



An
Bord
Pleanála

Inspector's Report

ABP-318642-23

Development	Construction of extension and all other ancillary site development works.
Location	39 Brookhaven Rise, Blanchardstown, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F23A/0290
Applicant(s)	Patricia Clarke
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Patricia Clarke
Observer(s)	None
Date of Site Inspection	03 rd of February 2024
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The site consists of semi-detached two storey dwelling located within a residential area of Blanchardstown, Dublin 15. There is a large area of unused open space to the north of the site, associated with a public road and separated by mature trees and hedging. The dwelling is at the end of a cul-de-sac and most of the dwellings in the vicinity are of a similar design as the subject dwelling. The front door of the dwelling is located on the side gable, accessed from a private drive.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
- Two storey extension (c. 107.8m²) to the side and rear of an existing dwelling to accommodate new bedrooms, utility rooms, office/play space etc.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse for the following reason:

1. The proposed development would give rise to overlooking of adjoining properties fail to provide a satisfactory standard of residential amenity and would compromise future development on the area. The proposed development would seriously injure the amenities and depreciate the value of property in the vicinity would be contrary to Policy SPQHP41 and Objective SPQH045 of the Fingal County Development Plan 2023-2029 and would materially contravene the “RS” zoning objective which applies to the site in the Fingal Development Plan 2023-2029 which has the objective “provide for residential development and protect and improve residential amenity”. The proposed development would set an inappropriate precedent for other similar development and would therefore be contrary to the proposed planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission for the extension and is summarised below:

- The principle of development is acceptable within the zoning subject to a full analysis.
- The extension is past the front building line of the house and substantially behind the rear building line.
- The front extension is modest and would not represent an obtrusive feature.
- The high-level window on the rear extension has been included to address the overlooking although has led to a lack of detail which is considered injurious to the overall visual amenity.
- The window to the rear of the boundary is c. 18m from the opposing rear building line to the west.
- The high-level windows would provide a poor level of amenity for the residents.
- The revised design is contrary to Policy SPQHP41 and Objective SPQHO45 of the development plan.
- The layout, proximity and fenestration along the western boundary would mitigate against future development on the adjoining site with regard Objective DMS023.

3.2.2. Other Technical Reports

Water Services Department: No objection subject to conditions.

3.3. Prescribed Bodies

None submitted.

3.4. Third Party Observations

One submission received raised concern the proposal would lead to overlooking, be visually obtrusive and did not include a safe design for the first-floor window.

4.0 Planning History

Reg Ref FW23A/018

Permission was refused for a two-storey extension (c.112 m²) to the side of the existing dwelling to facilitate new bedrooms, utility rooms and study along with all other ancillary site development works. The reason for refusal was:

1. The proposed development, by virtue of its siting, bulk and design, would be out of keeping with the character of the existing house on site, would give rise to overlooking of adjoining properties and would comprise future development of an area. The proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, would be contrary to Policy SPQ HP 41 of the Fingal County Development Plan 2023-2029 and would materially contravene the “RS” zoning objective which applies to the site in the Fingal County Development Plan 2023-2029 which has the objective “provide for residential development and protect and improve residential amenity”. The proposed development would set an inappropriate precedent for other similar development and would therefore be contrary to the proposed planning and sustainable development of the area.

In the vicinity of the site (No 2 Brookhaven Drive)

Reg Ref FW22A/0102

Permission refused for a two-storey extension to side and a single storey extension to the rear of the existing house as the extension was located on designated open space and the proposed extension would result in overlooking of an adjoining property.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

Zoning

The site is located on lands zoned as residential, RS, where it is an objective to “provide for residential development and protect and improve residential amenity”.

Extension

Section 3.5.13.1: 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 Extension to Dwellings

Section 14.10.2.1 Front Extensions

Section 14.10.2.2 Side Extensions

Section 14.10.2.4 First Floor Extensions

Objective DMSO23 – Separation Distance

A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.

5.2. Natural Heritage Designations

None of relevance

5.3. EIA Screening

Having regard to the nature and scale of the proposed development 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. Grounds of Appeal

The grounds of appeal are submitted by the applicant's mother in relation to the reason for refusal as summarised below:

- The reasons for refusal are not acceptable, the extension is in keeping with the design of the dwelling and will not lead to overlooking.
- Appendix B includes details of modern extensions within the Brookhaven estate which are of a similar design to the proposed development.
- The refusal has a negative impact on a resident (applicant) who wishes to remain in their home and the proposal allows for the dwelling to be adapted appropriately.
- There are details of the planner's report are incorrect the extension is not located on open space, the first-floor windows are big enough for fire exit and the elevation of the rear will only be visible by a few neighbours.
- Fingal Council are in breach of EU rights in refusing the permission.
- Doctors evidence, an application for a Housing Adaptation grant and an occupational health report, have all been submitted as evidence to support the extension for a family member.
- Appendix A: Maps have been submitted of the existing and proposed dwelling and the previous refused permission.
- Appendix B: Breakdown of the reason for refusal and examples of extensions in the vicinity.

6.2. Applicant Response

The applicant is the appellant.

6.3. Planning Authority Response

A response from the PA notes the appeal submission and refers the Board to the planning officer report with respect to the development and the concerns raised with in relation to impact on the residential amenity and the unsatisfactory design response.

In the event the appeal is successful it is requested a Section 48 development contribution is included.

6.4. Observations

None received.

7.0 Oral Hearing Request

- 7.1. The applicant requested an oral hearing. The Board has determined that having regard to the modest scale of the proposed development, the nature of the reason for refusal and the documentation on the file that an oral hearing is not required.

8.0 Assessment

The main issues of the appeal can be dealt with under the following headings:

- Planning History
- Impact on Visual Amenity
- Impact on Residential Amenity
- Appropriate Assessment

8.1. Planning History

- 8.1.1. The planning authority recently refused permission for a similar side extension – Reg Ref FW23A/0290- as it was considered the proposal would overlook adjoining

properties and compromise the future development of the area. It was considered the proposal would seriously injure the amenities and depreciate the value of property in the vicinity. The design was similar to the current proposal although the footprint was slightly larger and there were full height windows on the first-floor orientated west towards No 18 and south towards No 37.

- 8.1.2. The proposal has been amended to include a similar design, reduce the size from 112 m² to 107.8m² and include level windows on the first floor to remove any potential for overlooking on adjoining properties. The report of the area planner does not consider the revised proposal would cause any overlooking, although there remained concerns with regard the design of the high-level windows, addressed in detail below.

8.2. Impact on the Visual Amenity.

- 8.3. The proposed extension is located to the north of a two-storey semi-detached dwelling in a residential area. The dwellings in the vicinity are a similar style and design. The proposed extension will be located along the north of the site, extending to the front of the building line, over an existing car port and utility space and to the rear of the dwelling.
- 8.4. The reason for refusal relates to overlooking adjoining properties which would lead to a negative impact on the adjoining properties and refers to Policy SPQHP41 and Objective SPQH045 of the development plan which relate to the design and scale of residential extensions. The report of the area planner does not raise any issues with the design of the extension along the front of the dwelling although considers the rear extension lacks detail and would be injurious to the visual amenities of the area.
- 8.5. The policy and objectives, and other design guidance, of the development plan require the design of the extension to have regard to the form and character of the existing dwelling. I consider the design of the side extension is similar to the existing dwelling, in keeping with the scale and mass and would comply with the policies and objectives of the development plan with regard residential extensions. The extension is located along the northern boundary of the site, adjoining an area of public open space associated with a major road and is not visible from the road. Views into the rear of the site are restricted to the dwellings in the immediate vicinity. Large mature

trees along the west of the site restrict views from No 48 and No 46 and the extension would be visible from the neighbouring property to the south (No. 37).

- 8.5.1. I do not consider the design of the extension would dominate the views to the rear of any of the properties in the vicinity and I consider it is in keeping with the policies of the development plan, which require residential extensions to respect the character and form of the existing dwelling. Therefore, having regard to the design and location of the extension to the north of the dwelling, I do not consider the proposed development would have a significant negative visual impact on the residents of the existing dwelling or the surrounding area.

8.6. Impact on the Residential Amenity

- 8.6.1. As stated above, the extension is located to the north of the existing dwelling, adjoining open space associated with the R121, Blanchardstown Road. The proposal includes two first floor windows facing west and south. These windows are high level and serve an office/ playroom. The report of the area planner states that the use of these windows will provide a poor level of amenity for the residents of the property.
- 8.6.2. I note these windows will not serve the main living area of the dwelling and the two windows are proposed to serve office space and an ancillary living area. I have no objection to the inclusion of this design of window for ancillary living space, subject to compliance with building control requirement, which are not a matter for planning to assess. I recommend in the event of a grant of permission the applicant is reminded of their obligations under Section 34 (13). This aside, I do not consider there would be any excessive overlooking onto the rear of the dwellings in the vicinity more than the existing first floor windows.
- 8.6.3. The aerial photography from google maps illustrates an extension to the west of No 48, at rear of the site. Upon site inspection this extension was not visible from the rear of the existing dwelling, and I note the site location and site layout maps do not include the extension. The planners report or reason for refusal does not include any reference to distance from this extension. Having regard to my assessment above, I do not consider the proposal will have a negative impact on that dwelling to the rear.

8.6.4. Therefore, having regard to location of the extension along the north of the site, adjoining an area of open space, the design of the rear extension, I do not consider the proposal will cause any overlooking on the properties in the vicinity of the site. It is considered the proposal complies with the policies of the development plan and will not cause a significant negative impact on the residential amenity in the vicinity.

8.7. **Appropriate Assessment**

8.8. Having regard to the distance of the site from European Sites to the small scale of the proposed development and to the absence of any direct pathway from the site to the designated sites I consider that the proposed development individually, or in combination with any other plans or projects, would not be likely to have any significant effect on any European Site.

9.0 **Recommendation**

9.1. I recommend that planning permission should be **granted** for the reason and consideration set out below.

10.0 **Reasons and Considerations**

Having regard to the design, scale, and mass of the extension to the side and rear of a semi-detached dwelling in a residential estate, it is considered that the proposed development would be acceptable within the context of the site. The location of the extension along the north of the site, and integration of high level windows, would ensure that the proposed development would not result in a negative impact on the amenities of adjoining properties in the vicinity of the site and would be in accordance with Policy SPQHP41 and Objective SPQH045 of the Fingal County Development Plan 2023-2029 and the proper planning and sustainable development of the area.

11.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may
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	<p>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.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The proposed extension shall be used solely as an extension to the main dwelling and shall not operate at a single entity.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
3.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing structure in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 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 adjoining property in the vicinity</p>
5.	<p>The site development work and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material.</p> <p>Reason: In the interests of orderly development and to ensure that the adjoining roadways are kept in a clean and safe condition.</p>
6.	<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>

	Reason: In the interest of public health.
7.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
8.	<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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Note: The applicant is advised that under the provisions of Section 34(13) of the Planning and Development Act 2000, a person shall not be entitled solely by reason of a permission to carry out any 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.

Karen Hamilton
Senior Planning Inspector

06th of February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Construction of extension and all other ancillary site development works.		
Development Address	39 Brookhaven Rise, Blanchardstown, Dublin 15		
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	
		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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No			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		N/A	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____