



Development

Ground floor rear extension with flat roof over & 2 no. rooflights over.
Ground floor front door widened, first floor rear window relocated and resized. First floor side extension with double pitched & hipped roof with 1 no. rooflight in valley over. Proposed ground floor & first floor internal alterations.

Location

94 Marley Court, Rathfarnham, Dublin 14, D14 RW70

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D23B/0157

Applicants

Brian Stenson and Mary Sheridan.

Type of Application

Permission.

Planning Authority Decision

Grant, subject to conditions.

Type of Appeal

Third Party.

Appellants

Geraldine and Brian Maginess.

Observer(s)

None.

Date of Site Inspection

18th October 2023.

Inspector

Terence McLellan

1.0 Site Location and Description

- 1.1.1. The appeal site refers to the dwelling and plot located at 94 Marley Court, Rathfarnham, County Dublin. The existing property is a two storey gable fronted dwelling that benefits from front and rear garden ground and off street car parking. Whilst the dwellings on Marley Court appear as semi-detached, they are terraced at ground floor level via flat roofed, single storey side structures. Marley Court itself is a small crescent of similarly designed dwellings. The building line on southern side of Marley Court is generally consistent, however No.94 is set back from the neighbouring dwellings. A large expanse of open space with mature trees is located to the rear of the appeal site, beyond the rear garden boundary.

2.0 Proposed Development

- 2.1.1. Planning consent is sought for the erection of a single storey rear extension in addition to a first floor side extension above the existing flat roofed single storey side structure. The ground floor rear extension would be flat roofed and full width. The extension would include two rooflights and would measure 4000mm in depth along the boundary with No. 95 Marley Court, with a total height of 3000mm. The first floor extension would sit flush with the front and rear building lines and would have a double hipped roof with a rooflight installed on the inward face. The application proposes additional incidental works including widening of the front door and alterations to the rear first floor window to take account of the new extension.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission was issued by Dún Laoghaire Rathdown County Council (DLRCC) on 24th May 2023 subject to 10 conditions. The conditions relate to materials, orderly development, drainage, and development contributions. Condition 6 restricts use of the flat roof of the ground floor rear extension as a roof terrace/balcony.

3.2. Planning Authority Reports

- 3.2.1. The Planner's Report sets out the applicable policy background against which the application is assessed and confirms that the development would be compliant with the relevant zoning objective. The report states that the ground floor extension does not give rise to any amenity concerns regarding overshadowing or overbearing nature of development and sets out the rationale for the imposition of Condition 6 referred to previously.
- 3.2.2. The report considers the first floor extension to be modest in massing, form, and scale, and states that there would not be any negative impact on neighbouring amenity. The report confirms the submission of a letter of support from the neighbour at No. 93 Marley Court. The potential for the creation of a terracing effect is considered in the report, however the Planning Authority are satisfied that this would not be the case and indicate that similar development has taken place on other dwellings in the street. The report ultimately concludes that the development would be acceptable in terms of amenity and that it would be compliant with the provisions of the CDP.
- 3.2.3. **Other Technical Reports**
- 3.2.4. **Drainage Planning (09/05/2023):** No objection subject to conditions relating to surface water runoff and sustainable urban drainage.

3.3. Prescribed Bodies

- 3.3.1. None.

3.4. Third Party Observations

- 3.4.1. A letter of support was received from the occupier of the neighbouring dwelling at 93 Marley Court. An observation was made on the planning application by Geraldine and Brian Maginess of 95 Marley Court, the appellants, however, due to a procedural issue this was not included within the Planner's Report. The issues raised in the observation are similar to those made on the appeal which are set out in detail at section 6.1 below.

4.0 Planning History

Subject Site

4.1.1. There is no planning history for the subject site.

Adjoining Site at No. 93 Marley Court

4.1.2. **Planning Authority Ref. D22A/0357:** Permission was granted by DLRCC in September 2022 for the demolition of the existing front porch and tiled pitched roofs and the construction of a single storey Granny Flat with flat roofs to the front, side, and rear of the existing house.

4.1.3. **Planning Authority Ref. D15A/0450:** Permission was granted by DLRCC in November 2015 for the demolition of the existing two storey extension to the west of no. 93. And construction of a new vehicular and pedestrian access, a new end of terrace two storey 3 bed-room dwelling to the west of no. 93, together with vehicular access and boundary treatment, landscaping and site works. The new house will be known as 93A. All associated site development works.

5.0 Policy Context

5.1. Development Plan

Dún Laoghaire-Rathdown County Development Plan 2022–2028

5.1.1. The Dún Laoghaire-Rathdown County Development Plan 2022–2028 (CDP), categorises the site as zoning objective 'A', which seeks to provide residential development and improve residential amenity while protecting the existing residential amenities.

5.1.2. Chapter 3: Climate Action, sets out the detailed policy objectives in relation to climate and the role of planning in climate change mitigation, climate change adaptation and the transition towards a more climate resilient County. The relevant policy objectives of this chapter are:

- CA5: Energy Performance in Buildings
- CA6: Retrofit and Reuse of Buildings
- CA7: Construction Materials

5.1.3. Chapter 4: Neighbourhood – People, Homes and Place, sets out the policy objectives for residential development, community development and placemaking, to deliver sustainable and liveable communities and neighbourhoods. The relevant policy objectives from this chapter are:

- PHP20: Protection of Existing Residential Amenity
- PHP35: Healthy Placemaking

5.1.4. Chapter 12: Development Management, contains the detailed development management objectives and standards that are to be applied to proposed developments. The relevant sections of this chapter are:

Section 12.2.1: Built Environment

Section 12.2.6: Urban Greening

Section 12.3: Neighbourhood – People, Home and Place.

Section 12.3.4: Residential Development – General Requirements

Section 12.3.7: Additional Accommodation in Existing Built Up Areas

Section 12.3.7.1 (ii): Extensions to Dwellings

Section 12.3.7.1 (ii): Extensions to the Side

Section 12.3.7.1 (iv): Alterations at Roof/Attic Level

5.2. **Natural Heritage Designations**

5.2.1. None of relevance.

5.3. **EIA Screening**

5.3.1. The development does not constitute a class of development for EIA purposes. See pre-screening form at Appendix 1.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. An appeal has been lodged by Geraldine and Brian Maginess of 95 Marley Court, Rathfranam, County Dublin, against the design of Dún Laoghaire Rathdown County

Council to grant planning permission for the proposed development. The grounds of appeal are as follows:

- The proposed extension would overshadow the patio and kitchen windows. There would be a loss of direct sunlight and views of trees and the Dublin Mountains
- Given the orientation of the house, there would be a dramatic loss of sunlight in the second half of the day as the sun moves to the west.
- The extension would encroach into the garden of 95 Marley Court where it would replace the existing panel fence.
- The proposed extension should not be flush with the side of the house on which it is being built and instead should be set back so as not to encroach on 94 Marley Court.

6.2. Applicant Response

6.2.1. The applicant responded to the appeal on the 11th July 2023, noting the following:

- All construction would be within the garden of the appeal site and there would be no interference with No. 95.
- The extension would have minimal impact on light and views. View and light do not come as a predisposed right.
- There would be no impact on wildlife or surrounding nature.
- The proposed extension is in line with other extensions constructed in the neighbourhood, including that at No. 95.
- Dún Laoghaire Rathdown Planning Department failed to take account of our neighbour's objection, they had no choice but to make this appeal.

6.3. Planning Authority Response

6.3.1. The Planning Authority responded to the appeal on the 11th July 2023, acknowledging that the third party observation on the application was erroneously not taken into account in the Planner's Report. Having reviewed the observation, the planning Authority are of the view that their assessment/recommendation on the application remains the same.

6.4. Observations

6.4.1. None.

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Amenity
- Appropriate Assessment

7.1. Amenity

7.1.1. The primary issue in the appeal is that of residential amenity, including potential impacts on daylight, loss of views, and encroachment on property. In terms of light impacts, I note that the proposed extension sits within the 45 degree line on plan but outside of the 45 degree line on elevation. Given compliance with the 45 degree test recommended by the BRE, the limited height and scale of the extension, and the orientation of the rear facades/garden ground facing south-east, I am satisfied that there would be no detrimental loss of daylight and sunlight to the dwelling or garden ground at No. 95 Marley Court. I consider the ground floor extension to be of a scale, nature, and position/location such that it would not have any adverse impact on views or outlook from the appellant's property nor would it result in a tunnelling effect.

7.1.2. The appellant has raised concerns that the development would result in encroachment onto their property. From my review of the plans submitted with the application I consider that the proposed extension would be constructed flush with the side wall of the parent dwelling at No.94 Marley Court and that this would be within the red line. As such, I am not of the opinion that the development would result in encroachment onto the appellant's garden. Nevertheless, it should be noted that Section 34(13) of the Planning and Development Act 2000 (as amended) clarifies that a person shall not be entitled, solely by reason of a permission under this section, to carry out any development.

7.1.3. The proposed first floor extension would be located on the opposite side of the dwelling to 95 Marley Court and would have no measurable impact on the appellant's property. I consider the first floor extension to be acceptable in terms of design, scale/massing and impacts on No. 93 Marley Court. I also concur with the planning Authority that the development would not result in a terracing effect, largely by virtue of the fact that No. 94 Marley Court is set back from the rest of the terrace in which it is located.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, it is concluded that no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. From my assessment above, I consider that the Board should uphold the decision of Dún Laoghaire Rathdown County Council and grant planning permission for the proposed development, subject to conditions, based on the reasons and considerations set out below.

9.0 **Reasons and Considerations**

9.1. Having regard to the Zone A zoning objective relating to the site and the nature and extent of the proposed development, it is considered that the proposal, subject to the conditions set out below, would not seriously injure the amenities of the area or property in the vicinity, and would generally be acceptable in terms of design and traffic safety.

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
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	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>The roof of the ground floor extension hereby approved shall not be used as a terrace, balcony or other amenity area. Access to this space shall be for maintenance purposes only.</p> <p>Reason: In the interests of residential amenity.</p>
4.	<p>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 Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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. 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 the Board 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 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>

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.

Terence McLellan
Senior Planning Inspector

26th October 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317363-23		
Proposed Development Summary	Ground floor rear extension with flat roof over & 2 no. rooflights over. Ground floor front door widened, first floor rear window relocated and resized. First floor side extension with double pitched & hipped roof with 1 no. rooflight in valley over. Proposed ground floor & first floor internal alterations.		
Development Address	94 Marley Court, Rathfarnham, Dublin 14, D14 RW70		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
Conclusion			
No	X	N/A	
Yes			Proceed to Q.4
			No EIAR or Preliminary Examination required

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____