



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315945-23

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<b>Development</b>	Rear and side 2 storey extension for 2 first floor additional bedrooms.
<b>Location</b>	94 Ballinteer Park, Ballinteer, Dublin 16, D16 C9C7
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D22B/0509
<b>Applicant(s)</b>	Mark Kelly
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Mark Kelly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	5 <sup>th</sup> June 2023
<b>Inspector</b>	Mary Crowley

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	5
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 .....	6
5.3. EIA Screening .....	6
6.0 The Appeal .....	6
6.1. Grounds of Appeal .....	6
6.2. Planning Authority Response .....	8
6.3. Observations .....	8
6.4. Further Responses.....	8
7.0 Assessment .....	8
7.2. Principle .....	8
7.3. Residential Amenity .....	9
7.4. Other Issues.....	9
7.5. Appropriate Assessment .....	10
8.0 Recommendation.....	10

9.0 Reasons and Considerations..... 10

10.0 Conditions ..... 11

## 1.0 Site Location and Description

- 1.1.1. The appeal site with a stated area of 0.0303ha is comprised of a two storey semi-detached dwelling (80sqm) that is set back from the public roadway and is served by off street parking and pedestrian access to the front and amenity space to the rear and side. There is an existing extension to the rear of the house. The general area is characterised as established residential. The streetscape in the vicinity of the site is characterised by dwellings of similar style and appearance. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for a rear and side 2 storey extension for 2 first floor additional bedrooms (47sqm).

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. DLRCC issued a notification of decision to refuse permission for the following single reason:

*Having regard to the height, scale, bulk and location of the extension, it is considered that the proposed development would significantly detract from existing residential amenity of the area by way of appearing overbearing and overshadowing when viewed from adjoining dwelling. The proposed development is therefore contrary to section 12.3.8.1 (Extensions to Dwellings) of the Dún Laoghaire Rathdown County Development Plan 2022 - 2028 and to the proper planning and sustainable development of the area.*

\*\*\***NOTE** - Section 12.3.8.1 as stated in the reason for refusal above refers to *Age Friendly Housing* in the Development Plan. Section 12.3.7.1 refers to *Extensions to Dwellings* and is referenced in the Case Planners report and in their recommendation reason for refusal. I am satisfied that reference to Section 12.3.8.1 above is a typo and that the correct Section is 12.3.7.1.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

- The Case Planner recommended that permission be refused. The notification of decision issued by DLRCC reflects this recommendation.

### 3.2.2. Other Technical Reports

- **Drainage** – No objection subject to conditions

## 3.3. **Prescribed Bodies**

### 3.3.1. None

## 3.4. **Third Party Observations**

### 3.4.1. None

## 4.0 **Planning History**

4.1.1. There is no evidence of any previous appeal at this location. The following planning history has been made available with the appeal file:

### 4.1.2. No 94 Ballinteer Park – Appeal Site

- D21B/0626: Permission was refused for a rear and side 2 story extension with 2 first floor additional bedrooms due to the requirement for a wayleave of 6.0m for public sewers.

### 4.1.3. No 95 Ballinteer Park

- D21A/0534 – Permission granted for a 14sqm first floor extension

### 4.1.4. No 86 Ballinteer Park

- D20B/0313 – Permission granted for variation to D17B/0569 from single storey extension to two storey extension.

### 4.1.5. No 16 Eden Park Avenue

- D20B/0251 - Permission granted for an extension

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Dún Laoghaire Rathdown County Development Plan 2022 – 2028**. 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 12.3.7.1 Extensions to Dwellings** is relevant to this appeal.

### 5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located in or immediately adjacent to a European Site

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. The need for Environmental Impact Assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The first party appeal has been prepared and submitted by Kevin Tiernan, Planning Consultant & Architectural Designer and may be summarised as follows:

- **Background** - Mark Kelly is a young father of four who has been living at 94 Ballinteer Park since 2019. In August 2022, he was refused planning permission for a rear and side extension on the grounds that the side extension was built too close to an underground pipe.
- **The rear extension design is not out of character with the surrounding area**
  - The planner has claimed that the works to the rear of property would set a new precedent for future development in the area. No explanation has been given as to how the opinion was formed. Aerial images are provided to show five properties

on the same street with rear first floor extensions of 8m in depth or greater and of similar height (58, 61, 62, 64 & 65 Ballinteer Park. Attention is also drawn to planning permission granted in 2019 at 48 Ballinteer Park under ref: D18A/1228 for a large extension which increased floor space by over 200 sqm.

- **Proposed development meets County and National Plan objectives** - The proposed development meets provisions as set out in Dún Laoghaire-Rathdown County Development Plan 2022-2028 "4.3.1.2 Policy Objective PHP19: *Existing Housing Stock - Adaptation*" *It is a Policy Objective to: Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF. Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.*
- **The area is a mix of dwellings with various designs and footprints** - There is no real consistency with the style of houses especially with regard to rear extensions along Ballinteer Park and the surrounding area. For this reason, the proposed development will fit in and not stand out incongruously. An aerial view of the area is provided highlighting the variety of footprints and designs
- **No overlooking Impact** - No side windows are proposed in the design and there are no houses bordering the rear boundary of dwelling.
- **No objections** - No submissions or observations were received by the council in relation to the proposed development.
- **Errors in planner's report** - The planner's report references impact of proposed development on 98 Ballinteer Park. This is an error and should be disregarded.
- **Minimal impact of overshadowing** - Any impact, would be insignificant, relating to overshadowing of neighbouring 93 Ballinteer Park and needs to be balanced against the significant gain in space for a growing family. None of the neighbours, or any other party objected to this application. My client has already been denied planning permission due to a pipe that runs alongside the western edge of his garden. It is only fair that all the pros and cons are considered this time around.
- **Conclusion** - In conclusion, this application is made by a family, not a property developer, trying to have an appropriate living space within an existing family home

which caters for a growing family. This family home improvement as originally proposed:

- 1) It is in accordance with CDP Policies and National Plans
- 2) It is a rear and side extension solution commonly found anywhere in Dublin
- 3) No objection by neighbours or 3rd parties were raised.

## **6.2. Planning Authority Response**

6.2.1. The Board is referred to the Case Planners Report. No additional comments.

## **6.3. Observations**

6.3.1. None

## **6.4. Further Responses**

6.4.1. None

## **7.0 Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Residential Amenity
- Other Issues
- Appropriate Assessment

## **7.2. Principle**

7.2.1. Having regard to the zoning objective for the site I am satisfied that the principle of extending this dwelling is acceptable subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.



### 7.3. Residential Amenity

- 7.3.1. DLRCC issued a notification of decision to refuse permission as the scheme would be contrary to Section 12.3.7.1 (Extensions to Dwellings) of the Development Plan having regard to the height, scale, bulk and location of the extension and its impact on existing residential amenity by way of appearing overbearing and overshadowing when viewed from adjoining dwelling.
- 7.3.2. I refer to Section 12.3.7.1 (Extensions to Dwellings) of the Development Plan and in particular sub section (ii) Extensions to the Rear and (iii) Extensions to the Side. I am satisfied that the scale and design of the scheme does not overwhelm or dominate the original form or appearance of the parent house and that the side extension, will not have a significant negative impact on the character or visual amenities of this established residential area or the overall streetscape. Having regard to the scale and location of the proposed rear extension I do not consider that the scheme would if permitted, form an unduly overbearing or dominant element when viewed from the adjoining properties or surrounding areas.
- 7.3.3. Notwithstanding the foregoing I share the concerns raised by the Planning Authority that the *extension would negatively impact on the adjoining residential amenity due to overbearing and overshadowing impacts*. To this end I note that the proposed rear extension is 7.6m in depth and I am concerned that same could have a negative impact on the residential amenities of the adjoining property at No 93 to the northeast. It is therefore recommended that the depth of the proposed first floor extension be reduced to 6m.
- 7.3.4. Subject to the recommended reduction in the depth of the first floor rear extension I am satisfied that the design, scale, form and positioning of the proposed extension(s) strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings, that it will not result in any significant over shadowing of adjoining properties and that it will not result in any unreasonable loss of natural light or overlooking to neighbouring residential properties.

### 7.4. Other Issues

- 7.4.1. **Development Contributions** – I refer to the Dún Laoghaire-Rathdown County Council Section 48 Development Contribution Scheme 2016-2020 adopted 14th

December, 2015. Section 10 Exemptions and Reduction of the scheme states that the first 40 square metres of any residential extension, shall be exempt from the contribution scheme. Having regard to the foregoing recommendation to reduce the dept of the first floor extension to 6m it would appear that the scheme would fall below the 40sqm exemption. Accordingly, it is recommended that should the Board be minded to grant permission a Section 48 Development Contribution condition is not attached.

## 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development comprising a rear residential extension and its distance to the nearest European site, 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. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the following reason.

## 9.0 **Reasons and Considerations**

- 9.1. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure residential or visual amenities, established character or appearance of the area and would, otherwise, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>The dept of the first-floor extension shall be reduced to 6 metres measured externally. The gross floor area of the proposed extension shall not exceed 40sqm. Revised plans and particular shall be submitted to the Planning Authority for agreement prior to commencement of work on site.</p> <p>Reason: In the interest of residential amenities.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 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.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
5.	<p>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.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>

6.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p> <p><b>Reason:</b> In the interests of public health</p>
7.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area</p>

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.

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**Mary Crowley**

**Senior Planning Inspector**

**6<sup>th</sup> June 2023**