



An
Bord
Pleanála

Inspector's Report

ABP-319569-24

Development

Alterations to previously approved plans (Reg. Ref. D22B/0216 refers) to include changes to the single storey side extension, enlarged window to front of extension, new rear single storey extension, attached garden store, new canopy over patio and new bathroom window.

Location

10 Willow Glen, Glenamuck Road,
Dublin 18 D18R2XA

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D23B/0532

Applicant

Elona Dervishi

Type of Application

Retention Permission

Planning Authority Decision

Grant Retention Permission

Type of Appeal

First Party

Observer

Hugh Garrett and Ashleigh Best

Date of Site Inspection

9th August 2024

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.022 hectares accommodates No.10 Willow Glen, a two and a half storey extended end of terrace dwelling (four house terrace), located in the north-western corner of a relatively new residential development off the Glenamuck Road in Dublin 18. The approximate gross floor area of the house is 169 sqm. There is on-street car parking and pedestrian access to the front along with gated side access to the rear garden. The dwelling overlooks an area of open space to the front (south-east). To the rear (north-west) of the property there is a large house with associated agricultural sheds.

2.0 The Development

- 2.1. The proposal comprises the retention of alterations to the permitted development granted under Planning Authority Register Reference No. D22B/0216, as follows:
- Reduced width and slightly increased height of single storey extension to the side of the house
 - Enlarged window in the front elevation of the single storey extension
 - New single storey extension to rear
 - Attached garden store to rear of kitchen
 - New canopy over patio to rear of living room
 - New bathroom window at first floor level at the side of the house

The gross floor space of works to be retained is stated as 10.1 sqm.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted retention permission on the 25th March 2024 subject to six conditions. Condition No. 2 is noteworthy and states the following:

2. The height of the new canopy over the patio to the rear shall be limited to a maximum height of 2.8 metres and this shall be implemented and completed within three months of the date of the final grant of permission.

REASON: In the interests of residential amenities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first report of the area planner notes the site's planning history and the policy context. The report considers the revised single storey extension to the side of the house along with the enlarged front window are appropriately scaled and integrate with the dwelling and the streetscape. Similarly, the attached garden store to the rear of the kitchen is also considered to integrate well with the dwelling and the new bathroom window on the side elevation is deemed acceptable. Concern is raised that the rear extension and canopy may not be fully located within the red line boundary and it is recommended that the applicant be requested by way of further information to demonstrate sufficient legal interest to carry out this part of the development. The second planning report assesses the applicant's response to the further information request, which asserts the rear extension and new canopy are constructed within the applicant's boundary. Reference is made in the report to Section 34(13) of the Planning and Development Act 2000 (as amended) and it concludes that as no significant planning issue arises, permission may be granted.

3.2.2. Other Technical Reports

Drainage Planning: No objection subject to a condition requiring provision of a SUDS measure appropriate to the scale of the development.

3.3. Prescribed Bodies

No reports sought or received.

3.4. Third Party Observations

One third-party submission from the residents of the adjoining dwelling to the south-west (No. 9 Willow Glen) was received by the Planning Authority on foot of the planning application. The main issues raised are summarised as follows:

- The planning application does not comply with Article 23 and it is a surprise that it has been validated
- The information submitted with the application is inaccurate and does not represent the development as-built
- The rear extension is constructed on the boundary line
- The tall gable wall on the boundary along with the gable wall of the patio has an overbearing impact on the objector's private amenity space and obstructs the view from the kitchen window
- Overshadowing; the rear extension has a noticeable impact on the level of ambient lighting reaching the objector's kitchen area
- Lack of sustainable drainage
- Area of roof should be reduced by removal of patio roof
- Overdevelopment of site in what is ostensibly a rural setting
- Poor workmanship and non-compliance with Building Regulations which will potentially lead to water ingress and more significant structural damage to objector's property
- Works undertaken to shared boundary were not consented to, with some works encroaching onto the objector's property

Following receipt of the further information provided by the applicant, the residents of No. 9 Willow Glen made a second submission, which is summarised as follows:

- Works to shared boundary were not agreed
- The timber clad wall is not included in drawings submitted with the planning application

- The dimensions and heights on the plan are taken from above ground level which is an attempt to distort the representation of the built structures
- The revised description of the development does not include the extension of the boundary wall and therefore this does not form part of the planning application

4.0 Planning History

Appeal Site

Planning Authority Reference D22B/0216 refers to a June 2022 decision to grant permission for construction of new single storey extension (approximately 26 sqm) to the side of existing dwelling to accommodate a kitchen and utility room.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2022-2028 according to which the site is within an area subject to zoning objective 'A' – 'To provide residential development and improve residential amenity while protecting the existing residential amenities.'

5.1.2 Development management standards and guidance are contained in Chapter 12. Additional accommodation in existing built-up areas is included at section 12.3.7 while section 12.3.7.1 provides guidance in relation to front, side, rear extensions, attic conversions and dormer extensions.

5.2. Local Area Plan

The appeal site was located within the boundary of the Kiltarnan-Glenamuck Local Area Plan (LAP) 2013. The LAP expired in September 2023. Preparation for a new LAP for the Kiltarnan-Glenamuck area is underway.

5.3. EIA Screening

- 5.2.1 Having regard to the type and nature of the proposal, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an environmental impact assessment is not required.

5.3 Natural Heritage Designations

- 5.3.1 The appeal site is not located within or in the vicinity of any European site. The closest Natura 2000 site is Knocksink Wood located approximately 4 kms south-west of the development. Dingle Glen proposed Natural Heritage Area is located approximately 0.6 kms south east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against Condition No. 2 of the Planning Authority's decision to grant retention permission. The appeal is made on behalf of the applicant by John Talyor, Architect. The grounds of appeal are summarised as follows;

- The Planning Authority has not demonstrated why the height of the rear canopy at 3.2 m is considered to be excessive, and how the reduced height of 2.8 m as set out in Condition No. 2 is determined.
- The 2.8 m height is arbitrary and is not based on Development Plan guidance, the Planning Acts or the 2022 BRE guidance.
- The Planning Authority has not followed proper procedures. If there was a concern that the canopy would cause overshadowing impacts a shadow analysis should have been sought as part of the Further Information request.

It is considered that this analysis would have shown virtually no impact on the adjoining property, No. 9 Willow Glen.

- Even if the canopy caused an overshadowing impact on No. 9 Willow Glen, there are alternative ways to reduce the impact other than a reduction in height, such as moving the canopy back from the boundary.
- There is a very large timber framed structure in the rear garden of No. 9, built along the boundary with No. 10. Overshadowing and overlooking impacts from this structure impact the appeal property. The height of this structure, built without permission, is significant and this was not considered by the Planning Authority in its assessment of the planning application.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority considers that the appeal grounds do not raise any new matter which would justify a change of attitude to the development.

6.3. Observation

- 6.3.1. One observation has been received from Hugh Garrett and Ashleigh Best who reside at No. 9 Willow Glen which adjoins the appeal property to the south-east. The observation is summarised as follows:

- The extension, by reason of its length, height and location along the boundary line has an overbearing impact on the external private amenity space of No. 9 Willow Glen and it fails to satisfy section 12.3.7.1 (ii) of the Development Plan which relates to domestic extensions.
- The concern relates to the overbearing nature of the construction rather than overshadowing effects.
- The view from the kitchen window of No. 9 Willow Glen is obscured by the extension.
- Condition No. 2 requiring a reduction in height of the canopy to 2.8 m is a fair and reasonable resolution.
- The setting back of the roof canopy from the boundary, as referenced in the appeal, is supported and in this context a 1 m set back is appropriate.

- Poor quality materials used in the construction of the timber fence
- The timber clad finish of the side wall was not included in the development description or the application drawings. This is reflected in Condition No. 1 of the permission.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Scope of appeal
- Condition No. 2
- Appropriate Assessment

7.2. Scope of Appeal

7.2.1. This is a first-party appeal against Condition No. 2 as set out in the Planning Authority's Notification of Decision to Grant Permission for the development to be retained. As detailed at section 3.1 above, Condition No. 2 requires the new canopy over the patio to be limited to a maximum height of 2.8 m and that this be implemented and completed within three months of the date of the final grant of permission.

7.2.2. I consider that a de novo assessment of the proposal is not warranted in this instance. I am satisfied that the proposal is otherwise in accordance with the proper planning and sustainable development of the area. As such and in accordance with section 139 of the Planning and Development Act 2000, as amended, the assessment of the proposal will be confined to Condition No. 2.

7.3. Condition No. 2

- 7.3.1. The total depth of the rear single storey extension in addition to the canopy structure above the patio is approximately 5 m from the rear wall plate of the dwelling. The side wall / elevation of the canopy is constructed at the side / south-western boundary of the appeal site. Condition No. 2 requires the height of the canopy structure to be reduced from 3.2 m to a maximum height of 2.8 m given its proximity to the adjoining property and its depth when combined with the adjacent extension.
- 7.3.2. The Planning Authority's stated reason for its inclusion of Condition No. 2 is 'In the interest of residential amenities.' Having regard to the north-west orientation of the rear garden of the appeal property I concur with the area planner's assessment that the proposal would not result in significant overshadowing impacts affecting the subject and adjoining properties. Separately, given the single storey nature of the canopy structure and existing boundary treatment, no overlooking impacts arise in respect of adjoining property.
- 7.3.3. In my opinion the proposal complies with section 12.3.7.1 (ii) of the Development Plan as it relates to ground floor rear extensions. There is in excess of 55 sqm of rear private amenity space remaining post-development to serve the dwelling. Noting the suburban context of this residential area and having regard to the design, scale and height of the canopy structure, I do not consider that it has an overbearing impact on the adjoining property to the south-west.
- 7.3.4. I concur with the first party appellant that the Planning Authority's requirement to reduce the height of the canopy roof by 0.4 m (at a minimum), as articulated in Condition No. 2, is arbitrary with no associated rationale provided. In my view such works are not warranted in this instance; they would have little discernible impact and would be unnecessarily burdensome in terms of cost.
- 7.3.5. To conclude, I consider that the canopy structure as built would not seriously injure the residential amenities of the area. Therefore, Condition No. 2 of the planning authority's decision should be omitted.

7.4. Appropriate Assessment

- 7.4.1. I have considered the proposal in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located in a suburban area in Dublin 18.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Small scale and nature of the development
- Location-distance from nearest European site and lack of connections
- Taking into account the determination by the Planning Authority

I conclude that on the basis of objective information, that the proposal would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

8.0 Recommendation

- 8.1 That the Planning Authority be directed to omit Condition No. 2, which it has attached to the retention permission granted under Register Reference D23B/0532.

9.0 Reasons and Considerations

- 9.1 Having regard to section 12.3.7.1 (ii) of the Dun Laoghaire Rathdown Development Plan 2022-2028, the design, scale and height of the canopy structure and its relationship to the adjoining property to the south-west, it is considered that condition number 2 should be omitted. The canopy structure would not seriously injure the residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

John Duffy

Planning Inspector

28th August 2024