



An
Bord
Pleanála

Inspector's Report

ABP-316953-23

Development	Alterations and extension of the existing single storey dwelling to create a two storey dwelling and all site development works, drainage and landscaping.
Location	3 Wilmont Avenue, Sandycove, Co. Dublin, A96K2C5
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22B/0523
Applicant(s)	Ciaran and Marion McGettrick
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeals
Appellant(s)	Conor Fennell Giles and Frances Kerr Rita and Noel Kidney
Observer(s)	None
Date of Site Inspection	16 th September 2023
Inspector	Susan Clarke

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	5
5.0 Policy Context.....	5
6.0 The Appeal	7
6.1. Third-Party Appeals	7
6.2. Applicant Response	9
6.3. Planning Authority Response	11
6.4. Observations	11
6.5. Further Responses.....	11
7.0 Assessment.....	11
8.0 Appropriate Assessment.....	15
9.0 Recommendation.....	15
10.0 Reasons and Considerations	15
11.0 Conditions	16

1.0 Site Location and Description

- 1.1. The appeal site, measuring 0.0472ha, is located on Wilmont Avenue which runs in a north-south direction from Sandycove Road (R119) and is a cul-de-sac. The area is residential in character comprising a variety of architectural styles, including Victorian and early 20th century residential buildings, and a mix of building heights (single – five/six storey).
- 1.2. The site previously formed part of the larger garden of Wilmont Lodge, a period house, located immediately to the north. The site is bounded to the west (rear) primarily by open space associated with a three-storey apartment block, St. Helen's. It is bounded to the south by an older, two-storey, detached house, 'Valmar', which faces east and to the east by the rear gardens of Nos. 10 and 11 Marine Avenue.
- 1.3. The site contains an existing single storey, pitched roof, detached dwelling (123 sq m). The site is accessed at its south-eastern corner where Wilmont Avenue ends. A right-of-way along the eastern boundary, to the front of the subject dwelling, provides access to Wilmont Lodge Millfield.

2.0 Proposed Development

- 2.1. The proposed development consists of alterations and extensions of the existing single storey dwelling (123sqm) to create a two storey dwelling (231sqm overall), including:
 - Removal of the existing roof and rear elevation,
 - Addition of a single storey extension to the rear 32sqm
 - Addition to a new first floor level (110sqm)
 - Associated fenestration alterations to the front and rear elevation,
 - Provision of solar panels to the rear roof, and
 - Associated ancillary works to facilitate the development including general repairs and refurbishment, site development works, drainage and landscaping.

There were no significant amendments proposed to the scheme following a request for further information by the Local Authority.

3.0 Planning Authority Decision

3.1. Decision

Dun Laoghaire-Rathdown County Council issued a Notification of Decision to Grant Permission on 26th April 2023 subject to 14 No. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Following a Request for Further Information on 22nd February 2023 with regards to the extent of demolition proposed, the Planning Officer considered that the proposed development would be acceptable and would not adversely impact on the visual amenity of the surroundings or privacy of adjacent properties nor detract from the character of the area.

3.2.2. Other Technical Reports

Drainage Division: No objection, subject to condition.

Environment Section (Waste): No objection, subject to condition.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Four Third-Party Observations were received by the Local Authority opposing the development. The key points raised include *inter alia*:

- Proposal would be contrary to Outline Permission received in 1974 limiting the dwelling to one storey.
- Proposed design and appearance is out of character.
- Restricts daylight and sunlight to neighbouring properties.
- Loss of privacy.
- Inaccuracies on planning drawings.

- Disingenuous development description.
- Traffic disruption during construction.

4.0 Planning History

Subject Site

There is no relevant recent planning history associated with the appeal site.

Wilmont Lodge

DLRCC Reg. Ref. D22A/0892; ABP 315786-23: Planning permission granted in June 2023 for removal of a two-storey extension to the back of the house and single storey extensions and sheds to the side of the house and replacement with a new two storey and single storey extension to the back and modifications to the existing dwelling.

Valmar

DLRCC Reg. Ref. D16A/0065: Planning permission granted in May 2016 for demolition and reinstatement of part of the rear existing (35 sqm) with minor modifications including provision of velux windows, ground floor extension at rear and side (19.5 sqm) with first floor bathroom extension at side (7 sqm) and extension of existing bay window on front elevation to first floor level.

5.0 Policy Context

5.1. **Dun Laoghaire County Development Plan 2022-2028**

The Dun Laoghaire County Development Plan 2022-2028 is the operative County Development Plan.

The site is in an area zoned 'Objective A' which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities'.

Section 12.3.7 of the Development Plan addresses the matter of additional accommodation in existing built-up areas.

Section 12.3.7.1 of the Development Plan provides guidance with respect to porches, front extensions, side extensions, rear extensions, roof alterations, attic conversions and dormer extension.

Section 12.3.7.1(ii) of the Development Plan provides guidance on extensions to the rear. It states the following: *“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”*.

First floor rear 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 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 existing.”*

Section 12.3.7.1(iv) of the Development Plan provides guidance on alterations at Roof/Attic Level.

Section 12.3.9 relates to Demolition and Replacement Dwellings.

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.

5.2. Natural Heritage Designations

5.2.1. The following natural Heritage designations are located in the vicinity of the appeal site:

- South Dublin Bay SAC (000210)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Dalkey Island SPA (004172)
- Rockabill to Dalkey Island SAC (003000).

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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.

6.0 The Appeal

6.1. Third-Party Appeals

6.1.1. Three Third-Party Appeals have been submitted to the Board opposing the proposed development from:

- Noel and Rita Kidney, Wilmont Avenue, Sandycove,
- Giles and Frances Kerr, Marine Avenue, Sandycove, and
- Conor Fennell, Wilmont Avenue, Sandycove.

The grounds of appeal are summarised below.

6.1.2. Noel and Rita Kidney, Wilmont Avenue, Sandycove

In summary, the Appellant argues that the Local Authority did not have due regard to their Observation made in respect of the proposed development. Specifically, the Appellant raises the following issues in the Appeal.

- The proposal is out of scale with adjoining buildings and intrudes on the private open space of neighbouring properties.
- Inaccuracies on the planning drawings with respect to the extent of the site.
- Compliance with Section 12.3.9 of the Development Plan with regards to “uninhabitability” has not been demonstrated. For all intents and purposes the superstructure of the existing building will be cleared.
- Permission has been previously refused twice on the site.
- Request the Board seeks clarification from the Local Authority regarding the comment “However, in this instance a recommendation for refusal is made...” and why additional information was not sought in relation to private amenity space, site access, and boundary alignment, which are referenced in the Planner’s Report.

6.1.3. Giles and Frances Kerr, Marine Avenue, Sandycove

- Concerns in relation to the extreme height and width of the proposed first floor extension and roof. It would make a massive building block and dominant roof which would be out of scale and proportion with everything in the area.
- The Local Authority ignored earlier observations made to it in respect of the proposed development.
- The proposed development is not consistent with the Development Plan with regards to alterations at roof level.
- The proposal will result in direct overlooking of neighbouring properties.
- Concern in relation to possible damage to boundary walls and gate piers caused by construction traffic and vibration.

6.1.4. Conor Fennell, Wilmont Avenue, Sandycove

- Proposal will directly overlook the rear garden and living area (kitchen, conservatory, bathroom, and two bedrooms) of No. 10 Marine Avenue.
- Primary objection to the size of the upper windows of the house, which are out of proportion to the rest of the development.
- The size of the development is considerable and out of proportion to the area.

6.2. Applicant Response

Noel and Rita Kidney and Giles and Frances Kerr

A jointed First Party response to Noel and Rita Kidney and Giles and Frances Kerr was prepared by Kieran O'Malley & Co. Ltd on behalf of the Applicant:

- The proposed extended dwelling would be entirely in keeping with the scale of properties within the immediate environs of the appeal site. This is supported by an analysis of the neighbouring sites in terms of floor area, plot ratio and height is provided.
- Two windows on the northern elevation of Valmar directly overlook the subject site.
- Some degree of overlooking is to be expected within a tight knit urban built environment.
- The separation distances between the front elevation of the proposed extended dwelling and Nos. 10 and 11 Marine Avenue is just short of 19m.
- Notes that the Board recently granted permission for two additional dormer windows on the front elevation of Wilmont Lodge.
- The boundary wall between the properties is 2.4m high when measured from the subject site.
- The Department of Housing, Local Government and Heritage consultation paper called Sustainable and Compact Settlement Guidelines for Planning Authorities: Proposed Policy Approach advocates "A minimum separation distance of 16m between opposing upper floor windows that serve habitable rooms at the rear of house and duplex units".
- The size of the windows is proportionate to the rest of the proposed development and the design is in keeping with the overall aesthetic of the proposed development. The nature of use of the two bedrooms is such that there would be limited occupation of the rooms during the day.
- Planning does not afford any protection of a private view.
- The planning drawings are based on surveys.

- The proposal is not for a replacement dwelling, which would provide greater design flexibility.
- Considers the reference to “recommendation for refusal” to be a typographical error.
- There are two bay windows, one in each of the two first floor bedrooms, measuring 1.4m in width, which is comparable to each of the corresponding first floor bedroom windows at the Kerr’s dwelling and narrower than the additional first floor bay window at Valmar (2.2m). Only one of these windows is directly opposite No. 11 Marine Avenue, in comparison to the three first floor windows in the said property that overlook the subject site.
- Construction of two houses at Wilmont Avenue have been completed without undue difficulty. Temporary construction concerns are not unsurmountable.

Conor Fennell

A separate First Party response to Conor Fennell was prepared by Kieran O’Malley & Co. Ltd:

- The separation distance between the front elevation of the proposed extended dwelling and Nos. 10 and 11 Marine Avenue is just short of 19m. The rear garden depths at Marine Avenue are c.9m whereas the proposed development would be setback 9.9m from the shared boundary wall between the subject site and Marine Avenue. The boundary wall is 2.4m when measured from the subject site.
- There is a right-of-way between the front of the subject site and No. 10 Marine Avenue that serves two dwellings to the north of the appeal site.
- The site and the appellant’s property are located in an area where all properties are subject to some degree of visibility or overlooking from neighbouring properties.
- The two first floor windows in the proposed development are to bedrooms, which are typically occupied at night time and not during the daytime. The contemporary appearance of these windows and the design of the overall development is reflective of 21st century architecture and should be encouraged in a tight knit urban built environment.

6.3. **Planning Authority Response**

The Planning Authority response has no further comment on the case.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and its setting, having had regard to all relevant policy provisions and guidance, I conclude that the key issues relevant to this appeal case before the Board are:

- Procedural Matters/Adequacy of Documentation
- Principle of the Proposed Development
- Impact on Neighbouring Residential Amenity.

Each of these matters is addressed below.

7.2. **Procedural Matters/Adequacy of Documentation**

7.2.1. The Third-Party Appellants raise concerns that relate to the Planning Authority's procedural handling of this application. I highlight that the Local Authority confirmed to the Board on 13th June 2023 that it has no comments to make in respect of the appeal case. The Board does not have an ombudsman role on such matters and this appeal case is assessed on an entirely de novo basis. In this regard, I also highlight that I do not consider references by the Appellants to a 1974 outline permission to be of relevance to the subject case due to its vintage. The subject application is assessed below on its own merits.

7.2.2. In addition, the Appellants raise concerns in relation to accuracy and adequacy of the documentation submitted with this application during its determination by the Planning

Authority. On this matter, I note that the Planning Authority deemed that the documentation met the legislative provisions for what constituted a valid planning application. The documentation on file together with my inspection of the site should in my considered opinion suffice for the Board to make an informed decision on the appropriateness of the development sought under this application at this location.

- 7.2.3. With respect to comments regarding the intrusion of neighbouring private open space and the boundary lines between the properties on the drawings, I note that the Applicant states that the architectural drawings were based on survey information. Notwithstanding this, I highlight that should permission be granted for the proposal, the Applicant would be bound by Section 34(13) of the Planning and Development Acts (as amended), which states: *A person shall not be entitled solely by reason of a permission under this section to carry out any development.*” As such, should the Board be minded to grant permission for the development, it is the Applicant’s responsibility to ensure sufficient legal interest exists to implement the permission.

7.3. Principle of Development

- 7.3.1. The proposal comprises alterations and extension to a single storey dwelling on a site zoned Objective A with an aim *“To provide residential development and improve residential amenity while protecting the existing residential amenities”*. The provision of residential development is consistent with the zoning objective of the site and established uses on adjoining sites. I consider the proposed development to be acceptable in principle, subject to quantitative and qualitative safeguards in respect of design and amenity.
- 7.3.2. Having reviewed the ‘Structural Report to Existing Property’ prepared by Cora Consulting Engineers and submitted as part of the RFI Response to the Local Authority, I am satisfied with the extent of proposed demolition works involved insofar as the proposal does not comprise the complete demolition of the existing dwelling, but rather alterations and extensions resulting in an improved residential amenity for its occupants and a BER rating increase from D2 to A1. As such, I am satisfied that the proposed development is consistent with Section 12.3.9 (Demolition and Replacement Dwellings) and Policy Objective PHP19 of the Development Plan.

7.4. Impact on Residential Amenity

Architectural Design

- 7.4.1. The proposed development involves extending the existing dwelling (123 sqm) with the addition of a single storey extension to the rear measuring 32sqm and the provision of a new first floor level (110sqm), resulting in a total floor area 231sqm.
- 7.4.2. The rear single storey extension is setback 1.64m from the boundary wall with St. Helen's and 12m from Valmar. As such, having regard to its scale, form and distance to neighbouring boundaries, I am satisfied that it will have no negative impacts on the area's amenity.
- 7.4.3. The first floor extension extends the width of the existing dwelling (16.37m) with a pitched roof. With the exception of the addition of external insulation to the southern elevation of the dwelling, there will be no change to the separation distance between the subject dwelling and Valmar. The position of the front elevation will largely remain the same, maintaining a separation distance of approx. 19m to the rear of Nos. 10 and 11 Marine Avenue (excluding the two proposed projecting bay windows). In terms of building height, the proposed dwelling will mirror that of the side extension to Valmar (57.32). As noted earlier, building height varies significantly in the area from single storey (the subject site) to five/six storey (Seabank apartment scheme). Having regard to the overall scale and separation distances, I do not consider that the first floor extension would be dominant or have any overbearing impacts on the neighbouring properties that would adversely impact their residential amenity.
- 7.4.4. As highlighted by the Applicant the footprint of the existing dwelling is decreasing marginally from 121 sqm to 123 sq m. Furthermore, as highlighted by the First-Party Response the neighbouring sites have much greater plot ratios, in comparison to the proposed development. In summary, having regard to the site size (0.04ha) and the scale of the proposed development (231 sqm), I do not consider that the proposal comprises overdevelopment nor would it be out of character with the area.
- 7.4.5. In terms of the proposed architectural design, I concur with the Applicant that the proposal represents a contemporary design approach that responds appropriately to the site's constraints in terms of size, distances to neighbouring properties, orientation, etc. Having reviewed the Applicant's sun study analysis submitted as part of the Design Statement, I am satisfied that the proposal will not adversely impact on the

neighbouring properties sunlight. Similarly, there will be no negative daylight impacts on the neighbouring properties that would adversely impact on their current level of residential amenity. This is largely due to the fact that Valmar is located to the south of the subject site and that there is a c.19m separation distance between the site and Nos. 10 and 11 Marine Avenue and a 2.4m boundary wall currently separating the properties. The proposed building materials (off-white render walls with trimmed brickwork detail to the front and a profiled clay tile roof) will complement the area. In terms of points raised in relation to the development restricting views, I highlight that there are no designated scenic views in this area that would be impacted by the proposed development.

7.4.6. Overlooking

7.4.7. One of the Appellants' primary concerns relates to overlooking and loss of privacy. Section 12.3.7.1 of the Development Plan requires that "Excessive overlooking of adjacent properties should be avoided". I do not consider that the alterations proposed to the ground floor level will result in any increase in overlooking due to the presence of boundary walls surrounding the site, which are proposed to stay in situ. In terms of overlooking from the first-floor level, I concur with the Applicant's argument that due to the tight urban grain of the site, a certain level of overlooking is to be expected. The proposed windows at first-floor level will maximise the solar gain in the subject dwelling. Having visited the site, I note that many of the neighbouring sites are overlooked already. In particular, I note that the subject site is directly overlooked by Nos. 10 and 11 Marine Avenue and Valmar (see photographs 5 and 6 attached with this report). As stated by the Applicant, the first floor windows in the proposed development are to bedrooms, which are typically occupied at night time and not during the daytime. In summary, whilst I acknowledge a certain level of overlooking will result due to the provision of the first-floor windows on Nos. 10 and 11 Marine Avenue, I do not consider it to be "excessive" having regard to the separation distance between the subject site and the neighbouring properties and as such do not recommend that permission is refused on this basis.

7.5. Construction Impacts

7.5.1. The Appellants raise concerns in relation to the construction phase of the development. Whilst I acknowledge these concerns, I consider that any construction

disturbance impacts on adjoining properties will be only temporary and are inevitable and unavoidable aspects associated with urban development. Notwithstanding the acknowledged sensitivity of the neighbouring residential properties, there is also an accepted need to improve existing housing stock in the County (Policy Objective: PHP 19). I am satisfied subject to the implementation of standard construction techniques, the integrity of the adjoining properties can be protected.

7.5.2. Conclusion

7.5.3. Having regard to the site size, scale, form and design of proposed development, I am satisfied that it is in accordance with the zoning objective of the operative County Development Plan and Section 12.3.7, is in keeping with the pattern of development in the area, and is in accordance with the proper planning and sustainable development of the area.

8.0 **Appropriate Assessment**

8.1. Having regard to the nature and scale of the proposed development comprising alterations and extension of an existing residential dwelling on serviced land within an established urban area, and the 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.

9.0 **Recommendation**

9.1. I recommend that planning permission be granted for the reasons and considerations set out below and subject to the following conditions.

10.0 **Reasons and Considerations**

Having regard to the provisions of the Dun Láoghaire Rathdown Development Plan 2022-2028, including the zoning objective for the site (A – Residential), which seeks to provide for residential development and protect and improve residential amenity; and to the nature, form, scale and design 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, or of property in the vicinity, would provide an acceptable standard of amenity for future residents, and not, by virtue of overlooking lead to loss of privacy in neighbouring properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 plans and particulars submitted to the Local Authority on 31st 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 the 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>All external finishes, shall harmonise in material, colour and texture with the existing dwelling on site unless otherwise indicated on plans submitted.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Only works indicated for demolition on the plans lodged with the application shall be removed.</p> <p>Reason: In the interests of the proper planning and sustainable development of the area.</p>
4.	<p>The glazing within the proposed first floor, east (front) 'Ensuite' window, shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.</p> <p>Reason: In the interests of residential amenities.</p>

5.	<p>The rear extension flat roof (including Sedum roof), and front canopy roofs, shall not be used as an amenity area/roof terrace, and shall be accessed only for maintenance purposes.</p> <p>Reason: In the interests of residential amenities.</p>
6.	<p>Surface water from the site shall not be permitted to drain onto the adjoining public road.</p> <p>Reason: In the interest of traffic safety.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<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>Reason: To protect the amenities of the area.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning</p>

	<p>authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</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 to the permission.</p>
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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.

Susan Clarke

Senior Planning Inspector

18th September 2023