



An
Bord
Pleanála

Inspector's Report

ABP-317690-23

Development

Retention of development is sought in relation to permitted Reg. Ref.

D21B/0038 which consists of a single storey extension to the front and rear of existing residential dwelling.

Retention application consists of the permitted front extension, a reduced ground floor level to the rear to allow for 2 storey rear extension, revised internal layout and associated site works.

Location

6 Seafield Court, Killiney, Co. Dublin,
A96 Y7E8

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D23B/0214

Applicant(s)

Fergal and Leigh Doherty.

Type of Application

Retention

Planning Authority Decision

Refuse Retention

Type of Appeal

First Party

Appellant(s)

Fergal and Leigh Doherty

Observer(s)

William Gerard Corbett

Adrian Kenrick and Grainne Sheerin

Date of Site Inspection

10th September 2023

Inspector

Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The subject site is located to the west side of Seafield Court Road. On site is an existing single-storey detached dwelling, with partially completed extensions to the front and rear. The site has a stated area of 0.36ha.

2.0 Proposed Development

- 2.1. Retention of development is sought in relation to permitted Reg. Ref. D21B/0038 which consists of a single storey extension to the front and rear of existing residential dwelling. Retention application consists of the permitted front extension, a reduced ground floor level to the rear to allow for 2 storey rear extension, revised internal layout and associated site works.

3.0 Planning Authority Decision

3.1. Decision

Refuse retention permission for 1 no. reason as follows:

1. Having regard to the existing site layout and orientation, and the design and layout of the extension to the rear proposed to be retained, it is considered that the proposed development to be retained would be overbearing and would result in overshadowing and overlooking of the adjoining property to the north. It is, therefore, considered that the proposed development to be retained would unduly impact upon adjoining residential amenities and would be contrary to the provisions of Section 12.3.7.1 Extensions to Dwellings in the Dun Laoghaire-Rathdown County Development Plan, 2022 2028. The development would set a poor precedent for future development in the area, and it is considered that the development would seriously injure the amenities, or depreciate the value, of property in the vicinity and is therefore considered to be contrary to the proper planning and sustainable development of the area.

Decision Date: 3rd July 2023

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 3rd July 2023)

Principle

- Notes site is zoned Objective A 'to provide residential development and improve residential amenity while protecting the existing residential amenities'.
- Residential development permitted in principle.

Previous Applications

- Notes that the first floor/roof gable level rear extensions of both previous applications on this site (see planning history below) were set back from the existing main north side elevation and boundary
- Notes the difference between what was approved under planning permission Ref Ref D21B/0038 and what is proposed to be retained.

Design/Amenity/Other Issues

- Extension to the front is acceptable/replicates previous permission
- Extensions to the northern and southern elevations in keeping with the fabric of existing dwelling/have concerns however in relation to the impact on the residential and visual amenities that surround the subject site
- Proposed velux windows on either side of the pitched roof may result in overlooking impacts on the northern and southern properties
- May cause significant overshadowing, overbearance and overlooking effects on properties to the north and south of the subject site
- No daylight and sunlight analysis submitted
- Inconsistencies in the plans

3.2.2. Recommendation was to **Refuse** permission for retention.

Other Technical Reports

3.2.3. None.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. Two third party submissions were received during the application stage. The issues raised are similar to those raised in the observations on this appeal (see summary of same below).

4.0 Planning History

4.1.1. **D21B/0038**: Permission was granted by the Planning Authority at the subject site for the demolition of single-storey, rear extension, and north (side) tall chimney: Construction of a single-storey, 34 sq.m rear extension; Construction of 9 sq.m. single-storey, front extension; Installation of 6 no. roof lights to existing roof; Stated internal modifications and associated site works.

4.1.2. **D19A/0999**: Permission was refused by the Planning Authority at the subject site for a two-storey, rear extension, also for extra storage being adding to front of existing attic space. Also, for a front porch and extension. Also, for (9no.) new roof lights, and glazing (two new bedroom windows and larger windows on south elevation) and stated some site ancillary works.

Refused for one reason as follows:

"Having regard to the existing site layout and orientation, and the design and layout of the proposed extension to the rear, it is considered that the proposed development would be overbearing and would result in overshadowing of the adjoining property to the north. It is, therefore, considered that the proposed development would unduly impact upon adjoining residential amenities and would be contrary to the provisions of Section 8.2.3.4 (1) Extensions to Dwellings in the Dun Laoghaire Rathdown County Development Plan, 2016-2022. The development would set a poor precedent for future development in the area, and it is considered that the development would seriously injure the amenities, or depreciate the value, of property in the vicinity and is therefore considered to be contrary to the proper planning and sustainable development of the area.

4.1.3. **D19A/0041**: Permission was refused by the Planning Authority at the subject site for conversion of single-storey bungalow, into dormer bungalow with two bedrooms, and family bathroom in proposed new attic space, demolition of rear extension, and for a new ground floor extensions to rear, new front porch, new roof lights, window with obscure glazing over new stairs and all site ancillary works. The application was refused for the following two reasons

1. Having regard to the design and character of the existing dwelling and its receiving environment, It is considered that the proposed increase in building height of an existing single storey dwelling would significantly alter the character of the existing dwelling. It is considered that the proposed development would unduly impact upon the visual amenities of the area and would harm the character of the existing streetscape. It is considered, therefore, that the proposed development has failed to have proper consideration to its context and its integration within the existing streetscape and would fail to comply with the provisions of Policy UD1: Urban Design Principles and Section 8.2.3.4 (1) Extensions to Dwellings in the County Development Plan, 2016-2022. The proposed development is therefore considered to be contrary to the proper planning and sustainable development of the area.

2. Having regard to the existing site layout and orientation, and the design and layout of the proposed extension to the rear, it is considered that the proposed development would be overbearing and would result in overshadowing of the adjoining property to the north. It is, therefore, considered that the proposed development would unduly impact upon adjoining residential amenities and would be contrary to the provisions of Section 8.2.3.4 (i) Extensions to Dwellings in the Dún Laoghaire- Rathdown County Development Plan, 2016-2022. The development would set a poor precedent for future development in the area and it is considered that the development would seriously injure the amenities, or depreciate the value, of property in the vicinity and is therefore considered to be contrary to the proper planning and sustainable development of the area.'

5.0 Policy Context

5.1. Development Plan

Dun Laoghaire-Rathdown County Development Plan 2022-2028

The applicable plan for the determination of this application is therefore the Dun Laoghaire Rathdown County Development Plan, 2022-2028. Under this plan the appeal site is located in an area zoned as 'A' with the stated land use zoning objective: "to provide residential development and improve residential amenity while protecting the existing residential amenities".

Section 12.3.7 of the Development Plan is relevant. It deals with 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.

5.2. **Natural Heritage Designations**

5.2.1. c. 1.7km to the west of Rockabill to Dalkey Island SAC

5.3. **EIA Screening**

5.3.1. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

5.4. **AA Screening**

5.4.1. Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, 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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- Appellant is seeking to improve his home/has resided there since 2005
- Submitted that the design and scale of the extension is consistent with the pattern of development in the area and will not unduly impact the residential or visual amenities of neighbouring dwellings
- Majority of dwelling in this row of 8 houses have been modified and extended/No.s 1 to 4 have all been extended in similar manner/rear pitched roof extensions/No's 7 and 8 also have extensions/all of the extensions incorporate roof lights
- Extension is stepped back from the shared boundary by 570mm

- Rear extension is not two storey/single storey in scale/roof level bedroom facilitated by a reduction in ground level/is consistent in design and scale with extensions that have been constructed along this row of dwellings
- Ground floor area extends to 40 sq. m/roof height is slightly below that of the main dwelling
- Extension at No. 7 is not setback
- PA is concerned about the degree of protrusion of No. 6 relative to No. 5/this has been a feature of the dwellings since construction/extension at No. 7 extends by c12m beyond the original rear building line of No. 6/has not impacted on the amenity of No. 6
- In comparison the north elevation of No. 6 extends by c11m beyond the rear elevation of No. 5
- Planning Officer states proposal is 2m higher than permitted development/height of a shallow pitched roof is not comparable to the height of a parapet wall/proposal for retention is over 3m shorter in depth and has a lower wall height than the permitted proposal.
- Should not be required to commission expensive daylight/sunlight assessments/would confirm that the adjoining gardens would receive ample light/gardens are generously sized
- Rooflights are close to the ridge/at an angle/will not result in overlooking/may be some overlooking of ends of gardens from bedroom window/not unreasonable in an urban context/existing boundaries mitigate overlooking

6.2. Planning Authority Response

6.2.1. A response from the Planning Authority was received on 9th August 2023. This is summarised as follows:

- Refer the Board to Planner's Report
- No new issues raised which would justify a change of attitude towards the proposed development

6.3. Observations

6.3.1. 2 no. observations on the appeal were received from Adrian Kenrick and Grainne Sheerin and William Gerard Corbett. The concerns raised are summarised as follows:

Adrian Kenrick and Grainne Sheerin, 7 Seafield Court

- Proposal for retention impact on amenity in a more detrimental way than permitted proposal
- Overlooking
- Technically set over 2 storeys/4 floors
- Will devalue properties in the area
- Structural impacts of excavation
- Proposal for retention results in greater overlooking than that permitted
- Other rooflights in the area do not serve habitable spaces
- Extension at No. 7 is set back from No. 6 by 0.3m
- Incorrect labelling in the drawings/Some elements are not 'As-Built'
- Habitable space at first floor/substantial west facing first floor window should have obscured glazing/limited or non-opening
- Grounds to exclude the front extension
- Extension at No. 7 extends 11m beyond the original rear building line of No. 6 not 12m
- Rear extension is now in line with the original rear building line of No. 7
- Increased flood risk/lies just 25m outside Flood Zone B
- Excavation has increased flood risk/request a justification test to be carried out
- Lowest point on the site appears to be a sump hole designed for collection and subsequent pumping of water/request detail on drainage proposals including details of any pump proposed/concerns in relation to sewerage proposals
- Previous refusals within Seafield Estate

- May come under Section 4.6 of Appendix 13 'Class 1 and/or Class 2' minor development in areas of flood risk' of the Strategic Flood Risk Assessment (of the DL RCC Development Plan 2022-2028)
- Neighbouring house at No. 81 Seafield Court was required to submit a Site Specific Flood Risk Assessment

William Gerard Corbett, 5 Seafield Court

- Extension at No. 8 was built 30 years ago/No. 8 should not be considered a grounds from appeal
- Permission at No. 2 was granted in Feb 2005/based on Development Plan 2004
- Is a 2 storey building
- Has an overbearance on garden of No. 6
- Gardens are not generous in size, they are 'modest'
- Will result in overlooking
- Have not taken on board any of the planner's issues/concerns
- Flood Risk
- Structural Integrity of home

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. The planning issues raised in this appeal are as follows:

- Principle of Development
- Impact on Residential Amenity/Visual Amenity
- Flood Risk

Principle of Development

7.1.1. The appeal site is located in an area zoned as 'A' with the stated land use zoning objective: "to provide residential development and improve residential amenity while protecting the existing residential amenities". Residential is a permitted in principle

use within this Zoning Objective, and as such the development proposed for retention is acceptable in principle.

Impact on Residential Amenity/Visual Amenity

- 7.1.2. The Planning Authority's first reason for refusal refers to impacts on residential amenity, namely overbearing (visual amenity), overlooking and overshadowing. Similar concerns are raised by the two observers on the appeal. The first party appellants are of the view that the design and scale of the extension is consistent with the pattern of development in the area and will not unduly impact the residential or visual amenities of neighbouring dwellings
- 7.1.3. In relation the issue of overbearingness or visual amenity, the rear extension proposed for retention is clearly visible from both neighbouring rear gardens (No.'s 5 and 7), and more so from No. 5 as a result of the staggered arrangement of the bungalows. Notwithstanding, I am not of the view that the extension is of such a scale so as to result in an overbearing form of development, The ridge height sits lower than the ridge height of the main house (at 5.17m) and the depth of the extension is limited to 6.7m, and I am of the view the proposal has the appearance of a single storey extension when viewed from the neighbouring garden at No. 5, due to the reduction in ground level on the subject site, notwithstanding the fact that it is, in fact, two storey in nature. Due to the aforementioned staggered arrangement of the houses relative to one another, I am not of the view the proposal would appear overbearing, or dominant in appearance, when viewed from the garden of No. 7.
- 7.1.4. In terms of overlooking, the concerns of the Planning Authority relate to the rooflights only, and no reference is made to overlooking from the gable end window to the rear. Observers have raised concerns in relation to both elements. The first party appellants have stated that no overlooking will result from the rooflight, due to their position in the roof and their angled nature, and have stated that any overlooking from the gable window will be limited to the end portion of neighbouring garden.
- 7.1.5. In terms of overlooking from the rooflight, I concur with the view of the appellant, in that overlooking of the adjacent properties or adjacent gardens from the rooflights would not occur due to the angled nature of same, and due to the position close to the ridge of the roofslope. In relation to the gable end window, I am not of the view that the any overlooking that would result from same would be unusual in an urban

context. I do note that the 'as built' proportions of the window appear to differ from the drawings (namely dwg. No. PA-004 Rev A 'As Built' West Rear Elevation to be Retained'). A standard condition should be imposed to ensure the proposed development is completed and retained, as per the application drawings, should the Board be minded to approve the proposed development.

- 7.1.6. In relation to overshadowing, I noted that No. 7 lies to the south of the extension proposed for retention and would not be impacted by overshadowing. In relation to impacts on No. 5, I note that relative to this property, the extension proposed for retention appears as single storey in height, with the ground level of the subject site having being lowered to facilitate this. As such the overall impact on sunlight levels to the amenity area of No. 5 would be minimal, and of particular note is that any potential impacts would be to sunlight from a southerly direction, when the sun is at its highest point, with impacts limited by the height of extension relative to No. 5. Sunlight from a westerly direction (afternoon and evening sunlight) would be unaffected by the proposed development.
- 7.1.7. In relation to the front porch extension, this is as per the previous approval (which was not appealed) and I have no issue with same, in relation to the appearance of this element.
- 7.1.8. Having regard to the above, I am satisfied that the proposed development is in accordance with the provisions of the operative County Development Plan, 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.

Flood Risk/Drainage

- 7.1.9. While the Planning Authority did not raise any particular concerns in relation to flood risk, and this issue does not form part of the reason 1 no. reason for refusal, the 2 no. observations on the appeal have raised it as an issue, and have also raised concerns in relation to surface water and waste water proposals for the site.
- 7.1.10. In relation to flood risk, I note that this site falls within Flood Zone C, as per CFRAM Mapping (accessed on Floodinfo.ie). While proximate to Flood Zone B, as highlighted by the observations on the appeal, this in itself does not warrant a Site Specific Flood Risk Assessment'. Information on Floodinfo.ie does not highlight any past flood events proximate within this residential development. I note in particular

the Drainage Division of the Planning Authority did not raised a concern in relation to flooding.

7.1.11. In relation to the issue of surface water and waste water drainage, again I note that the Drainage Division did not raise any concerns in relation to same. Generally for domestic extensions, construction best practice is to ensure that such extensions are adequately served by surface water and waste water proposals, with no impact on surrounding surface water or waste water services. Notwithstanding, a standard condition is recommended ensuring that such works are carried out to the satisfaction of the Planning Authority, and to the satisfaction of Úisce Eireann (Irish Water).

8.0 Recommendation

8.1. I recommend that retention permission be **Granted**, subject to the conditions below.

9.0 Reasons and Considerations

9.1. Having regard to the scale, form and design of the development proposed for retention, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely impact the residential amenity of neighbouring property or the character and visual amenity of the existing building and surrounding streetscape. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be retained 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.
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	Reason: In the interest of clarity.
2.	<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>
3.	<p>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. Proposals for disposal of waste water shall comply with the requirements of Uisce Éireann (Irish Water).</p> <p>Reason: In the interest of public health.</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, 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. 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</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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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.

Ronan O'Connor
Senior Planning Inspector

12th September 2023