



An
Bord
Pleanála

Inspector's Report ABP316183-23

Planning Authority:

Dún Laoghaire-Rathdown Co. Council

Planning Authority Reg. Ref.

D22A/0889

Applicant: Conor Kavanagh

Type of Application Permission

Type of Appeal Third Party

Appellant Geraldine and James McDonnell

Observer None

Date of Site Inspection 26 June 2023

Inspector Diarmuid Ó Gráda

1.0 Site Location and Description

- 2.0 This appeal concerns a property at the eastern end of Rathfarnham, close to Churchtown, Dublin 14. It is less than a half kilometer east of the Nutgrove shopping centre. It is reached from Barton Road East via Beaumont Avenue and Meadow Park.
- 3.0 The site forms part of a large tract of suburban lands that were developed for housing purposes during the second half of the last century, particularly during the 1970s. They mostly comprise housing estates formed of two-storey terraced and semi-detached houses, laid out at a low density on the *Garden City* model, i.e. with front/rear gardens and generous lateral spacing.
- 4.0 The subject dwelling is an end-of-terrace two-storey house. The terrace contains eight similar houses. It is a north-facing structure of four bedrooms with a stated floor area of 78 square meters. There is a front garden of 9 meters and a rear garden of 15 meters.
- 5.0 This house differs slightly from its neighbours in having a single-storey gable-end extension. That was granted permission three decades ago and it is set back 1.6 meters from the front building line.
- 6.0 The houses within the terrace are unusual because they have an internal passageway giving rear access for deliveries etc. Those passageways are shared between each pair of houses. Some of the nearby houses have rear extensions, mostly comprising

single-storey additions. They include no.56 Mountain View Drive, the immediately adjoining semi-detached house on the east side.

7.0 PROPOSED DEVELOPMENT

- 8.0 It is intended to enlarge the house by constructing a two-storey addition of 54 square meters approx. to the rear. It would have a flat roof with a zinc covering.
- 9.0 The proposed rear extension would be almost 6 meters high and would project almost 4 meters from the existing back wall. There would be a dining room on the ground floor and overhead there would be two bedrooms and a bathroom. No windows are shown on the side elevations.
- 10.0 The two-storey extension would abut the property boundary on the east side, i.e. adjoining no.56 Mountain View Drive (the home of the third party appellant).
- 11.0 A small single-storey extension of 5 square meters approx. would be added to the side, in front of the existing gable-end wing. That would have a pitched roof and its external finishes would resemble those of the house.
- 12.0 In order to make way for the proposed front/side extension the front door of the house would be moved from the side out to the front. It currently faces the side (west) boundary and moving it to the front would be necessary to accommodate that new wing.
- 13.0 Those works would have a combined floor area stated at 58 square meters. An external pebble-dash finish would be used.

14.0 Planning Authority Decision

- 15.0 The Council sought further information regarding potential overshadowing at no.54 Mountain View Drive, i.e. the applicant's house. It also sought details of the surface water drainage arrangements for the proposed extension.
- 16.0 Revised drawings received by the Council showed three proposed water butts to deal with surface water disposal. Two, with a capacity of 250 litres, were shown at either corner to the rear and another, of 180 litres, was shown at the front (i.e. north-west) corner.
- 17.0 The Council also received a report about the daylight/sunlight aspects. It was stated that all windows at nos.52/56, in regard to daylight, would retain a VSC (vertical sky component) in excess of 27% and would not be reduced below 80% of the existing VSC. Thus, any potential loss of daylight would be minimal and negligible, and would meet the current BRE guidelines (BRE 209: 2002). All windows would also meet the BRE standards for sunlight. Similarly, the impact on amenity areas would be minimal. All the windows assessed would have an APSH (Annual Probable Sunlight Hours) above the recommended BRE guidelines. That shows the amenity areas should have good quality sunlight throughout the year; 50% of it should receive over two hours of sunlight on 21st March (equinox).

It was stated that front gardens need not be assessed for sunlight. The amenity spaces of nos.52/56 would not perceive a reduction of sunlight below the currently prevailing levels on 21st March. The area would have over 2 hours of sunlight over 50% of the amenity space, or if less, would not be reduced below 80% of the current value. For that reason the impact would be minimal.

- 18.0 The Council decided to grant permission subject to 9 conditions, notably,
- 1 Compliance with the lodged plans/particulars, as amended by the further information received on 1st March 2023,

- 2 The west-facing first floor window shall be obscure glazed,
- 4 The surface water run-off shall be discharged to appropriately sized water butts as shown on the lodged drawings, with any overflow draining to an infiltration system on the site,
- 6 Payment of a financial contribution of €51.54 for public service water infrastructure,
- 7 Payment of a financial contribution of €1178.31 for public roads infrastructure,
- 8 Payment of a financial contribution of €764.42 for public community and parks infrastructure.

18.1. Planning Authority Reports

18.1.1. The Planning Report

- The main issues arising are compliance with the zoning objective, the visual impact, the access/parking and drainage.
- Residential extensions are allowed where they are compatible and would not have undesirable effects. There would not be any undue overlooking, having regard to the length of the rear garden.
- The concerns of the observer about loss of sunlight/daylight are reasonable. There is a potential for material impacts to arise. The Development Plan (Section 12.3.4.2) requires assessment of the impact on existing habitable rooms. It also cites the BRE guidelines.
- The proposed first floor side-facing staircase window should be obscure-glazed.
- Because the proposed rear extension would be set back over 20 meters from the street, and kept below the ridge of the main roof, it would not be visually injurious to the streetscape.
- According to the lodged study/assessment all but one window at no. 56 would maintain received sunlight values per the BRE guidelines, and in the

exceptional case where the 27% figure was not achieved, the change would not be greater than 20%. All existing windows at no.54 would achieve the 25% of annual probable sunlight hours (APSH) and 5% of winter probable sunlight hours (WPSH). Sunlight for the amenity spaces would likewise be satisfactory, when measured for the equinox. There would be adequate protection of amenity at the adjoining properties in terms of sunlight/daylight.

- No concerns arise regarding the front extension. There is no vehicular access or off-street parking, and no alterations are intended there.
- Satisfactory provision has been indicated for surface water disposal.

Drainage Division Report

No objection subject to conditions.

Observation

An observation was lodged with the Council on behalf of the occupants of no.56 Mountain View Drive. The points raised in that observation were considerably expanded in the subsequent appeal and details are given below.

19.0 Planning History

None in immediate vicinity

20.0 Policy and Context

20.1. Development Plan

21.0 Under Section 12.3.7.1 front extensions, at both ground and first level, will be considered acceptable in principle subject to scale, design, and impact on visual and residential amenities. Any breach of the front building line shall not dominate the front

elevation. Any significant break in the building line (even over two floors) should demonstrate that the proposal will not impact on the amenities of directly adjoining dwellings. Front extensions, particularly at first floor level, should reflect the roof shape/slope of the main dwelling. A minimum driveway of 6 meters should be maintained.

Under Section 12.3.7.1 ground floor rear extensions should match or complement the main house in terms of their length, height and proximity to mutual boundaries. First floor rear extensions will only be permitted where there will be no significant negative impacts on surrounding residential or visual amenities. Factors to be considered include:

- Overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries.
- Remaining rear private open space, along with its orientation and usability.
- The set-back from mutual site boundaries.
- External finishes and design, which shall generally be in harmony with the existing.

Ground floor side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation) and impact on adjoining residential amenity. First floor side extensions built over existing structures and matching existing dwelling design and height would generally be acceptable. However, a set-back from the extension's front facade and its roof profile/ridge may be sought

to protect amenities, to integrate into the streetscape, and to avoid a terracing effect. External finishes shall normally be in harmony with the existing finishes.

Under Section 12.3.7.1 roof alterations/expansions to main roof profiles - changing the hip and 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 its proximity to adjacent structures.
- Existing roof variations in the streetscape.
- Distance, contrast and visibility of proposed roof end.
- Harmony with the rest of the structure, including adjacent structures and their prominence.

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 will be set back from the eaves, gables and/or party boundaries. They should be set down from the existing ridge level so as not to 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/type of glazing within a dormer extension shall have regard to existing window treatments and fenestration. However, regard should also be had to the size of fenestration proposed at attic level relative to adjoining residential amenities. Particular care would 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.

Section 12.3.4.2 deals with issues of daylight and ventilation for habitable rooms but they are connected with all new residential units, i.e. rather than domestic extensions. Specifically, a daylight analysis will be required for all proposed developments of 50 plus apartments units, or as otherwise required by the planning authority. Development shall be guided by the principles of the Building Research Establishment 2011 and/or any updated or subsequent guidance in that regard. The impact of any development on existing habitable rooms should also be considered.

21.1. EIA Screening

21.2. Having regard to the minor nature and scale of the development proposed, the site location outside of any protected site, the nature of the receiving environment in an existing built-up area, the intervening pattern of development, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

22.0 The Appeal

23.0 A third party appeal was lodged on behalf of the occupants of no.56 Mountain View Drive, i.e. the adjoining house on the east side.

23.1. Grounds of Appeal

- The two-storey extension would bring serious injury to residential amenity from the loss of daylight and loss of sunlight. There would be property devaluation.

- There would be a loss of outlook caused by visual intrusion. The reduced outlook would cause a serious loss of residential amenity, as well as property devaluation.
- The sunlight/daylight assessment did not address the upstairs window. The Council overlooked that aspect of the matter.
- The south-facing upstairs bedroom at no.56 would suffer the loss of sunlight because the proposed extension would be two floors in height.
- The BRE guidelines show that the windows of most concern to the appellant would suffer a considerable impact i.e. the single window of the upstairs bedroom and the roof light of the rear extension facing the proposed extension (windows nos. 8 and 10). For the former window the VSC would fall from 35% to 29% and for the latter window there would be a reduction from 80% to 64%. Thus, the first floor bedroom VSC would be reduced to just 2% over the minimum acceptable level (27%).
- It is acknowledged that the proposal meets the BRE guidelines in regard to sunlight impact. However, the impact on the rear first floor windows of no. 56 (nos. 8/10) was not assessed.
- The Council did not adequately consider the loss of outlook from no. 56. The Council planner's report was vague and contradictory in that regard. The applicant failed to address the loss of sunlight. No redesign options were presented.
- Questions posed by the Council were not addressed. Specifically, the Council wanted to know whether the proposal would cause a loss of sunlight at no.46, and if so, to provide details. Instead of that, the applicant's analysis was limited to ground floor windows. Only the rear ground floor windows of no.56 were considered.
- The Council was concerned about the upstairs bedroom window and the roof light of the first floor extension (windows nos.8/10). The applicant's report may have excluded those windows on the basis, as they stated, that main living spaces are typically assessed for sunlight. The exclusion of the upstairs

windows is in direct conflict with the development plan. Habitable rooms must be assessed, not main living spaces.

- The applicant's sunlight/daylight report is flawed because it did not analyze the impact of the proposed extension on the roof-light and upstairs window of no.56. The applicant's study did not address the impact on the ground floor of no.56 where the roof-light serves to bring sunlight. That house faces north and the open plan of the ground floor extends to the sunlight internally.

23.2. Applicant's Response

- No redesign of the proposal was needed following the Council's request for further information because there will not be any undue impact on neighbours in regard to loss of light and outlook.
- There are several precedents in the locality.
- The BRE guidelines, with particular reference to Section 3.2.3, state that kitchens and bedrooms are less important than living rooms and conservatories. Normally, sunlight need not be analyzed for kitchens and bedrooms (i.e. without living space).
- Sunlight is intermittent and any actual reduction would be less because the sun does not shine all the time.
- Window no.8 would retain a vertical sky component (VSC) above 27%, which is the primary target of the BRE guidelines. Moreover, the daylight/sunlight requirement for bedrooms is lower.
- The VSC to window no.10 would not fall under 80% of the existing value.
- Windows nos.6/7/10/11 all serve the same room.
- Where there is more than one window the weighted average can be used, which is 95%, thereby meeting the BRE's guidelines.

23.3. **Planning Authority Response**

The grounds of appeal do not raise any new issue that would justify a change in the Council's attitude.

23.4. **Observations**

None

23.5. **Further Responses**

None

24.0 **Assessment**

25.0 The main issue is the impact of the proposal on residential amenity, with particular regard to no.56, the home of the appellants. There is much greater lateral separation on the west side, i.e. from no.52.

26.0 The proposal should be acceptable in terms of access and drainage. The impact of surface water would be minimal as the footprint of the proposed works would be small and not much different from permissible exempted development.

27.0 Some aspects require clarification. The Council sought further information regarding the sunlight/daylight impacts on no.54 Mountain View Drive, i.e. the application site. That appears to be an error and it apparently meant the adjoining houses at nos.52/56 as they are the ones cited in the planner's assessment.

28.0 Clarification is also needed in regard to the Site Plan. It has a stated scale of 1:200. However, the dimensions given relate to a scale of 1:400 approx. Consequently, the dimensions are misleading e.g. giving a front garden length of 18 meters approx., instead of the actual 9 meters approx. For the same reason the rear garden is

represented at twice its actual length. Notwithstanding those errors there would be ample private open space provision.

- 29.0 The ground floor extension would be acceptable as it would allow the retention of adequate private open space i.e. there would be a rear garden 12 meters long approx. That would exceed the 11 meters threshold, i.e. where an aggregate of 22 meters is conventionally considered necessary to secure privacy for directly-opposing bedroom windows.
- 30.0 There would not be a material breach of the front building line and the front elevation would be compatible with the established pattern, especially in regard to having the front door facing the street.
- 31.0 The Development Plan would only allow first floor extensions where they avoid significant negative impacts on surrounding residential/visual amenities. That consideration is tied to the impact caused by height along mutual boundaries. The set-back from mutual site boundaries is specifically listed in the Development Plan as one factor for consideration.
- 32.0 Having regard to the Development Plan provisions for rear extensions, the proposed first floor extension fails to match the design or form of the main house. In addition, the elevated flat roof would render it intrusive and overbearing.
- 33.0 There would be a notable impact on the nearest rooms of no.56, and they include the bedroom/study closest to the dividing boundary. That room would suffer a significant loss of aspect. Daylight/sunlight would be cut off during the afternoon and evening.
- 34.0 The Development Plan (Section 12.3.4.2) addresses sunlight/daylight issues mainly in terms of new residential units, citing schemes of over 50 apartments. The BRE guidelines cited by the appellant and the applicant are purely advisory. They state (Section 2.1.14) that living rooms and kitchens need more sunlight than bedrooms. They also state that rooms which are not very deep gain more light on average. That is the case for the rear of the houses being considered now, nos. 54 and 56. Moreover,

the rear elevations of these houses are south-facing. That is a very significant benefit for sunlight/daylight, as well as for solar gain.

- 35.0 Bedrooms now are increasingly serving as studies for family members, especially as education and other services are more available on-line. That has become a more significant consideration in the use of bedrooms. Home-working has also brought this issue to the fore.
- 36.0 While the appellant argues that there would be a significant loss of vertical sky component my site inspection revealed that there would be a substantial loss of aspect from no.56. There would be consequent overbearing to an excessive degree. The third party appellant is correct in stating that issue was inadequately considered by the Council.
- 37.0 The existing rear extension of no.56 (the appellant's adjoining house on the east side) is set back from the dividing boundary and that arrangement avoids any overhanging of eaves or gutters. The current proposal would stand out in strong contrast to that set-back.
- 38.0 A balance has to be struck. Amongst the primary considerations for lateral extensions is their impact on the amenity of third parties. In this case the main concern relates to no.56. The loss of aspect and daylight/sunlight at that property would exceed what is acceptable under the Development Plan (A zone objective). An alternative design

could be considered that would meet the Development Plan requirements for first floor extensions.

39.0 The material loss of outlook would also bring a property devaluation.

40.0 Recommendation

41.0 I recommend that permission be granted subject to conditions.

42.0 Reasons and Considerations

Having regard to the A zoning objective pertaining to the site it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable from a visual amenity perspective and would generally be acceptable in terms of compliance with the criteria stipulated under the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

43.0 Conditions

1.	The proposed development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on 1 st March 2023 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 proposed development shall be carried out and completed in accordance with the agreed particulars.
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	Reason: In the interest of clarity.
2.	(a) The proposed first floor of the rear extension shall be set back 1 meter minimum from the eastern boundary of the site. Reason: In the interests of visual and residential amenity.
3	Details of the materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing, with the planning authority prior to the commencement of development. Reason: In the interest of visual amenity.
4	Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Reason: In order to safeguard the amenities of property in the vicinity.
5	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.
6	The applicant shall prevent the spillage of mud, dirt or debris on the public road as a result of site construction works, and shall repair any damage to the public road arising from the carrying out of those works. Reason: In the interest of orderly development.
7	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

<p>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 this 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.</p> <p>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 in the permission.</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.

Diarmuid Ó Gráda,
Planning Inspector

30 June 2023