial purposes that require members of the public to attend the premises.

7.8. Appropriate Assessment Screening

7.8.1. Having regard to the nature and scale of the proposed development, the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS.

8.0 Recommendation

8.1. I recommend that permission is granted subject to the following conditions;

9.0 Reasons and Considerations

9.1. Having regard to the information submitted with the application 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 visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 12th day of September 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development the applicant shall submit revised drawings showing the rear extension at first floor reduced in depth by 3.0 metres</p> <p>Reason: In the interests of residential amenity</p>

3.	<p>All external finishes including roof tiles, shall harmonise in material, colour and texture with the existing building on site unless otherwise indicated on the plans submitted.</p> <p>Reason: In the interests of visual amenity.</p>
4.	<p>The Applicants shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road, or adjoining property(s) as a result of site construction works.</p> <p>Reason: To protect the amenity of orderly development</p>
5.	<p>The entire dwelling shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units. The dwelling shall be used for residential purposes only. No commercial activities that require customers attending the premises shall be carried out.</p> <p>Reason: To prevent unauthorised development</p>
6.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 and 1400 hours on Saturday 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.</p> <p>Reason: To safeguard the residential amenities of adjoining property in the vicinity</p>
8.	<p>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</p>

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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way

Andrew Hersey
Planning Inspector

10th October 2023