



An
Bord
Pleanála

Inspector's Report ABP-320028-24

Development	Part demolition of single-storey extension for the construction of a dwelling and all associated site works.
Location	86 Trees Road Lower, Mount Merrion, Blackrock, Co. Dublin, A94 V2A0
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D24A/0234
Applicant(s)	Rhona Shiel
Type of Application	Planning permission
Planning Authority Decision	Grant subject to 11 conditions
Type of Appeal	Third Party
Appellant(s)	Úna Clarke Margaret and Ciarán Fagan
Date of Site Inspection	29 th August 2024
Inspector	Sarah O'Mahony

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1.0 Site Location and Description

- 1.1. The site is situated in Mount Merrion to the south of Dublin city centre, 500m west of the N11 and 600m northwest of Stillorgan Village shopping centre. Access is provided from Trees Road lower, immediately east of a roundabout between Trees Road upper and lower. All adjoining and surrounding land is in residential use with a wide pattern of similar scale dwellings.
- 1.2. The site comprises a semi-detached two-storey dwelling with a long single storey extension to the east connecting to another single storey residential unit within the site. Boundaries comprise low masonry walls and evergreen hedges to the front and sides with taller blockwork walls to the rear. The site gently slopes down from the north to south.
- 1.3. The site has a stated area of 813m² and is situated to the north of the Appellants properties. The rear open space of the site is adjacent to the rear open space of one of the Appellants properties but they are set at right angles to each other.

2.0 Proposed Development

- 2.1. Planning permission is sought for development that comprises the following:
 - Demolition of 58m² of the single storey extension to the east of the site of existing detached two storey dwelling. This extension forms a smaller residential unit,
 - Subdivide the site and construct a 208m² detached two and a half storey dwelling. The 4-bed dwelling will have a ridge height of 9.6m and 83m² private open space. It will have a separation distance of 0.9m from the main dwelling to the west and 1.711m from the two storey dwelling to the east. The design of the dwelling is contemporary with a pitched roof and two storey gable breakfront on the front elevation. A large box dormer window is proposed on the attic level to the rear.
 - Revise the vehicular entrance to provide two separate access points with car parking for a minimum of two vehicles within each site as well as bin storage.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Reg. Ref. D24A/0234: Dún Laoghaire-Rathdown County Council issued a notification to grant permission on 31st May 2024 subject to 11 conditions including:

(4) Prior to the commencement of development, the Applicant shall submit for written agreement with the Planning Authority revised plan, and elevation drawings which outline:

- a) A reduction in the roof ridge height to align (at a maximum) with the neighbouring dwelling to the east;*
- b) The relocation of the flat-roof dormer to the east-most side of the rear roofslope;*
- c) The obscuring of side-facing windows (including to any reorientated internal space in response to Conditions 4a and 4b) above ground-floor level.*

REASON: In the interest of residential and visual amenity

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planners report recommendation to grant retention permission is consistent with the notification of decision which issued.
- It outlines how the dwelling design complies with local and national guidance but has concerns regarding visual impact due to the bulk and height of the design as well as potential for overlooking. The report recommends alterations to the design to ameliorate these matters which were carried through into condition no. 4.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

3.2.2. Other Technical Reports

- Transportation Planning: No objection subject to conditions including dishing and strengthening the footpath to accommodate the new entrance.
- Environmental Enforcement: No objection subject to standard conditions to mitigate against construction stage impacts.
- Drainage Planning: No objection subject to conditions including that surface water does not discharge to the public sewer but to rainwater planters outlined in the application.

3.3. Prescribed Bodies

- Uisce Éireann: No objection subject to conditions regarding connection agreements and adherence to standards and codes of practice.

3.4. Third Party Observations

- 3.4.1. Two observations were made to the planning application from the same parties as the appellants to the decision. The matters raised largely reflect those already raised in the appeal and focus on overlooking and visual impact concerns.

4.0 Planning History

- 4.1. The following history relates to the appeal site.

- D07A/0858 (PL 06D.225457): Dún Laoghaire-Rathdown issued a notification of decision to grant permission for construction of a five-bedroom detached house which was appealed to An Bord Pleanála. The Board subsequently overturned the decision and **refused** permission for the following reason:

It is considered that the proposed dwellinghouse, by reason of its incompatible roof and façade design features, its location forward of the established building line and inadequate separation distances from adjoining properties on Trees Road Lower, would be visually incongruous in the streetscape and out of character with the prevailing pattern of development in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board concurred with the stated grounds of appeal insofar as they related to some of the unsatisfactory location and design characteristics of the proposed development and furthermore, concluded that these deficiencies are not capable of being adequately addressed by way of condition.

- D07A/0852: Planning permission **granted** for partial demolition of No. 86.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 (referred to hereafter as the County Plan). The site is zoned A where the objective is to provide residential development and improve residential amenity while protecting the existing residential amenities.

- 5.1.2. Policy Objective PHP19: 'Existing Housing Stock – Adaptation' states the following: *It is a Policy Objective to:*

Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.

Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

- 5.1.3. Chapter 12 of the County Plan provides development management standards and therein section 12.3.7.5 relates specifically to subdividing corner residential sites while section 12.3.7.7 relates to infill development.

5.2. Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities

- 5.2.1. The guidelines provide high level guidance for new residential development and sets out Strategic Planning Policy Requirements (SPPRs) including SPPR 1 which refers to separation distances and requires a general minimum of 16m to be provided. SPPR 2 refers to provision of open space and requires a minimum of 50m² for 4-bed units. SPPR 3 refers to car parking while SPPR refers to bicycle parking.

5.3. Natural Heritage Designations

- 5.3.1. The site is situated 2.2km southwest of South Dublin Bay and River Tolka Estuary Special Protection Area as well as South Dublin Bay Special Area of Conservation and proposed Natural Heritage Area.

5.4. EIA Screening

- 5.4.1. See completed Forms 1 and 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. Environmental Impact Assessment, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in grounds of appeal:

- Overbearing and overshadowing to no. 61 South Avenue,
- Overbearing to no. 59 South Avenue,
- Overlooking from dormer window on rear elevation to both Appellants properties. Condition no. 4 to relocate dormer to the east will not alleviate overlooking concerns,
- Inappropriate siting, pattern, form, height and fenestration:
 - Development breaks the building and ridge lines,
 - Gable does not comply with existing hipped roof dwellings,
 - Tall and narrow dwelling does not fit in with existing broad dwellings.
- Recommended reason for refusal provided which references that the development would be visually incongruous, out of keeping with the area and would have a negative impact on the amenity of neighbouring properties.
- References made to reg. ref. D07A/0858 under which the Board refused permission for a dwelling of similar scale and design on the site.

6.2. Applicant Response

- Outlines how the design is appropriate for the site and wider area particularly in light of national policy on infill developments and compact settlements and thus would not have any significant impact on existing residential amenity,
- Demonstrates how the design meets all required standards including SPPRs in different codes,
- States that overshadowing will not occur and taller building heights are encouraged in national and local policy, particularly the Building Heights Guidelines which has a presumption towards taller residential buildings. The ground floor, first floor and eaves level all match adjoining properties and the pitched roof provides visual interest in the area. Habitable attic accommodation is becoming standard in new residential areas and the concerns of the Planning Authority surrounding visual amenity are unclear.
- Considers the 1m exceedance in front of the building line to be minimal,
- Outlines how the Appellants rear gardens and windows are already overlooked, including from each other's properties, in a standard suburban layout but that no direct overlooking will occur and sufficient separation distances are provided,
- Highlights an existing Juliet balcony in the rear of no. 84 Trees Road Lower which already overlooks the Appellants properties,
- Notes similar development to west of roundabout at no. 88 Trees Road Upper on a corner site with dormer windows to the rear (ref. D18A/0823, PL06D.304305),
- Questions the accuracy of the Appellants photomontage but also considers that the image supports the design and demonstrates that there will not be any significant impact to neighbouring properties, and
- Requests the removal of condition 4 entirely and to grant permission for the original design as the alterations proposed by the Planning Authority will not address concerns raised by the Appellants while the proposed ridge height is also unlikely to cause a significant impact. The Applicant believes the required alterations will only benefit Occupants of dwellings to the east of the site who did not engage with the

planning process and object or make submissions, and therefore such alterations are not justified.

6.3. Planning Authority Response

6.3.1. In relation to the third-party appeals, the Planning Authority responded as follows:

It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3.2. No response is received from the Planning Authority at the time of writing this report to the Applicants response to the appeal.

6.4. Further Responses

6.4.1. Response received from one Appellant which disputes the counterclaims made in the Applicant's response to the appeal. This Appellants response does not raise any new items but does provide additional photomontages to represent the Appellants property.

7.0 Assessment

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the principle of development is established and that main issues in this appeal are as follows:

- Principle of development
- Design and Layout
- Impact on Residential Amenity
- Condition no. 4

7.2. Principle of Development

- 7.2.1. The proposed development comprises a 2.5 storey pitched roof dwelling which would be situated between two existing hipped roof dwellings and on roughly the same footprint of an existing single storey extension which is proposed to be demolished. I therefore consider that the principle of providing an infill residential unit is acceptable on the site in accordance with Policy Objective PHP19 and the 'A' zoning objective for the area as set out in the Dún Laoghaire-Rathdown County Development Plan 2022-2028.
- 7.2.2. The subdivided site would provide adequate internal residential amenity, private open space for both the existing and proposed dwellings as well as access, car parking and bin storage. The new boundaries will comprise a blockwork wall to the front and timber fence to the rear which are acceptable
- 7.3. I consider that the proposal complies with section 12.3.7.5 of the County Plan which relates to subdividing corner residential sites as well as section 12.3.7.7 which relates to infill development.

7.4. Design and Layout

- 7.4.1. The new dwelling will generally maintain the existing building line. A two-storey gable feature on the front elevation will extend beyond the building line by less than 1m but I consider this to be a minimal and imperceptible change in depth along the entire row of dwellings. In this regard I consider that the siting of the new dwelling fits well into the streetscape.
- 7.4.2. The 9.79m tall building will have a taller ridge height than adjacent properties with a differential of 1.3m between it and the property to the east and 0.9m between it and the existing dwelling on the site. I do not believe any overshadowing would occur to neighbouring properties to an unacceptable extent due to the minimal difference in ridge height and the position of the new dwelling immediately between two others. I do not consider any significant overshadowing will occur to the Appellants properties due to the location of the site north of their gardens and northeast of their dwellings which will therefore not block the more important south and southwest sunpath. I also do not consider overshadowing would occur to either of the appellants properties to any significantly negative extent due to their location southwest of the subject site and separation distance.

- 7.4.3. A contemporary finish is proposed with a gable feature, flat roof porch and smooth render all of which I consider to be slightly disjointed with the rounded porches and rough dash render serving the existing dwellings. Materials and finishes are broadly suggested with the gable to be clad in brick and the remainder of the dwelling finished in smooth render however each annotation states the exact detail will be decided later. A condition should be applied to ensure the tone of new brick matches that of the existing dwellings.
- 7.4.4. In my opinion, the principle of providing a contemporary pitched roof dwelling within a line of hipped roof dwellings is not entirely inappropriate or unprecedented however regard should be given to the scale and character of the existing buildings to ensure that the new addition is not visually incongruous. It is therefore my opinion that the taller ridge height would be detrimental to successfully assimilating the contemporary design into the streetscape and that the Planning Authority's recommended condition should be applied to lower the ridge to that of the adjoining property to the east. If these alterations were carried out I believe the insertion of a new building would be largely imperceptible to the streetscape and views from the nearby roundabout regardless of the contemporary design.
- 7.4.5. I note the Applicant puts forward an argument to permit the original full height design based on the provisions of SPPR 3 and SPPR 4 of the Urban Design and Building Height Guidelines however I do not believe these are relevant considerations in this case. SPPR 3 provides that a Planning Authority may approve a development, even where *specific objectives of the relevant development plan or local area plan may indicate otherwise*. There are no conflicting objectives in this case. I believe that a minor alteration in the ridge height will still retain the attic accommodation but make a significant move to ensuring the new dwelling fits in with adjoining dwellings. SPPR 4 refers to future planning for larger housing schemes on greenfield or edge of city/town locations neither of which apply in this case.

7.5. Impact on residential amenity

- 7.5.1. The appeals raise concerns about overlooking from the new dwelling to the Appellants property to the south and southeast. The Applicant responded by pointing out the existing degree of overlooking which is representative of a standard suburban layout.

- 7.5.2. The rear garden of the proposed dwelling will have a depth of 9.6m which gives a good setback and separation to the Appellants properties. I agree with the third party that a degree of overlooking to the rear garden is unavoidable in such a setting however I also note that the Appellants dwellings are orientated 90 degrees from the proposed dwelling and therefore there will be no direct overlooking to windows between the rear elevations. Any overlooking opportunities will be restricted in the first instance by that angle and secondly by a 23-35m separation.
- 7.5.3. Existing vegetive screening on the Appellants property is noted in photomontages provided by one Appellant while some high level landscaping proposals are also noted in the Site Layout Plan. All vegetation will provide additional screening and privacy.
- 7.5.4. If one excludes any vegetative screening opportunities however, and given the orientation and separation distances proposed, I do not consider that the proposed dwelling would significantly impact the residential amenity of the Appellants properties by reason of overlooking or overshadowing. The scale of overlooking afforded from the three proposed bedrooms and not from any living spaces is not sufficient to warrant a refusal of permission in the context of national planning policy which puts an emphasis on compact settlements. I have also had regard to SPPR 1 of the Compact Settlement guidelines which provides for a minimum separation of 16m but an even lower separation may be provided if window orientation is addressed together with suitable privacy measures.
- 7.5.5. I agree with both parties that relocating the dormer to the eastern side of the roof will have little impact on the degree of overlooking afforded to the Appellants property as the overall 6.8m width of the roof will only allow relocation of 3m to the east. However as set out in paragraphs 7.5.2 to 7.5.4 I do not consider that overlooking would be significantly negative in the first instance and I therefore do not recommend any alterations to the dormer.

7.6. Condition no. 4

- 7.6.1. The First Party has requested that condition no. 4 is removed entirely. As set out above I consider there is a requirement to retain part (a) to reduce the roof ridge height to protect visual amenity.

- 7.6.2. Part (b) requires relocation of the dormer window and I recommend this sub-part is omitted.
- 7.6.3. Part (c) requires the provision of opaque glass to three windows on the eastern elevation. No. 84 Trees Road Lower is situated immediately east of the site with a proposed separation distance of 1.7m and therefore has a high potential to be impacted by overlooking. The overlooked area at the west of no. 84 is a side pedestrian passage with one opaque window and therefore is not necessarily a high-quality amenity space, however it is nonetheless a private residential property and its amenity must be protected.
- 7.6.4. Two of the three proposed affected windows will serve bathrooms and therefore providing opaque glass is appropriate in my opinion. The third window on the attic level is proposed to serve a dressing area which is similar in nature to a bathroom and not a habitable space. Therefore, views are not a requirement from this space and providing opaque glass will not impact the amenity of future occupants, particularly when the rear dormer window is also serving the same room and will provide views out.

8.0 AA Screening

- 8.1. Having regard to the limited scale and nature of the works proposed and to the existing surface water network in place serving the established urban area, 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.

9.0 Recommendation

- 9.1.1. I recommend that planning permission be granted, subject to conditions, for the reasons and considerations as set out below.

10.0 Reasons and Considerations

- 10.1.1. Having regard to the location and character of the site and surrounding area in a serviced urban area together with the provisions of the Dún Laoghaire-Rathdown

County Development Plan 2022-2028 including Policy Objective PHP19 and the 'A' zoning objective for the area, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable. The development complies with local design guidance and does not seriously injure the visual or residential amenity of the area. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out 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>Reason: In the interest of clarity.</p>
2.	<p>All external materials and finishes shall match the existing dwelling on the site. Proposed brick shall match the tone, colour and composition of the existing brick on adjoining properties.</p> <p>Reason: In the interest of visual interest and architectural harmony.</p>
3.	<p>Prior to the commencement of development, the Applicant shall submit for the written agreement of the Planning Authority revised drawings which outline the following:</p> <ul style="list-style-type: none"> (a) A reduction in the roof ridge height to align (at a maximum) with the neighbouring dwelling to the east; (b) The obscuring of all side-facing windows above ground-floor level. <p>Reason: In the interest of residential and visual amenity.</p>
4.	<p>The access arrangements and works to the public footpath shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details of the access arrangements and works to the public footpath for the written agreement of the planning authority.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p>

	Reason: In the interest of public health.
6.	Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste. Reason: In the interest of public safety and amenity.
7.	Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network. Reason: In the interest of public health and to ensure adequate water/wastewater facilities.
8.	The developer shall pay to the planning authority a financial contribution of €19,636.92 (nineteen thousand, six hundred and thirty six euro and ninety two cent) 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. 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.

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.



Sarah O'Mahony
Planning Inspector

30th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320028-24			
Proposed Development Summary	Part demolition of single-storey extension for the construction of a dwelling and all associated site works.			
Development Address	86 Trees Road Lower, Mount Merrion, Blackrock, Co. Dublin, A94 V2A0			
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				
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				
Yes	X	Class 10 (b)(i) Construction of more than 500 dwelling units.	Subthreshold development of construction of 1 dwelling	Proceed to Q.4

		Class 10 (b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Subthreshold development of 0.0813 hectares of urban development.	
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320028-24	
Proposed Development Summary	Partially demolish single storey extension, subdivide residential site, construct infill 2.5 storey dwelling, alter vehicular entrances.	
Development Address	86 Trees Road Lower, Mount Merrion, Blackrock, Co. Dublin, A94 V2A0	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain

<p>Nature of the Development.</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The development comprises a residential unit in residential area so is not exceptional in the context of the existing environment.</p> <p>A short-term construction phase and permanent operational phase will generate different waste streams, emissions and pollutants but none are considered significant due to the limited scale of the proposal.</p>	<p>No</p>
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The existing dwelling is 225m² which is similar in scale to nearby dwellings. The proposed dwelling will be 208m² which is not exceptional in the context of the existing environment.</p> <p>I am not aware of any other plans or projects in the area which would lead to significant cumulative impacts when considered in tandem with the proposed development.</p>	<p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p>	<p>No.</p>	<p>No</p>

Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?		
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>		

Inspector: Sarah O'Mahony

Date: 30th September 2024

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)