



An  
Bord  
Pleanála

## Inspector's Report ABP 320120-24

<b>Development</b>	Construction of new part single and part double storey extension, demolitions, internal and external modifications to existing house and associated site works.
<b>Location</b>	Windermere, 9 Saval Park Road, Dalkey, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D24A/0284/WEB
<b>Applicant(s)</b>	Greg Toolis
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Nicola Dunleavy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	26/9/2024
<b>Inspector</b>	Rosemarie McLaughlin

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## **1.0 Site Location and Description**

- 1.1. Saval Park Road, is a suburban link road running south from Barnhill Road to the main entrance to Killiney Hill in an area characterised by mostly large, detached and semi-detached dwellings on substantial sites. The appeal site, No. 9 Saval Park Road, is a two storey, hipped roof, semi-detached house on the western side of the road and is attached to No. 10, the home of the appellant, located to the south. To the west of the appeal site at the end of the long garden are the grounds of a large period house accessed from Proby Park. To the north is No.8 Saval Park Road, separated from the appeal site by the side passages of both properties. The front and rear building line of No.8 is slightly set back from the appeal site and houses to the south.

## **2.0 Proposed Development**

- 2.1. The proposed development is described as “Demolition of rear shed, single storey ground floor structure and front porch for the construction of a new ground floor extension with part single and part double storey extension to the rear with part flat roof and part pitched roof. Development also includes internal and external modifications to the existing house and all associated site works”.
- 2.2. The existing single storey rear extension and rear shed are proposed to be removed and replaced with an L shape extension consisting of a living/dining area at ground floor and a new bedroom at first floor, set back from the ground floor extension. The rear extension to be removed extends across the rear elevation of the house. The front porch is proposed to be removed and the front elevation windows to be enlarged on the first floor by increasing their length. A bay type window arrangement on the south of the front elevation is proposed and a 2m extension forward of the northern end of the front elevation with a flat roof extending over the front door. The vehicular entrance is proposed to be increased from 2.5m to 3m. Other modifications include proposed roof lights.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Permission was granted subject to 10 standard type conditions.

#### **3.2. Planning Authority Reports**

- 3.2.1. The Planning Report considers the rear extension acceptable in terms of scale and design and the front extension while breaking the building line is also considered acceptable as the properties in the vicinity are not uniform. In relation to the boundary wall, the planner refers to section 34(13) of the Planning and Development Act 2000 as amended. Permission was recommended to be granted subject to conditions.

#### **3.2.2. Other Technical Reports**

Drainage (30th May 2024): No objection subject to conditions.

Transportation (6th June 2024): No objection subject to conditions including that the entrance shall be a maximum of 3.5 m and the footpath, including any grass verge, in front of the vehicular entrance shall be dished and strengthened at the Applicant's own expense.

#### **3.3. Prescribed Bodies**

- 3.3.1. No referrals made.

#### **3.4. Third Party Observations**

Two observations were received. The submission from No. 10 Saval Park Road is similar to the grounds of appeal which relate to negative impact on shared boundary, loss of trees, noise impacts, overlooking, construction phases, survey required on adjacent property, incomplete application, site notice and no consent for works on shared boundary. The submission from No. 8 Saval Park Road relates to historical drainage issues and notes their garden is lower than the application site.

## 4.0 Planning History

- 4.1. **Appeal site:** No relevant planning history.
- 4.2. **10 Saval Park Road:** D10B/0013: Permission granted (20 May 2010 )for first floor extension to the rear and side, conversion of garage to habitable room and a detached single storey shed to the rear (floor area 35m2).
- 4.3. **11 Saval Park Road:** D18B/0173: Permission granted (04 Jul 2018) for single storey bay window extension to the front, internal modifications and all associated site works.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. The Dun Laoghaire Rathdown County Development Plan 2022-2028 (CDP) applies. The zoning objective is 'A' which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities'. Residential development is permitted in principle under this zoning objective.
- 5.1.2. Chapter 12 of the CDP provides development management details. Section 12.3.7.1 relates to extensions to dwellings and relevant subsections are (i) Extensions to the Front: (ii) Extensions to the Rear: and (iv) Alterations at Roof/Attic Level.

### 5.2. Development Management Guidelines for Planning Authorities 2007

- 5.2.1. The guidelines are intended to promote best practice at each stage in the development management process.

### 5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

### 5.4. EIA Screening

- 5.4.1. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom, it is possible to

conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The grounds of the third appeal include a summary of negotiations between the parties but as the matters are not finalised, an appeal is lodged.
- The appellant quotes section 12.3.7.1 of the CDP (extensions). The appellant requests a setback of 400mm from the proposed rear extension from the face of the mutual boundary wall. The applicant offered 250mm set back but 400mm is appropriate having regard to the mutual boundary wall, trees and fencing. Without the set back the proposed extension will undermine the boundary, kill the trees and undermine the fence on the appellant's property. The rear extension at No.10 implemented a 550mm set back from 9 Saval Park Road.
- The proposed L shape extension creates a hard courtyard causing a concern regarding noise to the appellants property. The Bard should seek further information, and the appellant is awaiting the detailed landscape design from the applicant.
- The proposed ground floor front bay windows will be glazed at the side and should be opaque to avoid overlooking of appellant's home (front space).
- The appellant and family will have to endure the construction phase. Information should be provided, and conditions imposed. The appellant has accepted dust protection measures of the first party.
- A building condition survey of the appellants home should be undertaken by the applicant to safeguard the stability of the appellants house.
- No permission is given for any works on the party wall.

## 6.2. Applicant Response

- The applicant engaged with the appellant and hoped to avoid an appeal. The proposed domestic extension (251 sqm) is smaller than what has been constructed at No.10 Saval Park Road and both developments incorporate a first floor element.
- Section 12.3.7.1 of the CDP is repeated and there is nothing to require a set back from the boundary. The argument of the appellant goes beyond the Development Management Guidelines for Planning Authorities.
- The applicant disputes the assertions of the appellant regarding a setback. It is common for extensions to be built up to (or on) the mutual boundary and examples in the vicinity are cited. In any event, these matters are covered by the Building Regulations.
- The trees referred to are Hornbeam trees which are tap-rooted, and not protected. Potential damage to trees is addressed under other legation.
- Noise and nuisance come under Section 108 of the EPA act 1992. A modest patio area is proposed, and the remaining garden will be soft surfaced. The site is zoned residential and there are no policies applicable to the surfacing of the landscape area. It should be noted that the rear of No.10 is partially hard surfaced.
- The proposed front bay window on the south side is 950mm deep. The front space of No.10 is already overlooked by first floor windows. The front area is not a private open space, and the bay is similar to others in the vicinity. The appellant has erected a high fence and therefore there can be no real overlooking. Planning policy requires passive surveillance.
- The PA included a condition on control of on-site working hours. The applicant offered to the appellant detailed dust partitions and would agree to a condition.
- A domestic extension will be built in accordance with the regulatory system and there is nothing to suggest a building condition survey is required. No works are proposed on the boundary wall.

- The Board is requested to grant permission in accordance with the plans and particulars submitted.

### **6.3. Planning Authority Response**

- 6.3.1. The Board is referred to the Planner's report. The grounds of appeal do not raise any issue that would warrant a change in the attitude of the PA.

### **6.4. Observations**

- 6.4.1. There are no observations on file to the appeal.

### **6.5. Further responses**

None.

## **7.0 Assessment**

- 7.1. I have read the documentation attached to this file including the appeal, and responses received, in addition to having visited the site. I am assessing the application de novo based on the plans and particulars lodged.
- 7.2. The third party has referred to matters under negotiation between the parties and seeks the Board to confirm her requests by way further information/conditions while the first party requests that development be granted in accordance with the plans and particulars lodged.
- 7.3. I consider a residential extension as acceptable in principle in the applicable residential zoning objective, subject to applicable policy considerations, assessment of impact on neighbouring properties and appropriate design. The assessment may be addressed under the following headings.
- Impact on residential amenity of adjacent properties from proposed rear and front extensions.
  - Impact on rear side mutual boundary with No.10 Saval Park Road.
  - Construction.
  - Other.



#### **7.4. Impact on residential amenity of adjacent properties**

##### **Rear extension**

- 7.4.1. The existing single storey rear extension to No.9 Saval Park to be removed, extends across the width of the rear elevation of the existing house. The planning report by Goodwin and Lee Architects illustrates on the cover page a photograph that highlights the variety of rear extensions along this section of Saval Park Road. The existing single storey extension on the appeal site is slightly behind the extension at No. 10 Saval Park Road, adjacent to the boundary. The proposed single storey rear extension adjacent to No. 10 is proposed to increase in depth from c 3.410m to 5.2m with an overall height of 3.2m. The longer L part of the single storey extension is 4.87m from the boundary of No. 10 and extends into the garden creating a partially enclosed patio area.
- 7.4.2. The single storey element of the extension at No.10 is angled towards the north-west (towards the appeal site) and also has a large two storey element with first floor balcony located on the southern end of the house. The proposed single storey element at the appeal site, adjacent to the appellants home will see an increase in depth of 1.79m from the current position. Having regard to the location, orientation, size and design of this element, I do not consider that overlooking or overshadowing issues arise to the appellant's home.
- 7.4.3. The appellant contends the proposed hard surface patio will cause noise and disturb her amenity. There is a hard surface patio to the rear of the No.10 and the single storey extension with extensive glazing at No.10 is angled towards the appeal site with the largest part of the patio adjacent to the mutual boundary. The proposed patio avails of the south westerly aspect and solar gain and is separated from the patio of the appellant by a high fence and trees. The amenity of semi-detached gardens and semi-detached amenity areas relies on mutual neighbourliness when using the rear private open spaces and I consider the proposed and existing patio areas adjacent to each as wholly acceptable in this suburban situation.
- 7.4.4. I consider the first floor element of the proposed development to be set back and north of the appellant's home, with no widow on the southern elevation and it will not unduly impact on No. 10. The first floor extension is closer to No. 8, to the north, which is not attached to the appeal site. That house is set back from the appeal site

to the west and has a single storey extension. The proposed first floor extension will extend the depth of the first floor by 5.25m on the northern side but will not have any windows on the boundary and will be located behind the building line of the single storey extension to No. 8 Saval Park Road. Given the setback from the mutual northern side boundary, the location and design, I consider that it will not unduly impact on the residential amenity of the house to the north. The proposed external finishes and design, are generally in keeping with the existing house and the proposed tie in with the hipped roof is considered appropriate and consistent the section 12.7.3.1 (iv) 'alterations at roof/attic level' of the CDP.

### **Front extension/alterations**

7.4.5. The appellant considers that the proposed front bay window on the southern side will overlook the front of her property. The proposed bay window structure is 950mm forward of the front elevation c 550mm from the mutual front, high boundary, side fence. The proposed ground floor southern window is larger than the existing window and matching adjacent window at No.10. The front of No.10 is entirely hard surfaced for parking. While I do not consider any overlooking could occur with the proposed arrangement, I consider that in the future, it is possible a more modest boundary could be in place. In that regard, I consider that the southern side window on the bay window should be of an opaque or stained glass design to prevent future overlooking or a perception of overlooking of the entrance of No.10.

7.4.6. A small extension is proposed at the ground floor at the northern end of the front elevation, the removal of the porch and a new window design. While this breaks the building line in part, I consider that is consistent with section 12.3.7.3 (i) 'extensions to the front' of the CDP and is not excessive to dominate the front elevation of the dwelling which is well set back from the public road. The proposed alterations to the windows at first floor retain the width of the existing windows but increase the depth and are visually acceptable.

### **7.5. Impact on rear side mutual boundary with No.10 Saval Park Road**

7.5.1. The first party has confirmed they will not build on the mutual boundary, and I note the third party has not given consent for such. The appellant contends that the development will impact negatively on the mutual side boundary, killing the trees and will undermine the fence on the appellant's property, a 400mm set back is required

and highlights that No. 10 is set back 550mm. I can see no reason and have been offered no evidence as why the proposed design will undermine the trees on the appellants property or the boundary itself. The first party may only develop on their property and the trees are on the appellant's property. It is commonplace in urban areas to build up to the boundary between properties, utilising the entire area to the rear of a house, avoiding inaccessible strips of land and I concur with the first party that other legislation covers the matters of building control and potential disputes about trees.

- 7.5.2. Section 12.3.7.1 extensions to dwellings (ii) 'extensions to the rear', of the CDP applies. There are no required set back standards for extensions from boundaries and I consider the length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining as acceptable.

#### **7.6. Construction**

- 7.6.1. The third party appeal contends the occupants of No.10 will have to endure the construction phase impact. The appellant and the applicant both refer to additional dust prevention measures offered by the applicant which is a matter between the parties and to which the applicant would agree to a condition. In urban areas, permitted development is subject to standard conditions regarding construction times etc. which were applied by the PA and are considered reasonable. If the applicant and appellant agree to specific dust prevention measures, I consider that is a matter between them and the standard planning conditions should be imposed.

#### **7.7. Other**

- 7.7.1. The applicant contends a building survey of her property should be carried out. I see no reason why a standard extension to a semi-detached house would necessitate such a survey to an adjoining property such as No.10 Saval Park Road. The Development Management Guidelines 2007 are referred to in the response to the appeal. The Guidelines provide that planning conditions, inter alia, should be reasonable, relevant and enforceable.

#### **7.8. Conclusion**

- 7.8.1. Having regard to the above, I am satisfied that the proposed development is in accordance with the provisions of the operative County Development Plan, is in

keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

#### **7.9. Appropriate Assessment Screening**

- 7.9.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

#### **8.0 Recommendation**

- 8.1. I recommend permission be GRANTED subject to conditions.

#### **9.0 Reasons and Considerations**

- 9.1. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the visual amenities or residential amenity of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### **10.0 Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may 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
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	<p>particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Uisce Éireann.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<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> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
4.	<p>The window on the southern side of the proposed bay window, adjacent to the boundary with the attached house to the south (No. 10 Saval Park Road) shall be opaque or stained glass. Details of the external finishes of the proposed development, including the opaque window, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 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><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
6.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
7.	<p>The development shall comply with the transportation requirements of the Planning Authority with regard to vehicle entrance widths, inward opening gate and dishing of kerbs/footpaths.</p>

	<b>Reason:</b> In the interests of pedestrian and traffic safety.
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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 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>

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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Rosemarie McLaughlin  
Planning Inspector

27th September 2024

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	<b>ABP 320120-24</b>		
<b>Proposed Development Summary</b>	Construction of new part single and part double storey extension, demolitions, internal and external modifications to existing house and associated site works		
<b>Development Address</b>	Windermere, 9 Saval Park Road, Dalkey, Co. Dublin		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<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>		Class.....	EIA Mandatory EIAR required
<b>No</b>	X		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>	x		No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

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