



An
Bord
Pleanála

Inspector's Report

ABP-320153-24

Development

Demolition of the existing shed and associated courtyard walls. Extension to the rear and side, attic conversion and all associated site and boundary works.

Location

32 Castilla Park, Clontarf, Dublin 3,
D03 DF70.

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

4817/23

Applicant(s)

Denali Holdings Ltd

Type of Application

Planning permission

Planning Authority Decision

Grant permission subject to conditions

Type of Appeal

Third Party

Appellant(s)

Jonathan Barry

David Cotter

Shay and Eimear Lydon

Thomas Vickers and Celine Rogers

Observer(s)

Maureen Barry

Date of Site Inspection

24th September 2024

Inspector

Sarah O'Mahony

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1.0 Site Location and Description

- 1.1. The 0.1439ha site is situated in Castilla Park housing estate, 100m west of the R808 Vernon Avenue and 600m north of the R807 Clontarf/Coast Road. The Clontarf Promenade and the River Liffey/Dublin Bay estuary are situated 700m south of the site.
- 1.2. The site comprises a pitched roof, two-storey, end-of-terrace dwelling with a large garden to the north, east and west. Pedestrian access is provided from the housing estate access road at the east of the site however there is no vehicular access to the site.
- 1.3. Boundaries comprise a mix of masonry walls, mature hedges and trees to the north, south and east with some naturalised hedgerows and woodland at the rear (west).

2.0 Proposed Development

- 2.1. Planning permission is sought for development that comprises the following:
 - Demolition of an existing 18.2m² domestic shed and associated courtyard walls situated adjacent the northern side of the dwelling as well as demolition and alteration to the rear and side elevation of the dwelling to accommodate extension,
 - Domestic extension to the north providing a total of 47.4m² additional floorspace by carrying out the following works
 - Part single and part two-storey, flat-roof extension to the rear and side,
 - Conversion of the attic level including new dormer window to the rear, and
 - Bay window on the ground floor front elevation as well as canopy/porch over new front door, and
 - All associated site and boundary works including temporary removal and reinstatement of a section of front boundary wall to enable construction access.

3.0 Planning Authority Decision

3.1. Further Information

- 3.1.1. An Ecological Impact Assessment (EclA) and an Arboricultural Survey were requested in a further information (FI) request. The FI request put an emphasis on the impact to badgers as a sett was identified southwest of the site as well as a badger trail on the site itself. The response included the same two reports previously issued in response to a different earlier proposal on the site. It also referred to an updated site inspection taken in June 2024 but concluded that the conclusions and recommendations were unchanged from the original report.

3.2. Decision

- 3.2.1. Reg. Ref. 4817/23: Dublin city Council issued a notification to grant permission on 05th July 2024 subject to 10 conditions including nos. 3 and 4 as follows:

- *(3) The mitigation measures and monitoring commitments identified in the Gannon & Associates letter dated 06th June 2024 shall be carried out in full except as may otherwise be required in order to comply with other conditions*

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

- *(4) The proposed development shall adhere to the following:*

(a) The attic level shall not be used for human habitation unless it complies with the current Building Regulations.

(b) Within three (3) months of the completion of the works, any boundary wall reinstatement works as indicated in dwg. (p) 002 Nov-23 shall be completed to the satisfaction of the Planning Authority.

Reason: In the interest of visual and residential amenity.

3.3. Planning Authority Reports

3.3.1. Planning Reports

- The Planners report recommendation to grant permission is consistent with the notification of decision which issued.

- The report outlines the planning history on the site and how a previous decision to grant permission for a larger development on the site was based on findings and mitigation measures outlined in an EclA and arboricultural report. Following a request and receipt of the same further information, the Planners Report considered the scale of the development to be acceptable subject to implementation of the mitigation measures outlined in the assessments received.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

3.3.2. Other Technical Reports

- Drainage Division: No objection subject to standard conditions regarding SUDs and separation of surface and foul wastewater.
- Parks, Biodiversity and Landscape Services: Request for further information to identify protection measures for existing trees. Following receipt of the FI Response, a second report was issued stating no objection subject to conditions.

3.4. Prescribed Bodies

Uisce Éireann: No response.

3.5. Third Party Observations

3.5.1. 9 no. third party observations were made from neighbouring residents who all objected to the proposal on the following grounds:

- Impact to ecology including trees and badgers. Request to carry out full EclA of the proposed development including establishing full extent of badger habitat and setts.
- Development proposal is premature, and permission should not be granted until the outcome of a live judicial review (ref. 2023/1035 JR) is known. This judicial review refers to an earlier proposal for a larger development on the site.
- Unauthorised development already completed on site.
- Impact to residential amenity and property devaluation due to overlooking, loss of privacy and overbearing gable wall.

- Traffic safety.
- Errors in planning application documentation and drawings.

4.0 Planning History

- 4.1.1. The following valid application refers to the subject site only:
- 4.1.2. 2928/21, ABP-312988-22: Planning permission sought for: a) Construction of 3 no. dwellings comprising: (a) 1 no. three storey (comprising 2 storey plus dormer) 5-bed semi-detached house (c. 237 sqm) and (b) 1 no. three storey (comprising 2 storey plus dormer) 4-bed semi-detached house (c. 198 sqm) to the rear of the existing house at 32 Castilla Park; and (b) 1 no. 2 storey 2-bed detached dwelling (c. 130sqm) to the rear of the existing house at 81 Blackheath Park; b) Removal of existing single storey side extension, provision of new side and rear 2-storey extension, partial conversion of attic to provide a study and external alterations at 32 Castilla Park. No. 32, which will remain a 3-bed semi-detached house, will extend to c. 135sqm (an increase in floorspace of c. 47 sqm; c) New vehicular and pedestrian access from Castilla Park; d) The development will also include for associated all site development works, including internal access roads, drainage and hard & soft landscaping (including boundary treatments), off-street car parking, bin storage, and all other ancillary works.
- 4.1.3. The Local Authority issued a notification to grant permission on 05th July 2024 which was appealed by third parties. The Board decided to grant permission with revised conditions.
- 4.1.4. This decision has been challenged by the third parties by means of a judicial review. Ref. 2023/1035 JR applies. The decision was quashed and remitted to An Bord Pleanála for assessment in September 2024. A new ABP reference number will apply but is not available at the time of writing this report.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028. The site is zoned Z1 for Sustainable Residential Neighbourhoods where the objective is to protect, provide and improve residential amenities.
- 5.1.2. Chapter 15 provides development standards and Section 15.11 therein specifically relates to 'house developments'. It directs the reader to Appendix 18 which provides more detailed guidance for residential extensions including extensions to the side, extensions to the rear and dormer extensions. The relevant full text of Appendix 18 is attached with this report.

5.2. Natural Heritage Designations

- 5.2.1. The site is situated 700m north of the South Dublin Bay and River Tolka Estuary Special Protection Area and the North Dublin Bay proposed Natural Heritage Area.

5.3. EIA Screening

- 5.3.1. See EIA Pre-Screening Form 1 in Appendix 1. The development is not a class of development requiring mandatory or sub-threshold EIA and therefore there is no EIA Screening requirement.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The following is a summary of the main issues raised in grounds of appeal:
- Subversion of judicial review process regarding previous development proposal at the site.
 - Impact to ecology, namely badgers and trees.
 - Unauthorised development.

- Impact to residential amenity by means of overlooking, overbearing gable walls and excessive floorspace proposed.
- Road and traffic safety.
- Inaccuracies and deficiencies in documentation.

6.2. Applicant Response

- 6.2.1. The majority of the proposed development could have been facilitated through exempted development and therefore *'it is difficult to understand the veracity and level of objection to the proposed development'*. The Applicant requested to have the appeals dismissed pursuant to Section 138 of the Planning and Development Act 2000 (as amended). In the event the Board decides to consider the appeals, the Applicant highlights that no new issues are raised to those assessed and addressed in the Local Authority Planner's assessment. The response also highlights a previous decision made by An Bord Pleanála for a larger development on the site which accepted the recommendation and mitigation measures set out in the EclA report.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority requested that the decision be upheld and in the event of a grant of permission, to include a condition regarding financial contributions.

6.4. Observations

- 6.4.1. One observation is received which details many of the same concerns outlined in the appeal regarding impact to residential amenity, property devaluation, material contravention of the zoning, impact to badgers, traffic hazard, unauthorised development and impact to trees.

7.0 Assessment

7.1. Introduction

- 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 extending an existing dwelling is acceptable on the site in accordance with the 'Z1' zoning objective for the area as set out in the Dublin City Development Plan 2022-2028. I consider therefore that the main issues in this appeal are as follows:

- Procedural and Legal Issues
- Inaccuracies
- Unauthorised Development,
- Badgers
- Design and impact to Residential Amenity,
- Road Safety.

7.2. Procedural and Legal Issues

- 7.2.1. I note that the proposal contains some of the same aspects of the development proposed under ref. DCC 2928/21, ABP-312988-2 which was subject to a judicial review. The earlier application proposed the same works proposed in this application as well as three additional dwellings to the west. The Appellants contend that a decision therefore cannot be reached on this application until the JR is determined as to do so would be a subversion of the process. The JR process has however now concluded and therefore the status of that previous application is that it has been remitted to the Board for determination.
- 7.2.2. I highlight that this live application seeks permission for only some of the same elements, and omits the remainder of the previously proposed development, e.g. the new dwellings. By doing so, it is ultimately a different proposal and must be afforded due process accordingly.
- 7.2.3. Each planning application is assessed on its own merits and while regard is had to the planning history on the site, a decision must nonetheless be reached on this current application.

7.3. Inaccuracies

- 7.3.1. The appeals highlight inaccuracies in the planning application form where they contend the Applicant incorrectly answered 4 questions. I reviewed the four outlined questions and note that they relate to occupancy of the dwelling, statutory notices on

the site, requirement for an EIS and the planning history. They are addressed in the following four paragraphs.

- 7.3.2. Form 1 of the Planning and Development Regulations 2001 (as amended) provides the minimum level of detail to be provided by Applicants seeking planning permission. I note that questions in the Dublin City Council application form regarding occupancy and statutory notices are not on Form 1 and therefore those details are not statutorily required in order to validate a planning application.
- 7.3.3. The Appellants claim an EIS (Environmental Impact Statement since updated to an EIAR – Environmental Impact Assessment Report) was required due to the FI Request to prepare an Ecological Impact Assessment. They submit therefore that the Applicant incorrectly answered the section in the application form referring to the requirement to prepare an EIS. An EIS in itself is a statutory document required for certain prescribed classes of development and is entirely separate and different to an Ecological Impact Assessment. I have carried out a screening for Environmental Impact Assessment as appended to this report and do not believe it is required in this instance.
- 7.3.4. The planning application form requests a list of VALID planning applications. The appellants outlined additional invalidated applications which were not requested on the application form.
- 7.3.5. The Appellants also consider that the lack of receipt of a pre-connection agreement from Uisce Éireann should also invalidate the application however this is not a statutory requirement. It is also an industry standard practice to only require the pre-connection agreement for new connections. The proposed development is already connected to the Uisce Éireann network and therefore in the event of a grant of permission, I consider that appending a condition requiring all works to adhere to Uisce Éireann codes of practices and standards etc is appropriate.
- 7.3.6. In conclusion I note that the Local Authority did validate the application and that the highlighted matters, in my opinion, are not grounds for invalidation. Therefore, due process is required to assess this appeal and reach a recommendation.

7.4. Unauthorised Development

- 7.4.1. The appeals refer to works the Applicant undertook on the site during 2023 which include removal of a section of the boundary wall and some hedgerow, installation of a temporary hardcore access track and importation of soils and construction materials. It is claimed that these works caused damage to two pear trees on the roadside which contravened conditions attached to the 2021 permission (subject of JR) as well as recommendations outlined in an Arboricultural Report.
- 7.4.2. I noted these works during the site inspection. The front boundary wall is still absent and the track is in place. There is a large mound of soil to the rear and the hedgerow was replaced but the planting did not survive. I noted the roadside trees also appeared to be in full leaf and in good condition.
- 7.4.3. Planning permission has been sought with this development proposal for the temporary removal and replacement of the front boundary wall. I note from the site inspection that the wall has already been removed but also note from the appeals and the Local authority Planner's Report that an enforcement case has been opened. Any matter of enforcement is for the enforcement section of the Planning Authority.

7.5. Badgers

- 7.5.1. I have read the Appellants concerns about the impact from the proposed development to badgers in the area, together with both badger reports received (one with the application and another from the Appellants). I note the Local Authority's further information request for a ground penetrating radar (GPR) survey to be carried out on lands within 150m of the site and that the request provided for the scope of any surveying or assessment to be agreed in advance.
- 7.5.2. The Appellants consider the full GPR survey should be carried out to inform the decision making process. I consider a GPR survey is disproportionate to the scale of works proposed and extent of badger activity within and close to the works area which is largely outside of the 50m exclusion zone recommended during the breeding season. I note the Applicant's Ecologist liaised with the Local Authority and NPWS officials in preparation of their survey which is considered acceptable. I further consider that the extent of evidence provided by the Applicant and Appellants provides sufficient details of the extent of badger activity on the site.

- 7.5.3. The majority of the proposed works are located within the footprint of the existing dwelling and shed. The majority of the works are also outside of the 50m exclusion zone centred on the identified sett although it is noted that there is a small overlap at the west of the works area.
- 7.5.4. The Applicants badger report and further information response outline proposed mitigation measures for the prevention of negative impacts to badgers. These include a restriction on construction work during the breeding season and provision of appropriate fencing to maintain access corridors around the site while excluding badgers from the actual site itself.
- 7.5.5. I consider that the scale of the proposed development is unlikely to significantly impact the local badger population once mitigation measures are in place as recommended in the Badger Report including:
- Timing of works with a 50m setback during the breeding season and a 30m setback otherwise
 - Provision of a corridor around the boundary of the site and access tunnel through the site.
- 7.5.6. In the event of a grant of permission, a condition should be provided to ensure that all mitigation outlined in the Applicants report and appeal response is adhered to.

7.6. Design and impact to Residential Amenity

- 7.6.1. The proposed development would extend to the rear (west) and side (north) with first and second (attic) floor windows proposed on the east and west elevations only. In this regard there will be no overlooking to other windows as there are no directly opposing windows to the rear above ground level and no windows proposed above ground level on the side elevation. There will be some overlooking to adjoining private amenity space however I consider this would be minimal due to the scale of the works proposed and width of the existing rear garden on the site.
- 7.6.2. The ridge height will not be altered and the location of the two-storey element on the northern side of the building will ensure little overshadowing would occur, if any. I am satisfied in that regard that overlooking and overshadowing will not negatively impact any neighbouring residential amenity due to the aspect and orientation of the

proposed extension, the length and width of the site and adjoining gardens and the overall scale of works proposed.

- 7.6.3. The appeals make reference to the proposed design and consider it is excessive in scale with an overbearing gable wall. I consider the proposed additional 47.4m² of floorspace is acceptable for the site having regard to the size of the site as well as the separation distances of over 6m to the northern boundary and over 30m to the rear elevation of the dwellings to the north.
- 7.6.4. There is only one gable on the dwelling which will remain in place but altered by the imposition of the flat roof extension at lower levels. The massing of the proposed flat roof extension is broken down into separate blocks with a stepped profile on the rear and side elevations providing visual interest instead of one large gable. I do not consider that the design suggests an excessive floorspace or any overbearing aspects.

7.7. Road Safety

- 7.7.1. I believe that the nature and scale of the proposed extension would result in a short-term construction phase and therefore the associated likely increase in traffic movements would be minor during that phase only and unlikely to cause any significant impacts. A Construction Management Plan should be sought in the event of a grant of permission to ensure appropriate traffic management is enacted for any deliveries of materials and HGVs etc to the site during the construction phase. This would safely provide for local access as well as pedestrian and vehicular access as referred to in the appeals.
- 7.7.2. There may be an impact during the construction phase to the availability of car parking on the lane however I again consider that the short time frame will negate any significant impact on safety and traffic flows as a result of vehicles relocating elsewhere e.g. during school collections as referred to in the appeals as there are three schools situated within 500m of the site.
- 7.7.3. No additional car parking or permanent vehicular access to the site is sought under this proposal and I am satisfied that no extra spaces are required. In my opinion therefore vehicular movements will not increase in the long term in Castilla Lane due to the proposed extension.

8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. The site is not situated within or adjacent to any European Site. The subject site is located 700m north of the South Dublin Bay and River Tolka Estuary Special Protection Area.
- 8.1.3. The proposed development is set out previously in this report in more detail but in summary comprises demolition of 18.2m² domestic shed and construction of 47.4m² domestic extension together with some boundary works and ancillary development.
- 8.1.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The small scale and domestic nature of the proposed development in a serviced urban area, distance from European sites and urban nature of intervening habitats, absence of ecological pathways to any European sites
- 8.1.5. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the location and character of the site and surrounding area in a serviced urban area together with the provisions of the Dublin City Development Plan 2022-2028 including section 15.11 and the 'Z1' 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, as amended by the further plans and particulars received by the planning authority on the 10th day of June 2024, 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>The existing dwelling and the proposed extension shall be jointly occupied as a single residential unit and the extension shall not be used, sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity</p>
3.	<p>All mitigation and monitoring measures outlined in the Ecological Impact Assessment Report, Arboricultural Report and further information response received by the planning authority on the 10th day of June 2024 shall be implemented in full by the Developer.</p> <p>Reason: In the interest of biodiversity and ecology protection.</p>
4.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall harmonise with those of the existing dwelling in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>

5.	<p>All boundaries, access arrangements, public footpath, landscaping and public lighting shall comply with the requirements of the planning authority. Prior to the commencement of development, the developer shall submit such details for the written agreement of the planning authority.</p> <p>Reason: In the interest of visual and residential amenity.</p>
6.	<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> <p>Reason: In the interest of public health.</p>
7.	<p>All foul sewage and soiled water shall be discharged to the public foul sewer.</p> <p>Reason: In the interest of public health.</p>
8.	<p>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.</p> <p>Reason: In the interest of public safety and amenity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution of €762.59 (seven hundred, sixty two euro and fifty nine cents) 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.</p>

	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.
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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

25th October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	320153			
Proposed Development Summary	Demolition of the existing shed and associated courtyard walls. Extension to the rear and side, attic conversion and all associated site and boundary works.			
Development Address	32 Castilla Park, Clontarf, Dublin 3, D03 DF70.			
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	x	N/A		No EIAR or Preliminary Examination required
Yes				

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** 25th October 2024