



An  
Bord  
Pleanála

## Inspector's Report ABP-319543-24

### Development

Permission is sought for retention of development consisting of alterations to previously approved plans (Reg. Ref. D20B/0172) for the setting forward of the extension to the side by an additional 0.38m and the enlargement of the dormer window structure to the rear by 1.2m with proposed modifications for approval.

### Location

9 Braemor Drive, Churchtown, Dublin  
14

### Planning Authority

Dun Laoghaire Rathdown County  
Council

### Planning Authority Reg. Ref.

D21B/0442

### Applicant(s)

Oltian Dervishi

### Type of Application

Retention permission

### Planning Authority Decision

Refuse retention permission

### Type of Appeal

First Party vs Decision

### Appellant(s)

Oltian Dervishi

**Observer(s)**

1. Peter Scott
2. Alan Quinlan
3. Ronan O'Connor

**Date of Site Inspection**

12<sup>th</sup> September 2024

**Inspector**

Phillippa Joyce

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## **1.0 Introduction**

- 1.1. In the case of Judicial Review 2022 No. 875 JR (between Oltan Dervishi (applicant) and An Bord Pleanála (respondent) and Dun Laoghaire Rathdown County Council (notice party)), the High Court ordered that the decision of An Bord Pleanála (ABP 311892-21) made on 25<sup>th</sup> August 2022 to refuse retention of development be quashed.
- 1.2. The appeal has been remitted back to the Board for determination from the point in time after the Inspector's report was signed on 27<sup>th</sup> June 2022. The appeal has been reactivated under the current appeal reference, ABP 319543-24.
- 1.3. The following comprises an addendum report to my original report for ABP 311892-21 and is provided in response to the Board's request for such an addendum report.

## **2.0 Responses to Section 131 Requests**

### **2.1. Requests for Further Submissions/ Observations**

- 2.1.1. The Board has invited all parties to the appeal to make any further general comments submissions/ observations (under section 131 of the Planning and Development Act 2000, as amended) that they may have on the planning application, the subject of this current appeal.
- 2.1.2. Responses have been received from the applicant, planning authority, and each of the observers. The key issues arising can be summarised as follows:

### **2.2. Applicant's Response**

- Overview of the Board's determination of ABP 311892-21 (contents of the Inspector's report, Inspector's recommendation, Board's decision) and the High Court Order (quotes extracts from the decision in respect of Core Ground 1 and Core Ground 2).
- Requests that regard is had to the Inspector's report and the High Court Order in considering the reactivated appeal.

### **2.3. Planning Authority's Response**

- Refers the Board to the previous planner's report, and there is no new matter in the appeal grounds which would justify a change of attitude to the proposed development.

#### **2.4. Observers' Responses**

- DLR County Council and An Bord Pleanála have previously refused retention permission on the grounds of the proposal (in particular the rear dormer window) being visual obtrusive, incongruous, overbearing, out of character, and injurious to the visual and residential amenities of the area.
- Minor changes do not address these issues which are major concerns for residents in the area.
- Offer to install glazing in the overlooking window is questioned as there is no guarantee of privacy.
- Proposed development does not comply with planning laws and is illegal.
- The overbearing effect and loss of privacy caused by the dormer extension was such that an observer sold his house and moved to a different address (Alan Quinlan, 11 Braemor Drive, adjacent property to the north).
- Decision making process has gone on too long, observers have had to make multiple submissions, and a mockery is being made of the planning laws.
- Request that the original/ previous decisions to refuse permission be upheld.

### **3.0 Planning Assessment**

- 3.1. I have reviewed and considered the responses received from the parties to the Board's section 131 requests.
- 3.2. The applicant refers the Board to the previous Inspector report (different components of the proposal are identified, findings of the assessment, recommendation) and to the direction of the High Court Order (necessity to engage with the proposed development in its entirety, i.e. side extension and dormer extension). The planning authority maintains its original position, i.e. recommends that retention permission be refused.

- 3.3. The responses from the observers largely reiterate issues that were previously raised and considered as part of my assessment for ABP 311892-21 (report dated 27<sup>th</sup> June 2022).
- 3.4. For the Board's ease of reference, I direct the Board to the subsections of that report as follows:
- Subsection 7.2 Planning History for an overview of the amendments proposed by the applicant (cladding as an external finish on part of the dormer extension to match the roof, reducing the height of the roof capping of the dormer extension, installing opaque glazing in part of the dormer window) to address the previous refusal reasons in respect of visual obtrusiveness and overlooking.
  - Subsection 7.3 Visual Amenity for an assessment of the design, scale and associated visual impact of the proposal in its entirety, with the proposed amendments incorporated into the consideration of the rear dormer extension.
  - Subsection 7.4 Residential Amenity for an assessment of the impact associated with overlooking (likely, perceived) of properties in the vicinity, in particular that of the adjacent property 11 Braemor Drive (which an observer states he has sold and no longer resides in), with the proposed amendments incorporated into the consideration of the rear dormer extension.
- 3.5. I confirm to the Board that I have undertaken a site inspection of the appeal site for this reactivated appeal and that I found the proposed development (i.e. side extension and rear dormer extension to be retained) remained unchanged from my previous site inspection for ABP 311892-21.
- 3.5.1. In line with current practice, I have completed the EIA pre-screening form for the proposed development (see Appendix 1 below).
- 3.6. In conclusion, I maintain the same planning opinion as that outlined in my report dated 27<sup>th</sup> June 2022 and am satisfied to concur with my original recommendation to the Board (as per ABP 311892-21).

## 4.0 Recommendation

I recommend that permission be granted for retention based on the following reasons and considerations, and subject to the attached conditions.

## 5.0 Reasons and Considerations

Having regard to the zoning objective of the site and the provisions of section 12.3.7.1 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, and to the nature, scale, and design of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 6.0 Conditions

1.	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Within three months of the date of this order, the developer shall have agreed in writing with the planning authority a phasing plan for undertaking and completing the proposed amendments to the rear dormer extension. The amendments include the replacement of the:</p> <ul style="list-style-type: none"><li>i. render finish with a cladding to match the existing roof material (details of the material, colour, and texture of the cladding to be agreed with the planning authority),</li><li>ii. roof capping (0.25m in height) with a capping of reduced height (0.17m), and</li><li>iii. clear glazing in the northernmost window pane with opaque glazing.</li></ul>

	<p>On completion of the works, photographic evidence shall be submitted to the planning authority indicating same.</p> <p><b>Reason:</b> In the interest of visual and residential amenity.</p>
3.	<p>Water supply and drainage arrangements, including the 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>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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>

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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Phillippa Joyce

Senior Planning Inspector

17<sup>th</sup> September 2024



## Appendix 1

### EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP 319543-24		
<b>Proposed Development Summary</b>	Retention of development consisting of alterations to previously approved plans (Reg. Ref. D20B/0172) for the setting forward of a side extension by an additional 0.38m and the enlargement of the dormer window structure to the rear by 1.2m with proposed modifications for approval.		
<b>Development Address</b>	9 Braemor Drive, Churchtown, Dublin 14		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		<b>Yes</b>	✓
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>			
<b>No</b>	✓		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>	✓		
<b>Yes</b>			
<b>4. Has Schedule 7A information been submitted?</b>			
<b>No</b>		Preliminary Examination required	
<b>Yes</b>		Screening Determination required	

**Inspector:** \_\_\_\_\_

**Date:** \_17<sup>th</sup> September 2024\_