



An
Bord
Pleanála

Inspector's Report ABP 317328-23

Development	Removal of shed at rear, construction of a single storey extension to front with pitched roof extension of roof over single storey element, a single storey flat roof extension to rear, rooflights to the existing roof and minor alterations and site works
Location	53 Chalfont Avenue, Malahide.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F23B/0055
Applicant	Mark and Sophie Kelly,
Type of Application	Permission
Planning Authority Decision	Grant Permission.
Type of Appeal	First Party X Conditions
Appellant	Mark and Sophie Kelly,
Date of Site Inspection	22nd August, 2023
Inspector	Jane Dennehy

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1.0 Site Location and Description

The application site which has a stated area of 0.234 hectares is that of a two-storey semi-detached house with front and rear gardens located on the east side of Chalfont Avenue within an established residential area. The stated floor area of the dwelling is 135 square metres. The roof profile at the dwelling and the adjoining and surrounding dwellings is half hipped.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for :-

- removal of shed at the rear,
- a new single storey extension to the front with a pitched roof extension over the existing single storey element.
- a new single storey extension to the rear with a flat roof and rooflights, rooflights to the main roof,
- minor alterations to all elevations and,
- associated site works,

The total stated floor area of the proposed front and rear extensions is 38 square metres.

3.0 Planning Authority Decision

3.1. Decision

By order dated 18th May 2023 the planning authority decided to grant permission subject to nine conditions.

Under Condition No 3 the appealed condition, there is a requirement for a hipped roof design over the front extension for reasoning based on residential amenity and proper planning and sustainable development

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer indicates acceptance of the proposed development subject to standard conditions. The planning officer notes the concerns of the observer party, (See section 3.2.3 below) and notes that the consent of adjoining properties is required for any works involving encroachment and joint structures with reference to section 37 (13) of the Planning and Development Act, 2000 as amended and are civil matters.

3.2.2. Other Technical Reports

The report of the Water Services Department indicates no objection subject to standard requirements.

The report of Uisce Eireann indicates no objection subject to standard requirements.

3.2.3. Third Party Submissions

An objection was lodged by the occupants of the adjoining party at No 51 Chalfont Avenue the property to the north side of the application site. (The Appellant Party) They indicate objections over size, heights, design and configuration of the proposed extensions and impact on residential amenities at their property Issue are also raised about the impact of the works to the boundary wall between the properties and removal of sheds on their property.

4.0 Planning History

There is no record of planning history for the application site.

5.0 Policy and Context

5.1. Development Plan

The operative development plan is the Fingal County Development Plan,2023-2028 according to which the site is subject to the zoning objective:- *“To provide for residential development and protect and improve residential amenity.”*

It is the policy of the planning authority to support development of extensions to dwellings which are of appropriate scale, subject to protection of residential and visual amenities. (Policy SPQHP41) and it is the objective to encourage sensitively designed extensions which do not negatively affect the environment or adjoining properties or the area.

Sections 14.10.2.1 provides guidance for front extensions and section 14.10.2.3 1 provides guidance for ground floor rear extensions,

5.2. EIA Screening

Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by Mark and Sophie Kelly, occupants of the adjoining party at No 51 Chalfont Avenue the property to the north side of the application site on 13th June, 2023 according to which:

- The flat roof for the rear extension is out of character with the existing dwelling and surrounding dwellings which have hipped roofs.
- The location and shape of the windows at the rear of the appellant part's property are not accurately shown on the application drawings. Patio windows are closest to the party boundary. Drawings are attached.
- The proposed rear extension would reduce natural light to the internal living space within the appellant party's dwelling. It will be positioned directly to the south of the appellant party's property.
- The existing rear party wall is 2.- 2.2 metres in height at the highest point at present and the proposed development, to be built up to or on this wall would

be 3.66 metres in height over a distance of 4.39 metres. This eight and length exceeds a 45-degree horizontal and vertical angle from the middle of the patio window at the rear of the appellant party's property nearest to boundary wall.

6.2. Applicant Response

There is no submission in response to the appeal from the applicant on file.

6.3. Planning Authority Response

A submission was received from the planning authority on 3rd July, 2023 according to which the proposed development is considered acceptable but the condition with the requirement for the hipped roof feature on the front extension is required so that the development would be in keeping with the existing dwelling and with the surrounding area. It is also stated that the planning authority is satisfied that significant overshadowing of the adjoining property would not occur.

7.0 Assessment

The issues central to the determination of a decision can be considered below under the following subheadings:-

Encroachment

Scale, Design & Height – Impact on Visual Amenities and character of the Area

Scale, Form & Height – Impact on Residential Amenities of adjoining property.

Daylight and Sunlight – Impact on amenities of Adjoining Property.

Appropriate Assessment Screening

Encroachment

- 7.1. As stated in the planning officer report, the resolution of any dispute over the issues raised in the appeal as to encroachment onto the adjoining property and as to potential damage to existing structures outside the control of the applicant or to the party wall is a matter for the legal remit and is outside of the planning remit. Based on review of the application drawings, the rear extension be built up to and to abut

the party wall between the properties. However, as has been indicated in the third-party observation lodged at application stage the appellant party has indicated that there is a shared concrete roof and chimney flue straddling the party boundary and that the proposed removal would be agreed to unless details as to the making good of this roof are agreed.

Scale, Design & Height – Impact on Visual Amenities and character of the Area

- 7.2. With regard to the scale, form and design for the rear extension, it is noted that the surrounding development is characterised by a common half hip roof profile, and this is a positive feature in the streetscape views from the public realm. The profile for the front extension complements the roof profile and is visually acceptable whereas a flat roof is acceptable for the rear extension which does not come into streetscape or public views.

Scale, Form & Height – Impact on Residential Amenities of adjoining property.

- 7.3. The proposed flat roof rear extension does reach a parapet height of at the party boundary. In conjunction with the depth at over four metres the flat roof extension as proposed would give rise and undue sense of enclosure at the rear of the dwelling and from the rear garden of the appellant party's property. However, it is considered that this impact can be adequately ameliorated, and the height retained if the depth of the extension into the rear garden is reduced by one metre. This revision could be addressed by condition.

Daylight and Sunlight – Impact on Amenities of Adjoining Property.

- 7.4. With regard to sunlight and daylight to the interior of the appellant party's property, particularly to the living room which has patio doors opening onto the rear garden close to the party boundary the proposed development is acceptable subject to the recommended reduction in depth of the proposed rear extension.
- 7.5. Bearing in mind the impact of the existing shed structure adjacent to the patio doors at the rear of the appellant party's property and the orientation of the plots allowing for good sunlight from the south and east It is considered that there would not be a significant diminution to the existing attainable levels of sunlight and daylight levels to ground floor windows and the private open space at the rear of the appellant property and that the levels would not fall below the minimum attainable *two hours sunlight over fifty percent of private open space on 21st March* or minimum

standards provided for *Site Layout Planning for Daylight and Sunlight* BRE 209 2022. However, it would be open for the Board to request the applicant to have a study prepared and submitted to the Board's to assist it in consideration of the matter prior to determination of the decision.

Front Extension.

- 7.6. It is noted that the planning authority attached a condition for substitution of a hipped roof for the front extension and it is agreed that a similar condition should be attached, for reasons of visual amenity in compatibility with the existing dwelling and in the streetscape should permission be granted.

Appropriate Assessment Screening

- 7.7. Having regard to the nature and scale of the proposed development, the absence of emissions therefrom, the nature of receiving environment as a built-up urban area and the distance from and absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision be upheld subject to the inclusion of a condition with a requirement for a reduction in the depth of the proposed extension to the rear in the interests of the protection of the residential amenities of the adjoining property. It is also recommended that an advisory note be included to draw the attention of the applicant to the provisions of Section 34.(13) of the Planning and Development Act 2000 as amended, on the Order, if it is decided that permission can be granted.

9.0 Reasons and Considerations

Having regard to the site location in an established suburban area, to the established pattern and character of development in the vicinity and to the form, height and design of the proposed extensions, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the residential

amenities of adjoining properties or the visual amenities of the area and, would 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, as amended by the further plans and particulars submitted on 16th November, 2022 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The length of the proposed rear extension shall be reduced by one metre and shall not exceed 3390mm beyond the main rear building line of the existing dwelling. Revised drawings shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of the protection of residential amenities of adjoining properties and the amenities of the area.

3. The front extension shall be amended to provide for a hipped roof profile. Revised drawings shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

5. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

6. Details of all external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

NOTE: The applicant is advised of the provisions of section 34 (13) of the Planning and Development Act, 2000 as amended, whereby a person is not entitled solely by reason of a grant of permission to carry out a development.

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.

Jane Dennehy
Inspector
24th August, 2023.