



An
Bord
Pleanála

Inspector's Report 316348-23

Development	Construction of first floor extension to rear and roof lights and all associated works
Location	2 Oliver Plunkett Square, Dun Laoghaire
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D23B/0042
Applicant(s)	Declan Fassbender
Type of Application	Planning permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Elaine Casey Victoria Jago & Robert Kohls
Observer(s)	None
Date of Site Inspection	17th July 2023
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located off Oliver Plunkett Road, Monkstown, which is a residential street linking Mounttown Road with Monkstown Avenue. The site is located on the corner of Oliver Plunkett Road and Oliver Plunkett Square, which is a short cul-de-sac off the southern side of the main road. The site comprises one of a pair of 2-storey semi-detached houses on a pair of corner sites, which are triangular in shape. The attached house is No. 1.
- 1.2.** The site area is given as 0.0278ha. The floor area of the existing house is given as 91sq.m. The house has a large front/side garden with a smaller, irregularly shaped rear garden. The southern boundary abuts the northern boundary of No. 3 Oliver Plunkett Square, which is an end of terrace house, (terrace of 4 no. 2-storey houses). There is an existing flat roof extension at the rear.

2.0 Proposed Development

- 2.1.** It is proposed to construct a first-floor extension to the western elevation over the ground-floor extension at the rear of the house. The floor area of the proposed extension is given as 19 sq.m. The proposed extension is for a master bedroom with a wardrobe. The bedroom occupies the majority of the proposed floor space and is located at the southern end. the wardrobe element is recessed with the rear building line matching that of the adjoining dwelling to the north.
- 2.2.** The proposed extension has a hipped roof over the bedroom and a smaller hipped roof over the wardrobe element. There is a high-level window proposed for the western (rear) elevation of the bedroom and a further window on the southern (side) elevation. The wardrobe would also have a west-facing window.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 3 conditions. These were generally of a standard type. Condition 2 required that the entire house be used as a single dwelling unit and that it shall not be sub-divided or used as two or more

habitable units. Condition 3 related to materials and external finishes which were required to harmonise with the existing house.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report (30/08/23) noted that two submissions had been received from neighbouring residents. These are summarised on page 2 of the report. The points made related mainly to the scale of the development, which was considered to be excessive relative to adjoining properties and the impact on residential amenities in terms of loss of privacy and overshadowing. Reference was made to previous planning history on the site, which related to refusal of a similar development proposal on the appeal site. The reasons for refusal related to overlooking and overshadowing and the planning report addresses the differences between that decision and the current application. It was further noted that the dwelling to the north (No. 1) had been the subject of recent planning permissions to extend to the side and rear.

Regard was had to various policies and development standards in the CDP (2022) including Section 12.3.7.1 regarding Extensions to Dwellings. The Area Planner considered that the previous reasons for refusal had been addressed. The proposed development was considered to be smaller and less intrusive on the amenities of the adjoining properties. It was concluded that the proposed development would not result in undue overlooking or overshadowing and would be acceptable in terms of the impact on the residential and visual amenities of the area.

3.2.2. Other Technical Reports

Drainage Planning - No objections subject to conditions.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third party observations

Two observations were made to the planning authority. One from each of the neighbouring residents at No. 1 and No. 3 Oliver Plunkett Square. The main points raised may be summarised as follows:

- Previous refusal – it is questioned whether the reasons have been addressed.
- Excessive scale – overbearing relative to the existing development in the vicinity and would be out of character with the adjoining dwellings.
- Loss of privacy – it would overlook adjoining properties and ruin the privacy of the garden of No. 3.
- Overshadowing – the height, scale and relative proximity would result in loss of daylight light to neighbouring properties at No. 1 and No. 3 Oliver Plunkett Square. It would also result in the loss of sunlight to the rear patio of No. 1.

The P.A. was satisfied with the proposed development, and it was decided to grant permission subject to conditions generally in accordance with the Area Planner's recommendation.

4.0 Planning History

4.1. The following planning decisions relating to the site are relevant.

D08B/0697 – Permission **Refused** by P.A. for two-storey rear extension. This was a larger extension with a stated floor area of 28.4sq.m. It extended 4.2m from the rear wall of the first floor of the house for the full width of the existing house. It had 2 no. windows facing west. The first reason for refusal related to the proposed rear windows which would result in overlooking of the private amenity space of No. 3 Oliver Plunkett Square due to their proximity. The second reason related to the impact of the first-floor extension on the adjoining property to the north (No. 1 Oliver Plunkett Square) in terms of being intrusive and by overshadowing due to its orientation and extent of projection (4.2m) along the common boundary.

Relevant history on adjacent sites: -

D21A/0335 – 1 Oliver Plunkett Square – permission granted for extension and renovation. Works included demolition of part of existing structure, the construction of a 2-storey extension to the side, a single-storey extension at the rear, a 2-storey extension to the front and a new vehicular entrance onto Oliver Plunkett Road. The increase in floor area was 70.06m² (from 66.69m² to 136.75m²).

D08A/0389 – 1 Oliver Plunkett Square – permission granted for a single storey and 2-storey side extension, a new single storey extension to the rear and a new vehicular entrance onto Oliver Plunkett Road. This permission was not implemented.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2022-2028

5.1.1 The site is zoned Objective A for which the objective is to “To provide residential development and to improve residential amenity while protecting the existing residential amenities”.

5.1.2 Relevant chapters include

Chapter 3 – Climate Action – Objectives CA5 (Energy Performance), CA7 (Construction materials) and CA10 (Renewable energy).

Chapter 4 relates to **Neighbourhood and sustainable communities** – Sections 4.2.1 and 4.3.2.1 relate to sustainable communities and neighbourhood infrastructure.

Objective 4.3.1.2 seeks to conserve and improve existing housing stock through supporting improvements and adaptation.

Chapter 12 – Development Management

12.3.7.1 – Extensions to dwellings – The following extracts from the policy are considered relevant:

“First floor extensions will be considered on their merits noting that they can have potential for negative impacts on the amenities of adjacent properties and will only be permitted where the planning authority is satisfied that there will be no

significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions, the following factors will be considered -

- Overshadowing, overbearing and overlooking along with height, proximity and length along mutual boundaries.
- Quantum of rear private open space remaining, its orientation and usability.
- Degree of set-back from mutual side boundaries.
- External finishes and design, which shall generally be in harmony with the existing.”

5.2. Natural Heritage Designations

South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) lie approx. 2km to the northwest.

6.0 The Appeal

6.1. Grounds of Appeal

Two third-party appeals were submitted by the neighbouring resident to the north (No.1) and to the south (No. 3). The main points raised may be summarised as follows:

- **Previous Reasons for Refusal** - The main reason for objecting to the proposed development has not altered, notwithstanding the minor alterations to the proposed development. There has been no significant change in overall dimensions to the plans and there is no actual reduction in terms of the impacts of the proposed development on the amenities of adjoining properties.
- **Overlooking** - The proposed development will overlook the rear garden of no. 3 Oliver Plunkett Square and will significantly impact the amenities of that property by reason of loss of privacy and overshadowing.

- **Visual impact** - The proposed development is entirely out of keeping with the adjoining properties and will be overbearing and visually intrusive by reason of its height, scale and depth of projection from the rear elevation. There is no precedent for a first-floor extension in the vicinity of the site.
- **Loss of daylight** - The proposed development will result in a significant loss of daylight to No. 1 Oliver Plunkett Square due to the cumulative shadows cast by the proposed extension together with the existing flat roof ground floor extension. The proposal will result in direct overshadowing of the ground floor west-facing sitting room window of this house and will also result in a reduction in daylight to the first-floor bedroom on this same elevation.
- **Loss of sunlight** - The proposal will result in a loss of sunlight to the rear patio of No. 1 and to the ground floor sitting room window between 1pm and 3.45pm.
- **Alternative solution** - The adjoining owners of No. 1 would like to see a substantial effort made to reduce the size of the proposed development. Mitigation is proposed in the form of omitting the proposed walk-in wardrobe. Alternative floor plans have been submitted.
- **Inaccurate drawings** - The submitted drawings do not provide an accurate representation of what exists on site. The site layout plan shows a hatched area which gives the impression that the rear wall of No. 1 is further forward of the rear building line than is the case on the ground. There is no rear extension immediately adjoining No. 2 Oliver Plunkett Square.

6.2. Planning Authority Response

The P.A. responded to the grounds of appeal on the 25th May 2023. It was stated that the grounds of appeal do not raise any new matters, which in the opinion of the P.A. would justify a change of attitude to the proposed development.

6.3. First party response to grounds of appeal

The first party responded on 25th May 2023. This was mainly in the form of a rebuttal of the grounds of appeal. The following points were made:

- **Refusal reasons addressed** – The design, scale and massing have been altered to ensure that previous concerns were overcome. The appellant refers to a level of certainty regarding the potential for development at first floor level of the appeal property, which is considered unrealistic and unjustified as the current proposal differs significantly from the previous one.
- **Loss of Daylight** – The BRE Guidelines are advisory and not mandatory guidelines and should be interpreted flexibly as natural lighting is only one factor in site layout design. It should be noted that this is a dual aspect room and that any potential impact would diminish as the day progresses. The interpretation of the BRE guidance is also confined to one window in one room, without reference to the layout of the main living space at ground floor or the presence of additional sources of natural light. No reference is made to the absence of any impact on the 4 no. bedrooms of this property either. It is not accepted, therefore, that the proposed development would have a significant impact on the amenities of the adjoining premises.
- **Loss of sunlight to patio of No. 1** – The focus on any loss of sunlight to the patio space does not take into account the availability of a substantial rear garden to that property.
- **Visual intrusion** – The existing ground floor extension only relates to a small percentage of the rear aspect/boundary of No. 1.
- **Precedent** – Permission has been granted as follows:
 - D21B/0546** – First floor rear extension at No. 63 Oliver Plunkett Road
 - D15B/0133** – First floor rear extension at No. 8 Oliver Plunkett Square

7.0 Assessment

It is considered that the main issues arising from the appeal are as follows: -

- Principle of development
- Visual amenity
- Impact on residential amenity
- Accuracy of drawings

7.1. Principle of development

7.1.1. The current Dun Laoghaire Rathdown County Development Plan 2022-2028 is generally in favour of retaining and improving existing housing stock. Objective PHP 19 seeks to conserve and improve existing housing stock through supporting improvements and adaptation of homes consistent with NPO34 of the National Planning Framework. The proposed extension would generally be consistent with this objective.

7.1.2. At paragraph 12.3.7.1 of the CDP, it is stated that first floor extensions will be considered on their merits provided that there are no significant impacts on residential and visual amenities of adjoining properties. Factors to be taken into account are -

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

7.1.3. The issues of overshadowing, overlooking and overbearing presence will be addressed in the following sections. It is worth noting at this juncture that the length of the extension along the northern boundary (with No. 1) has been reduced from that previously proposed and is now 2.2m. The existing garden is west facing and directly adjoins the living area of the dwelling. Although its shape is compromised by the irregularity of configuration of the corner site, the amount of space remaining is estimated at 53sq.m and is considered to be useable. The proposed external finishes would harmonise with the existing.

7.1.4. In terms of addressing the previous reasons for refusal, it is noted that the proposed extension has been reduced from 28.4sq.m to 19sq.m, the depth of projection along the common boundary has been reduced from 4.2m to 2.2m and the number and design of windows overlooking the adjoining property at No. 3 have been amended/reduced with a view to minimising overlooking of that property.

7.1.5. It is also noted that there have been several planning permissions for first floor extensions in the vicinity of the site as noted in the First Party Response to the grounds of appeal (25/05/23), as summarised at 6.3 above. The size of the proposed extension at 19sq.m compares favourably with the size of the previously refused extension and with that of the extensions on the adjoining property to the north (No. 1 Oliver Plunkett Square – increase in floor area of c.70sq.m). Thus, in principle, the proposed development would generally be in accordance with the objectives and requirements of the Development Plan for first floor extensions and would not result in overdevelopment of the site, provided that the extension would not give rise to an unacceptable degree of overshadowing, overlooking of adjoining properties or be visually overbearing or intrusive. These matters will now be discussed.

7.2. Visual amenity

- 7.2.1.** The third-party submissions stated that the proposed extension would be visually intrusive, have an overbearing presence and would be out of character with the existing development in the vicinity. I note that although the site is a corner one and therefore potentially quite visually prominent on the approach from the east along Oliver Plunkett Road, the existing house is well screened by existing landscape planting in the front garden.
- 7.2.2.** The most visible angle would be from the south along Oliver Plunkett Square. Whilst the extension would be visible from the cul-de-sac, the extent of visibility would be quite limited and would not appear to be unduly out of character with the residential neighbourhood. The proposed design with a hipped roof and the proposed use of materials to match the existing would also help to assimilate the development into its surroundings.
- 7.2.3.** It is considered that the proposed first floor extension, with a hipped roof, would not be visually incongruous or obtrusive when viewed from surrounding properties to the rear. The setting back of the most northerly element would also reduce the potential visible intrusion when viewed from No. 1. The recent extensions to this property have resulted in a significant alteration to the living space and amenity areas of this property, which are generally oriented away from the appeal site. In the overall context of this adjoining site, it is difficult to see how the proposed projection for c. 2.2m at first floor level could be considered to be visually overbearing.

7.2.4. In conclusion, it is considered that the proposed extension would not be visually intrusive or have an overbearing presence and would not adversely affect the visual amenities of adjoining properties or of the area.

7.3. Residential Amenity

7.3.1. The concerns raised by third parties related to excessive scale, overlooking and overshadowing. As discussed in the preceding section, the revised design contained in the current application/appeal would reduce the scale and depth of projection along the boundary with No. 1. It is considered that in the context of the size of the site and of existing extensions on neighbouring sites, and in particular, the small scale of the extension at c.19sq.m with a recessed element and two hipped roofs, the proposed extension would not be excessive in scale.

Overlooking

7.3.2. The previous proposal (D08B/0687) included two full-sized windows on the proposed western elevation, which would have directly overlooked the rear garden of No. 3. The current proposal has replaced one of these windows with a proposed high-level window, from which there would be no overlooking. The other window is now to the walk-in-wardrobe, which is recessed by approx. 1.9m behind the main rear elevation of the proposed extension. Thus, it would not be possible to overlook the garden of No. 3 from this window. There is a possibility that there would be some degree of overlooking, albeit from an oblique angle, of the patio to No. 1. It is considered, however, that as this is intended to light a wardrobe, this window could be fitted with obscure glazing. It is considered that this could be addressed by means of a condition of any planning permission.

7.3.3. The current proposal also introduces a new window to the proposed master bedroom which would face south and a further bathroom window, also facing south. These windows would essentially overlook the triangular shaped garden area to the side of the appeal property itself and the side elevation of No. 3. I note that there are no windows, other than one small window, which appears to be a landing window on the northern elevation of this adjoining property. The bathroom window could be required to be fitted with obscure glazing, by means of condition.

7.3.4. Thus, it is considered that subject to the requirement for obscure glazing to the proposed bathroom and wardrobe windows, the proposed extension would not result in any significant loss of privacy or overlooking of adjoining properties.

Overshadowing and loss of sunlight

7.3.5. The submissions from the agent on behalf of the third-party appellants at No. 1 include an analysis of the impact of the proposal having regard to the BRE guidelines. This analysis includes an assessment of the impact of the existing ground floor extension (which is assumed to be exempted development) combined with the impact of the proposed first floor extension, with the focus on the impact of the proposed walk-in-wardrobe. Essentially, it was concluded that the existing extension impacts the ground floor rear window of the sitting room of No. 1, but the impact would be within the tolerance threshold of acceptability as set out in the BRE guidelines. It is further concluded that the proposed extension would increase this impact beyond this threshold and would also have an impact on the first-floor bedroom window to a degree which would be just below the acceptability threshold.

7.3.6. The agent on behalf of the first party appellant has rebutted these assertions on the basis that the analysis focuses on just one window to one room in the house, which is dual aspect and where the remainder of the ground floor accommodation has the benefit of several light-filled rooms and living space. It is pointed out that the first-floor bedroom does not fall below the recommendations and that none of the other rooms or bedrooms are affected. It is further noted that the BRE guidelines are not mandatory, but advisory. It was concluded that there would be no significant impact on the amenities of the adjoining property in terms of loss of daylight.

7.3.7. In terms of the objection to loss of sunlight to the house and patio area, the first party points out that in the context of the nature and scale of the adjoining accommodation, patio and garden area, there is no justification for concluding that there would be a significant impact in terms of loss of sunlight.

7.3.8. I would accept that there would be some loss of daylight to the ground floor sitting room, which would be worsened by the proposed first floor extension. However, given that this room has dual aspect, facing east as well as west, is a large room and is not the sole living space within the expanded property, the impact of the reduction in daylight for a few hours a day is not considered to be significant. Similarly, when

taken in the context of the large private amenity space available on the adjoining site, the reduction in sunlight is not considered to be significant in this instance.

- 7.3.9.** As the proposed extension is relatively small and is set-back along the mutual boundary, it is considered that it would not give rise to any significant level of overshadowing or loss of sunlight. The proposed development would not adversely affect the residential amenities of adjoining properties.

7.4. Anomalies in drawings

- 7.4.1.** It is noted that the representation of the existing layout of the adjoining site (No. 1) is not as shown on the submitted Site Layout Plans. It would appear that these plans may have relied upon the Ordnance Survey plans which inaccurately show the footprint of No. 1 as having been extended immediately proximate to the boundary with No. 2, which is not the case. This matter was brought to the attention of the planning authority and is acknowledged in the planner's report. The matter has also been taken into account in my assessment above.

7.5. Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development, 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.

7.6. Appropriate Assessment

South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) lie approx. 2km to the northwest. There are no known hydrological links to the protected sites. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

8.1 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1. Having regard to the policies and objectives as set out in the Dun Laoghaire Rathdown County Development Plan 2022-2028, to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. 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, 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 amended as follows: -
- (a) The window to the proposed walk-in wardrobe on the western elevation shall be fitted with obscure glazing.
 - (b) The new window to the bathroom on the southern elevation shall be fitted with obscure glazing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the residential and visual amenity of the area and of traffic safety and convenience.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to a single dwelling house (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of protection of residential amenity.

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

Reason: In the interest of visual amenity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Details of drainage arrangements including SUDs

measures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health.

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.

Mary Kennelly
Senior Planning Inspector

17th July 2023