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An
Bord
Pleanála

Inspector's Report ABP-319874-24

Development

Demolish rear extension and porch, erect extension, external and internal layout and elevations changes and all ancillary site works.

Location

53 Ballinteer Park, Dublin 16, D16 X2R5.

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D23A/0663/WEB

Applicant(s)

Keith Byrne and Niamh McEvoy

Type of Application

Permission.

Planning Authority Decision

Grant, subject to conditions.

Type of Appeal

First Party V. Condition 2.

Appellant(s)

Keith Byrne and Niamh McEvoy.

Observer(s)

None.

Date of Site Inspection

24th September 2024.

Inspector

Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site refers to the two storey semi-detached dwelling and plot located at 53 Ballinteer Park, Dublin 16. The subject dwelling is located at the end of a small cul-de-sac on the south-western side of Ballinteer Park. The dwelling benefits from front and rear garden ground, with the front garden providing off-street car parking. The rear garden is generous, and the boundary line is tightly canted towards the rear elevation of the adjoining neighbouring house at No. 54.

2.0 Proposed Development

- 2.1. Planning permission is sought for the erection of a part two/part single storey rear extension in addition to the provision of a bay window to the front elevation, relocation of the front door to the gable end, internal and external alterations including amended window design and location, increased width of vehicular entrance and all ancillary works. The proposed two storey rear extension would be part pitched roof and part flat roofed. The single storey rear extension would be flat roofed.
- 2.2. Further Information was submitted during the course of the application that reduced the size of the extension slightly and angled the rear façade of the first floor extension to alleviate impacts on the neighbouring property at No. 54 Ballinteer Park.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission was issued by Dún Laoghaire Rathdown County Council (DLRCC) on 13th May 2024 subject to 13 generally standard conditions. Conditions of note include:

2. Prior to the commencement of development on site, the Applicant shall submit for the written agreement of the Planning Authority, revised drawings showing the proposed new rear extensions reduced and modified as follows:

- (a) - The first floor rear projection shall be reduced in length/depth by a minimum of 2 metres.

(b) - The single-storey, kitchen extension reduced in its north side width by a minimum of 1 metre, to increase the separation to the north side boundary (including reduction in both angled and straight north walls of said kitchen element).

Reason: To protect the residential amenities of the area.

3.2. Planning Authority Reports

3.2.1. The Planner's Report contains the following points of note:

- The development is acceptable in principle in terms of zoning and the extent of demolition is also acceptable.
- Regard is had to the height, length and scale of the two-storey element of the proposal in particular, and also noting the single-storey proposed element.
- Concerns are raised regarding potential impacts on 54 Ballinteer Park in terms of the rear extensions and potential overshadowing and overbearing. No overlooking impacts anticipated but conditions recommended to secure obscure glazing on the side elevation windows.
- Further Information was requested in the form of additional and revised details to address how the design and position of the proposed two-storey, and single-storey rear extension would not give rise to significant overbearing and overshadowing impacts to the north side of the site arising from their scale and close proximity to No. 54.
- Further Information was submitted however the Planning Authority considered that there were remaining overshadowing concerns and undue overbearing impacts, noting the extent of the rear length of the proposed extensions, the close proximity to the boundaries, and the orientation of the site with regard to the adjoining property to the north in particular (No. 54).
- The Planning Authority considered that the Further Information did not satisfactorily address the issue and considered that a condition to address the remaining overshadowing and overbearing concerns would be warranted.

- The condition seeks to reduce the length and width of the first floor rear, and single-storey rear elements respectively.
- Following Further Information one submission was made maintaining that the extension would be obtrusive and overbearing.

3.2.2. **Other Technical Reports**

3.2.3. **Drainage (28.11.2023 and 01.05.2024):** Request Further Information to address issues regarding the disposal of surface water and the design/specification of hardstanding areas. Information was submitted by the Applicant and no further objections were raised subject to conditions regarding surface water runoff and hardstanding design/specification.

3.2.4. **Transportation Planning:** No objection subject to conditions regarding height of front boundary treatment, footpath specifications, and orderly development.

3.3. **Prescribed Bodies**

3.3.1. **Uisce Éireann (28.11.2023 and 07.05.2024):** Initially requested Further Information, this was submitted to the satisfaction of Uisce Éireann. Recommend conditions regarding connection agreements, compliance with the Code of Practice, and restriction on building over assets.

3.4. **Third Party Observations**

3.4.1. One observation was received, the details are on file for the Board's information. The submission raised the following points:

- The development would be obtrusive, overbearing, and would have an impact on daylight/sunlight and the residential amenity of the neighbouring dwelling at No. 54 Ballinteer Park.
- No shadow or daylight analysis was submitted with application.
- A more modest first floor could be carefully planned internally to avoid adverse impacts on neighbourhood property.

3.4.2. An additional observation was submitted following receipt of Further information maintaining that the extension would be obtrusive and overbearing.

4.0 Planning History

Subject Site

- 4.1.1. None of specific relevance.

Neighbouring Sites

- 4.1.2. **54 Ballinteer Park – Planning Authority Reference D11B/0003** - Retention and Permission was granted by the Planning Authority for the retention and completion of partially constructed domestic use storage shed, with all ancillary site works to the rear of dwelling.
- 4.1.3. **49 Ballinteer Park – Planning Authority Reference D20A/0214** - Permission was granted by the Planning Authority for demolition of shed and ancillary structures on site (119sqm), the removal of the existing extensions (62.8sqm) to the existing two-storey, semi-detached dwelling, the provision of a new two-storey extension (109.6sqm) (part flat roof, part pitched roof) to the side and rear of the dwelling, the provision of 2 No. rooflights to the rear slope of the existing pitched roof, the remodelling of the existing front facade to reinstate the original condition, the provision of a new bay window structure to the front facade, the internal alteration of the existing structure, the replacement of the front boundary low wall and gate with hedging while widening the vehicular entrance and all associated site and drainage works.
- 4.1.4. **48 Ballinteer Park – Planning Authority Reference D188/0321** - Permission was refused by the Planning Authority for development consisting of: 1. Removal of front porch. 2. Removal of single and two storey rear extensions, and a single storey garden shed. 3. Removal of the gable and chimney stack. 4. Construction of a new single storey front porch. 5. Construction of a new two storey side extension consists of a TV room at ground floor and a bedroom at first floor with a tiled pitched roof above. 6. Construction of a new two storey rear extension to consist of a W.C., utility room, playroom, lounge kitchen and dining room at ground floor and a bathroom, ensuite and two bedrooms at first floor with a flat roof above. 7. Internal remodel of dwelling to suit proposed layouts including all structural, drainage and associated site works.

Reason for refusal:

'The proposed development, by reason of its scale, mass and height and its proximity to adjoining properties to the north and south of the site, would overly dominate the

original house and would appear visually intrusive and overbearing when viewed from the neighbouring properties and would set an undesirable precedent for similar development in the area. As such, the proposed development would seriously injure the amenities and depreciate the value of property in the vicinity and would therefore be contrary to the Objective 'A' zoning of the site, to protect and/or improve residential amenity, and the proper planning and sustainable development of the area.'

- 4.1.5. **48 Ballinteer Park – Planning Authority Reference D18A/1228** - Permission was granted by the Planning Authority for 1) Remodel of the existing front porch. 2) Removal of the existing single and two storey rear extensions and a single storey garden shed. 3) Construction of a new two storey side extension to consist of a utility room and kitchen at ground floor and a bedroom at first floor with a flat roof above. 4) Construction of a new two storey rear extension to consist of a WC, lounge and dining room at ground floor and a bathroom, ensuite and a bedroom at first floor with a part flat roof, part tiled pitched roof above. 5) Widening of the existing vehicular access exiting onto Ballinteer Park. 6) Internal remodel of the existing dwelling to suite the proposed layouts, including all structural, drainage and associated site works.
- 4.1.6. **64 Ballinteer Park – Planning Authority Reference D09B/0170** - Permission was granted by the Planning Authority for development which will consist of the following; (1) the demolition of the existing garage and out buildings to the rear of the existing house; (2) the removal of the existing chimney on the south-east elevation and installation of a new window at ground floor level; (3) the removal of the existing porch at the front elevation and installation of a new window in its place at ground floor level and a matching window at first floor level over; (4) the construction of a 100sqm one and two storey extension to the rear of the existing house; and all associated site works. Vehicular access will be via the existing entrance.
- 4.1.7. **65 Ballinteer Park – Planning Authority Reference D18A/1149** - Permission was granted by the Planning Authority for alterations to existing dwelling, two-storey extension to the side and rear of the existing, incorporating a single storey annex and 9 no. roof lights, new vehicular entrance 3.4m wide from the street and associated site works. Existing dwelling 69.6 sqm proposed dwelling 192.5 sqm.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Dún Laoghaire-Rathdown County Development Plan 2022–2028 (CDP), categorises the site as zoning objective ‘A’, which seeks to provide residential development and improve residential amenity while protecting the existing residential amenities.

5.1.2. Chapter 3: Climate Action, sets out the detailed policy objectives in relation to climate and the role of planning in climate change mitigation, climate change adaptation and the transition towards a more climate resilient County. The relevant policy objectives of this chapter are:

- CA5: Energy Performance in Buildings
- CA6: Retrofit and Reuse of Buildings
- CA7: Construction Materials

5.1.3. Chapter 4: Neighbourhood – People, Homes and Place, sets out the policy objectives for residential development, community development and placemaking, to deliver sustainable and liveable communities and neighbourhoods. The relevant policy objectives from this chapter are:

- PHP20: Protection of Existing Residential Amenity
- PHP35: Healthy Placemaking

5.1.4. Chapter 12: Development Management, contains the detailed development management objectives and standards that are to be applied to proposed developments. The relevant sections of this chapter are:

- Section 12.2.1: Built Environment
- Section 12.2.6: Urban Greening
- Section 12.3: Neighbourhood – People, Home and Place.
- Section 12.3.4: Residential Development – General Requirements
- Section 12.3.7: Additional Accommodation in Existing Built Up Areas
- Section 12.3.7.1: Extensions to Dwellings
- Section 12.3.7.1 (i): Extensions to the Front
- Section 12.3.7.1 (ii): Extensions to the Rear

- Section 12.3.7.1 (iii): Extensions to the Side
- Section 12.3.7.1 (iv): Alterations at Roof/Attic Level
- Section 12.4.8.3: Driveways and Hardstanding Areas.

5.2. Natural Heritage Designations

5.2.1. None of relevance.

5.3. EIA Screening

5.3.1. The development does not constitute a class of development for EIA purposes. See pre-screening form at Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A First Party appeal has been received from Mad About Design, for and on behalf of the Appellants, Keith Byrne and Niamh McEvoy, against the imposition of Condition 2. The grounds of appeal are summarised as follows:

- The planning permission drawings lodged are in line with applications made and granted in the area over the past four years, and in most cases smaller in size and length. Given the pattern already established and proposed in this area the design put forward should be granted without condition 2 attached.
- The design has been angled on the Party Wall to minimise overall impact.
- There is precedent for similar scaled extensions in the area. Bringing the overall rear first floor extension down to a possible 5m in length. This will massively impact the proposed design and space required for a young growing family.
- Shadow analysis that clearly shows by 11am on the 21st March that there is little impact on the neighbouring house number 54 which has an 3.5m x 12m extension to both ground and first floor to the north from the boundary.
- The existing boundary wall, which is 2metres in height, casts the same shadow as previously. From 12pm there is no impact on light or shadowing for the rest of the day other than the boundary wall which has been in situ for many years.

Their private open space to the rear is not impacted by the extension. It casts no shadow on their patio area.

- Any impact, which the Appellant considers to be minimal, relating to the overshadowing of neighbouring 54 Ballinteer Park, needs to be balanced against significant gain in space for a growing family.
- The Appellant has already reduced the first floor along with angling the wall nearer to the north boundary to both reduce and minimise any overshadowing impacts compared to the initial plans.
- The Planners report makes no justification nor provides reasoning as to how the overshadowing impact is deemed to be significant. As an example, overshadowing should be checked that the percentage of usable amenity space that receives more than 2 hours sunshine on 21 March exceeds 50%.
- The reductions made at Further Information Stage should be adequate to alleviate the concerns of No. 54.
- Detailed 3D models and shadow analysis have been submitted to demonstrate the minimal impact.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority do not consider that the grounds of appeal raise any new issue that would justify a change in attitude to the proposal and direct the Board to the Planner's Report.

6.3. Observations

- 6.3.1. None.

7.0 Assessment

- 7.1. Having regard to the circumstances of this case, including the zoning objective for the site, site context, nature of surrounding development, and the nature of the conditions under appeal, I am satisfied that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. I consider, therefore, that the appeal should be dealt with in accordance with Section 139 of the Planning and Development Act 2000 (as amended).

7.2. Condition 2(a)

- 7.2.1. Condition 2(a) requires the first floor extension to be reduced in depth by a minimum of 2 metres. At Further Information stage the first floor extension was amended and now projects approximately 3 metres from the rear wall of the adjoining dwelling at No. 54 Ballinteer Park with the remainder of the rear façade of the first floor extension angled away from no. 54. In my opinion, this amendment is sufficient to reduce both overshadowing impacts and potential impacts in relation to overbearance. On balance, I consider the first floor extension presented at Further Information stage to be acceptable and I recommend that part (a) of Condition 2 be removed.

7.3. Condition 2(b)

- 7.3.1. Condition 2(b) requires the ground floor extension to be reduced on its north side width by a minimum of 1 metre in order to increase the separation distance to the northern boundary. For clarity, this includes a reduction in both the angled and straight north walls of the ground floor extension.
- 7.3.2. The reason for this condition relates to the form of the site whereby the plot boundary is tightly canted towards no. 54. As such the proposed ground floor extension would sit directly in front of the ground floor window at no. 54 Ballinteer Park that is closest to the boundary. In my opinion, the proposed ground floor extension in its current form would result in an oppressive form of development in close proximity to this window, appearing above the boundary wall and creating an undue sense of enclosure that would impact on residential amenity. The amendment required by Condition 2(b) is necessary and reasonable and would significantly reduce the perception of enclosure and overbearance. On that basis, I consider that Condition 2(b) should be attached in order to address the clear impact on residential amenity.

8.0 AA Screening

- 8.1.1. I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in a serviced urban area approximately 5km to the south west of the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA, which are the nearest European Sites. The proposed development comprises domestic extensions and no nature conservation concerns were raised in the planning appeal.

8.1.2. 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:

- The small scale domestic nature of the proposed works and the connections to existing municipal services.
- The location and distance from the nearest European Site and the lack of connections.

8.2. I conclude that on the basis of objective information, that the proposed development 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.

9.0 Recommendation

9.1. Having regard to the nature of the conditions that are the subject of the appeal, I am satisfied that the determination by the Board, of the relevant application as if it had been made to it in the first instance, would not be warranted and based on the reasons and considerations set out below, I recommend that the Board direct the Planning Authority under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to REMOVE Condition 2(a) and ATTACH Condition 2(b).

10.0 Reasons and Considerations

10.1. Having regard to:

- (a) The location of the proposed ground floor extension in relation to the adjoining dwelling at no. 54 Ballinteer Park and the form of the site and plot boundary whereby the extension in its current formation would be in close proximity to the ground floor window of no. 54 and would have an adverse impact in terms of a loss of outlook and creation of a sense of enclosure. The imposition of Condition 2(b) is therefore necessary to mitigate adverse impacts on residential amenity.

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.

Terence McLellan
Senior Planning Inspector

30th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP - 319874-24			
Proposed Development Summary	Demolish rear extension and porch, erect extension, external and internal layout and elevations changes and all ancillary site works.			
Development Address	53 Ballinteer Park, Dublin 16, D16 X2R5.			
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	X	
		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	X		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	X	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:** _____