



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317777-23

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| <b>Development</b>                  | Demolition of extension and construction of replacement extension. |
| <b>Location</b>                     | 6 Tuscany Park, Baldoyle, Dublin 13, D13 Y5C7                      |
| <b>Planning Authority</b>           | Fingal County Council  |
| <b>Planning Authority Reg. Ref.</b> | F22B/0252  |
| <b>Applicant(s)</b>                 | Idar and Alison Hillgaar   |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Grant Permission   |
| <b>Type of Appeal</b>               | Third Party V Grant  |
| <b>Appellant(s)</b>                 | Colette O'Shea   |
| <b>Observer(s)</b>                  | None.  |
| <b>Date of Site Inspection</b>      | 1 <sup>st</sup> October 2023                                       |
| <b>Inspector</b>                    | Ronan O'Connor   |

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## 1.0 Site Location and Description

- 1.1. On the subject site is a two storey end of terrace dwelling. The stated site area is 0.0253 Ha. The subject property is staggered relative to the neighbouring dwelling at No. 5 Tuscany Park and is setback from same. The property benefits from a larger garden plot than many of its neighbours due to an irregular plot layout.

## 2.0 Proposed Development

- 2.1. It is proposed to demolish the existing rear extension, and to construct single storey extensions to the rear and front.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Grant permission subject to 9 no. conditions. Conditions of note include:

- Condition No. 2: Reduce extent of front extension so as to project no more than 1.8m off the front elevation.

Decision Date: 19/07/2023

### 3.2. Planning Authority Reports

- 3.2.1. First Planning Report (dated 15/02/2022)

- Works are acceptable within the RS Zoning.
- Extension to the front is considered unduly prominent/appropriate setback should be provided.
- Scale of development would have detrimental impacts on the adjoining dwelling to the west
- Significant projection to the front and rear would give rise to undue overshadowing
- Would be overbearing/result in loss of outlook
- Adjoining garden to the west smaller than application site

- Not consistent with Objective PM46 of Development Plan
- Applicants wish to make their home universally accessible
- Details of soakaway have not been provided/applicant requested to provide a proposal for the management of surface water
- Recommend that **Further Information** is sought in relation to:
  1. Revised plans which reduce the scale of proposal
  2. Revised surface water details

3.2.2. **Further Information** was requested on 16<sup>th</sup> February 2023. FI was received by the Planning Authority on 29<sup>th</sup> June 2023.

3.2.3. The second Planners Report (dated 17<sup>th</sup> July 2023) is summarised as follows:

- Applicant has submitted revised details which demonstrate minor amendments to the proposal.
- Extension to the rear remains unchanged in depth/slight reduction in the overall height/in addition to a break along the western elevation/mono pitched zinc roof to the southerly end of the extension
- Depth of front extension has been reduced from c2.925m to c2.25m/overall height reduced from c3.2m to c3m
- Significant concerns remain in relation to the front extension/would be overbearing/result in a loss of light and outlook from sitting room/dominant from the streetscape
- Recommended that the depth of the extension to the front be limited to c1.8m/could be dealt with by way of condition.
- No objection from Water Services Planning in relation to the revised details for surface water (green roof/planter to collect runoff)

3.2.4. Recommendation was to **Grant** permission, subject to conditions.

3.2.5. Other Technical Reports

Water Services – Additional Information Sought/Post receipt of same no objection subject to conditions.

### **3.3. Prescribed Bodies**

3.3.1. None.

### **3.4. Third Party Observations**

3.4.1. One third party submission from No. 7 Tuscany Park was received during the application stage. This issues raised are as per the Third Party appeal submission.

## **4.0 Planning History**

4.1.1. None.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### Fingal County Development Plan 2023-2029

The Fingal Development Plan 2023 – 2029 was made on 22nd February 2023 and came into effect on 5th April 2023.

The site is zoned 'RS Residential' with an objective to "Provide for residential development and protect and improve residential amenity". This zoning is described in Chapter 13 of the CDP with a vision to "Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity."

Section 3.5.13.1 details that the need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.

Section 14.10.2 provides guidance for residential extensions.

Policy SPQHP41 – Residential Extensions Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities.

Objective SPQHO45 – Domestic Extensions - Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

Section 14.10.2 'Residential Extensions' states...The need for housing to be adaptable to changing family circumstances is recognised and acknowledged and the Council will support applications to amend existing dwelling units to reconfigure and extend as the needs of the household change, subject to specific safeguards. In particular, the design and layout of residential extensions must have regard to and protect the amenities of adjoining properties, particularly in relation to sunlight, daylight and privacy. The design of extensions must also have regard to the character and form of the existing building, its architectural expression, remaining usable rear private open space, external finishes and pattern of fenestration...

Section 14.10.2.1 deals with Front Extensions and states .....Front extensions will be assessed in terms of their scale, design, and impact on visual and residential amenities. Significant breaks in the building line should be resisted unless the design can demonstrate to the Planning Authority that the proposal will not impact on the visual or residential amenities of directly adjoining dwellings.....

## **5.2. Natural Heritage Designations**

- 5.2.1. c. 500m to the west of Baldoyle Bay SAC (site code 000199)/Baldoyle Bay SPA (site code 004016)

## **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

6.1.1. The appeal is a Third Party Appeal (Colette O'Shea, 7 Tuscany Park) v grant of permission. The grounds of the Third Party Appeal (received 11<sup>th</sup> August 2023) are summarised as follows:

- Revised design offered minimal mitigation in relation to the impact on daylight and sunlight
- Conditions also offered minimal mitigations
- Ridge height is maintained to the rear and front
- Do not object to the principle of development but object to the height and mass of the proposed development
- Design solutions available that would reduce impact
- Appreciate neighbours requirement to provide better facilities for their daughter
- Would have welcomed opportunity to engage with neighbour to discuss the design
- Serious concerns in relation to the structural changes proposed as part of this development/removal of abutting chimney/removal of the full width of the rear wall/cutting of the stone façade.
- Discrepancies in the drawings/reference datum for height (original and revised drawings)/original drawings take height from existing ground level/revised drawings take height from the finished floor level)/difference is c0.15m
- Reduction in height is not as stated.
- Roof height does not match shed/height starts at 2.4 but increases to a ridge height of 3.2m

- Appellant's property has south facing rear garden
- The proposed development will impact on daylight and sunlight within property and impacts on the garden area /will impact on kitchen
- Proposed extension to the front will impact on daylight to the front room of the house/is less than 0.4m from front window/loss of light has not been analysed by the applicant
- Proposed development fails the 45 degree approach (with reference to BRE 209)/will have a significant impact on appellant's property (both front and rear)
- Proposed development consists of a 3.25m wall along 8.325m of the boundary/pitched roof with a ridge height of 3.25m from the remaining 4.675m.
- Have engaged a consultant to carry out a shadow analysis (relevant drawings are enclosed with the appeal)/have carried out an analysis for a range of scenarios (Jan 31<sup>st</sup>/March 21<sup>st</sup>/June 21<sup>st</sup> )
- Reduction in sunlight is greater than accepted best practice
- Development is not in keeping with surrounding area/is not comparable to other developments in the area (including at No.s 5, 16, 24 Tuscany Park, No.'s 41 and 51 Meadowbrook).
- Several design solutions for the rear and front that would reduce the impact, including stepping away the front extension from the boundary by 1m,
- Drawings enclosed; Rear Extension Daylight Assessment 45 Degree Approach; Daylight Assessment Detailed Shadow Analysis Correlation; Daylight Assessment Detailed Shadow Analysis Before/After; Front Extension Daylight Assessment 45 Degree Approach.

## 6.2. Applicant Response

6.2.1. The applicant's response to the appeal was received on 8<sup>th</sup> September 2023. This is summarised below:

- Highlight that an exempted development of a scale indicated on the attached drawing would have an almost identical impact as the proposed scheme



- Errors in the shadow diagrams submitted by the objector
- Are not proposing to remove the full width of the rear wall
- A door is proposed to be removed/a window cill lowered and widened slightly
- As a concession, the applicant would now consider creating a pitched roof to the front extension in lieu of the parapet arrangement
- Drawing enclosed: Ground Floor Plan/Example exempted development

### 6.3. Planning Authority Response

6.3.1. A response from the Planning Authority was received on 11/09/2023. This is summarised as follows:

- Development was assessed against current Development Plan
- Concerns set out in 3<sup>rd</sup> Party Objections were acknowledged and considered
- Proposed development, subject to amendments to be undertaken by condition, was considered to be consistent with the proper planning and sustainable development of the area
- ABP is requested to uphold the decision of the Planning Authority

### 6.4. Observations

6.4.1. None.

### 6.5. Further Responses

6.5.1. A further response from the Third Party Appellant was received on 02/10/2023. This is summarised as follows:

- Assertion that the proposed development could progress as exempted development is incorrect.
- Would have a detrimental impact with respect to overshadowing and overbearance.
- Materially contravenes the Fingal County Development Plan.

- Would devalue property.
- If the proposed development was offset from the boundary of No. 7 by 1m and the height was reduced this would reduce any impact
- There is no clear explanation or substantiation of the alleged inaccuracies in the shadow cast model.
- Concerns reiterated in relation to structural issues.
- No design information has been submitted to allow consideration of the proposed concession (i.e. pitched roof to the front of the property).
- Would not automatically offset the impact of overshadowing and loss of light.

## 7.0 **Assessment**

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

- Principle of Development
- Impact on Residential Amenity/Visual Amenity
- Other issues

### 7.2. **Principle of Development**

7.2.1. The site is zoned 'RS Residential' with an objective to "Provide for residential development and protect and improve residential amenity". Residential is a permitted in principle use within this Zoning Objective, and as such the proposed development is acceptable in principle.

### 7.3. **Scale of the Development/Impact on Residential Amenity/Visual Amenity**

7.3.1. The Design Statement submitted with the application notes that the primary aim of the development is to provide additional family accommodation, including an accessible bedroom and bathroom to cater for a daughter with additional needs.

7.3.2. There is an existing rear extension that extends approximately 4m along the western boundary with No. 7 Tuscan Park. This has a pitched roof with a maximum height of 3.5m and a height of 2.2m on the boundary with No. 7. There is also a shed to the rear of the existing garden, and forms part of the boundary with No. 7.

- 7.3.3. The proposed plans as submitted at FI stage (and as approved by the Planning Authority, subject to a condition reduction the depth of the front extension) indicate a rear extension that is 13m in depth on the boundary. The proposal is approximately 3.4m high on the boundary for 8.3m of its depth, with a flat roof proposed, and for the remainder, the roof slopes up from the boundary and is 2.4m high on the boundary, with a ridge height of 3.1m.
- 7.3.4. The proposed plans also include a front extension that is 2.25m in depth on the boundary with No. 7 Tuscany Park. Condition No. 2 of Planning Permission F22B/0252 required a reduction in the extent of the front extension so as to project no more than 1.8m off the front elevation.
- 7.3.5. The concerns of the Third Party Appellant, the resident of No. 7 Tuscany Park, relate to the height and mass of the development, and the subsequent impacts on daylight and sunlight to this property and the impact on sunlight to the garden. It is stated also that the design of the proposal is not in keeping with other extensions in the area.
- 7.3.6. The applicants, in the response to the appeal, note that the impact of an exempted development, of 40 sq. m, while retaining the existing shed, would be similar to that proposed here. The applicants have suggested that the front extension could incorporate a pitched roof, as a compromise or concession to No. 7.

#### Daylight/Sunlight/Overshadowing

- 7.3.7. In relation to the issue of the loss of daylight and sunlight to the appellant's property, I have had regard to the drawings and shadow diagrams submitted with the appeal documents, and also note the comments of the applicants in relation to same. The appellant has stated that the applicant should have carried out an assessment of the impact on daylight to his property, and further states that the impacts on daylight, and sunlight to the garden, are greater than accepted best practice, having regard to BRE 209 standards. In relation to same, I note that for domestic extensions, it is not generally a requirement to have a technical daylight and sunlight assessment. However the current BRE Guidance (June 2022 edition)<sup>1</sup> notes that that for domestic extensions, the '45 degree rule' can be utilised to assess the impact on the diffuse

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<sup>1</sup> Site layout planning for daylight and sunlight: A Guide to Good Practice (3<sup>rd</sup> Edition, BRE, 2022)

skylight (or daylight) to a neighbouring property. I note that at No. 7 Tuscany Park (the appellant's dwelling) there is one window and one set of Patio doors, at ground floor level to the rear. The appellant has stated that the door serves the kitchen area, and while not stated in the appeal submission, it is likely that the window also serves the kitchen/dining area. If one were to draw a 45 degree line from a point 1.6m above the ground on the centre line of the patio doors to the rear of No. 7 (as per BRE guidance), the existing extension at No. 6 (the application site) would be seen to have an impact on the levels of daylight to these patio doors. This is also the case with the proposed extension. Of note, however, is that the other window serving the kitchen is not likely to be impacted by a loss of daylight, given it falls outside the 45 degree line. As such, I am of the view the overall impact on daylight to the kitchen of No. 7 will not be significant, given the above.

7.3.8. In relation to the impact of the front extension on daylight provision the living room at No. 7, I do not concur with the appellant that the daylight impacts on same will be significant. As per BRE 2022 Guidance, a significant amount of light is likely to be blocked if the centre of the window lies within the 45 degree angle on both plan and elevation. On elevation, the centre of the living room window at No. 7 lies outwith the 45 degree angle (although lies just within the 45 degree angle on plan). As such, it is likely that impacts on daylight to the living room at No. 7 would be small, and would be further reduced by the limitation on the depth of this extension (of 1.8m) as imposed by the Planning Authority. I would also note that a pitched roof arrangement for the front extension is suggested by the applicant, but no amended plans have been received. Notwithstanding, while I am satisfied that no significant daylight impacts would result from the front projection, I still have concerns in relation to the overall scale and mass of this front element, having regard to visual impact, as discussed in the relevant sections below.

7.3.9. In relation to impacts on sunlight, I note the kitchen window and patio doors are south facing, and while there will be some impacts on the levels of morning sunlight as a result of the proposed extension, sunlight from a southerly direction and westerly direction will be unaffected. I note that there are some impacts on sunlight levels from the existing extension in any case. This is also true in relation to sunlight levels to the garden area, and I note that the relevant BRE recommendation for sunlight to amenity areas, is to ensure that at least half of a neighbouring amenity

area should receive at least two hours of sunlight on 21 March, for any given year. For the garden at No. 7 Tuscany Park, this is likely to be the case, given the southerly aspect of the garden, and given that the proposed extension lies to the east of the garden at No. 7.

#### Design/Scale and Mass/Visual Amenity

7.3.10. In relation to the overall scale and mass of the proposed development, and the impact on the visual amenity of No. 7, in terms of visual dominance and overbearingness, I have concerns in relation to same. I have noted the scale of the proposed development above. This extension as proposed, extends along the entire boundary with No. 7, and while there is a change in roof profile towards the southern extent of the proposed extension, I am not of the view that this is sufficient to overcome the negative impact on the visual amenity of No. 7, and I am of the view that the proposal would be visually dominant and overbearing when viewed from No. 7. It would not appear that any precedent has been set in the area for an extension of such a scale. The applicant has cited the potential impact of an exempted development proposal, in combination with the existing shed on the subject site, and states that the overall impact would be similar. I cannot comment on whether or not this would be the case, as this is not the proposal under consideration here. The proposal, which is being assessed here, is of a substantial scale, and in my view, the development as proposed, would result in negative impact on neighbouring residential amenity, and would also set an undesirable precedent for development of similar scale in the area. The need to ensure an accessible residence is understood (as set out in the Design Statement) but this cannot be at the expense of neighbouring amenity. This is expressed in Section 14.10.2 of the Development Plan which recognises the need for housing to be adaptable to changing family circumstances, but this is subject to specific safeguards, including the need to protect residential amenity.

7.3.11. However, I am of the view that a reduction in the depth of the proposed rear extension, so that it does not extend along the entire length of the boundary, would, reduce the visual dominance of the proposed rear extension substantially. Therefore, I am of the view that the proposed rear extension should be limited in depth to 8.325m on the boundary with No.7 Tuscany Park. This would result in the omission of the sloped roof element and would reduce the overall impact on neighbouring

residential amenity to an acceptable degree, noting also that it still allows for much of the desired floorspace to be realised within the subject dwelling at No. 6. I recommend, therefore, that, should the Board be minded to approve the proposed development, a condition be imposed that requires same.

7.3.12. In relation to the scale and massing of the front extension, I am of the view that this is excessive, and would have a negative visual impact on both the neighbouring dwelling at No. 7, and when viewed from the streetscape. I note that there is no other front extensions of a similar scale in the immediate area, with front projections limited to porches of modest scale, and generally half width in nature. A slightly larger extension front extension (yet still half width) is seen at No. 39 Tuscany Park, and this property is staggered in relation to the neighbouring dwelling at No. 38. A similar staggered arrangement exists here, between the subject property at No. 6 Tuscany Park, and the neighbour at No. 5 Tuscany Park. This allows for a front extension of a slightly larger scale, in my view, as the impact on No. 5 is mitigated by this staggered arrangement. However, the extension as proposed here extends the full width of the house (5.275m), and is 2.25m in depth. I note the Planning Authority have imposed a condition limited the depth of the front extension to 1.8m. I am not of the view that this would mitigate the impact on No. 7, in terms of visual dominance, nor would it mitigate the impact on the streetscape, and would set an undesirable precedent in my view. The applicants, in their response to the appeal, have suggested that a pitched arrangement to the roof would be acceptable, in lieu of the proposed parapet arrangement. No amended plans have been submitted with the appeal. Notwithstanding, I am the view that, in addition to the limitation in depth as conditioned by the Planning Authority, a setback at 1m from the boundary with No. 7 is also required. This would still allow for a front projection of relatively large scale, but would reduce the overall visual dominance of same when viewed from No. 7, and from the streetscape. As noted above, the site specific circumstances here, namely the substantial setback from the neighbouring property at No. 5, allows for a larger front projection that would otherwise be the case. Should the Board be minded to approve the proposed development, I recommend that a condition be imposed requiring the above amendments.

#### 7.4. Other Issues

- 7.4.1. Structural Issues – This issue does not fall within the scope of this application and falls within the remit of other bodies of legislation.
- 7.4.2. Inconsistences in the drawings – The appellant notes that the originally submitted plans took the height from ground level, whereas those drawings received at FI stage take the height from finished floor level. I have taken regard of same in my assessment of the proposal above.
- 7.4.3. Devaluation of Property – The appellant has stated that the proposal would result in a devaluation of her property. However, no evidence has been submitted to support this assertion, and I do not concur with the assertion that the proposed development would result in a negative impact on the appellant’s property.

## 8.0 Recommendation

- 8.1. I recommend that 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 proposed development, 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

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| 1. | The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and additional information received on the 29 <sup>th</sup> June 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 |
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|    | <p>prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>  |
| 2. | <p>The proposed development should be revised as follows:</p> <p>(i) The depth of the proposed rear extension shall be limited to 8.325m.</p> <p>(ii) The proposed front extension shall be limited to 1.8m in depth (i.e. from the existing front elevation) and shall be setback at least 1m from the boundary with No. 7 Tuscany Park.</p> <p>Prior to the commencement of the development, revised plans detailing the above amendments, shall be submitted to, and agreed in writing with, the Planning Authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p> |
| 3. | <p>The existing dwelling and extension shall be jointly occupied as a single housing unit. The extension shall not be subdivided from the remainder of the dwelling and sold nor let as a separate dwelling unit. The overall dwelling shall be used for domestic related purposes only and not for any trade, workshop or other non-domestic use.</p> <p><b>Reason:</b> In the interests of clarity and to regulate the use of the development in the interest of the proper planning and sustainable development of the area.</p>  |
| 4. | <p>External finishes shall be in keeping with the existing dwelling.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>  |
| 5. | <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.</p> <p><b>Reason:</b> In the interest of public health</p>   |
| 6. | <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</p>   |



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|    | <p>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><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>  |
| 7. | <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><b>Reason:</b> 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> |

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.

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Ronan O'Connor  
Senior Planning Inspector

3<sup>rd</sup> October 2023