



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320558-24

<b>Development</b>	Construction of extension and all associated site works.
<b>Location</b>	87 New Haven Bay, Balbriggan, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F24A/0475
<b>Applicants</b>	Svetlana Galkovskaja
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Svetlana Galkovskaja
<b>Observers</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> October 2024
<b>Inspector</b>	Jim Egan

## **1.0 Site Location and Description**

- 1.1. The subject site (0.0235 ha) is located on New Haven Bay within the larger Bremore residential area on the northwest edge of Balbriggan, north County Dublin. The site contains a two-storey pitched roof detached dwelling with a single storey extension to the western side elevation. The dwelling has a stated floor area of 129sq.m. The site has a narrow profile, noting the garden / private amenity space located to the western side of the dwelling and the rear elevation of the dwelling interfaced within c. 2.4m of the rear boundary. Access to the rear / side of the dwelling is via a front pedestrian gate on the eastern side of the dwelling. Car parking is on street to the front of the dwelling in a shared courtyard style setting. The area is characterised by a variety of house types in a non-conventional housing estate layout.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the construction of a two-storey extension to the eastern side elevation of the dwelling, extending the dwelling by c. 2m to the eastern property boundary. The extension would continue the form of the dwelling, maintaining the same front and rear building lines and the same roof profile, eaves height (5.23m), and ridge height (7.7m), together with the same finishing materials including a brick finish to the lower half of the eastern elevation.
- 2.2. The extension would have a stated floor area of 20.4sq.m and would comprise, at ground floor level, a store with through access to the rear of the site maintained from the street by way of an external door on the front and rear elevations; at first floor level, additional floor area for two existing bedrooms; and at attic level, the provision of storage. The plans also show a new rooflight on the rear roof plain of the extension.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Planning permission was refused for the following reason:

- 1. The site is located within the 'RS' Residential zoning objective under the Fingal Development Plan 2023 - 2029, the objective of which is to 'provide for residential development and protect and improve residential amenity'. The*

*proposed development by reason of the scale, design and proximity to the site boundaries and adjoining properties of no. 86 Newhaven Bay and nos.34 & 35 Trimleston would negatively impact on the residential amenity of the adjoining occupiers by virtue of overbearing and overlooking which would therefore seriously injure the amenities, and depreciate the value, of property in the vicinity. The proposed development would therefore be contrary to the 'RS' Residential zoning objective, would materially contravene Policy SPQHP41 & Objective SPQHO45 of the Fingal Development Plan 2023-2029 and would therefore be contrary to the proper planning and sustainable development of the area.*

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

#### **3.2.1. Planning Reports**

The main points of the Planner's Report include:

- The proposed development is acceptable in principle.
- By reason of scale, design, fenestration and material finishes, the proposed extension would appear sympathetic and subordinate to the existing dwelling.
- The extension, by reason of the built form to the eastern boundary, would result in an overbearing and overshadowing impact on No. 86 New Haven Bay to the east, and by reason of a habitable room window on the rear elevation at first floor level, would cause a loss of privacy to No. 34 and 35 Trimleston to the south.
- Relocating the bedroom window to the eastern elevation or the use of obscured glazing are not considered suitable alternatives.
- Proposed roof light, by reason of it serving a non-habitable space, would not cause any amenity impacts.
- Residual garden area consistent with SPPR 2 of the *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024*.

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

*Water Services Department:* No objection subject to standard conditions in respect of surface water drainage.

### **3.3. Prescribed Bodies**

*Uisce Éireann:* No objection subject to standard conditions in respect of service connections.

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

None.

## **4.0 Planning History**

### **4.1. Appeal Site:**

**P.A. Ref. F03A/1681** – relates to the parent permission for residential development.

### **4.2. Surrounding Area**

None relevant.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### Fingal Development Plan 2023-2029

- The site is zoned 'RS' – Residential, the objective of which is '*to provide for residential development and protect and improve residential amenity.*'
- Section 3.5.13.1 acknowledges the need for people to extend and renovate their homes, whilst associated Policy SPQHP41 and Objective SPQHO45 support and encourage domestic extensions where they do not negatively impact on adjoining properties.

*Policy SPQHP41 - Residential Extensions*

*Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities.*

*Objective SPQHO45 - Domestic Extensions*

*Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.*

- Section 14.10.2.2 – Side Extensions
- Objective DMSO23 – Separation distances.

## **5.2. National Guidance**

*Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024*

## **5.3. Natural Heritage Designations**

The site is not located within or adjacent to any European or Designated Sites. The closest designated sites are as follows:

- North-West Irish Sea SPA (Site Code: 004236), located c. 1.4km east of the site.
- Knock Lake pNHA, located c. 3.22km to the southwest of the site.

## **5.4. EIA Screening**

Refer to Form 1 Appendix 1. The proposed development comprises works to extend an existing dwelling. These works do not fall into a class of use under Schedule 5 of the Regulations and, therefore, I do not consider that EIA or Preliminary Examination for EIA is required in this instance.

# **6.0 The Appeal**

## **6.1. Grounds of Appeal**

A First Party appeal has been submitted against the Planning Authority's decision to refuse permission.

The following is a summary of the grounds of appeal:

- Proposed extension will increase floor area and useability of two first floor bedrooms.
- Existing dwelling comprises bedroom windows on eastern side elevation at first floor level, directly overlooking garden of No. 86 New Haven Bay. The proposed extension will comprise no windows on the east elevation, thereby removing the overlooking impact that currently exists.
- Letter of support from resident of No. 86 New Haven Bay included with the first party appeal. The letter submits that the proposal will have the effect of increasing privacy to the garden at No. 86 by reason of the removal of first floor bedroom windows from the eastern elevation.
- Bedroom window on the rear elevation at first floor level could be obscured.

## **6.2. Planning Authority Response**

A submission received on 11th September 2024 states that the Planning Authority reiterates its position with respect to the overbearing impact on No. 86 New Haven Bay and the overlooking impact on properties to the south.

In the event that the appeal is successful, the Planning Authority requests that conditions requiring financial contributions and/or Bonds in accordance with the Section 48 Development are included.

## **6.3. Observations**

None.

## **6.4. Further Responses**

None.

## **7.0 Assessment**

Having examined the application details, first party appeal and all other documentation on file, inspected the site and having regard to relevant local policies and objectives, I consider that the main issues in this appeal relate directly to the reasons for refusal, which are:

- Residential Amenity
- Other Matters

## **7.1. Residential Amenity**

- 7.1.1. The appellant's case in respect of the impact on the adjoining dwelling, No. 86 New Haven Bay, centres on the issue of overlooking, submitting that the proposal will remove an overlooking impact that currently exists. The appellant has included a letter from the resident of No. 86 the contents of which reiterate this sentiment.
- 7.1.2. In respect of properties to the south, as a measure to avoid overlooking of rear gardens of properties at Trimleston, the appellant offers to obscure a proposed bedroom window on the rear elevation at first floor level.
- 7.1.3. The Planning Authority concluded by reason of the built form to the eastern boundary, the proposed two-storey extension would result in an overbearing and overshadowing impact on No. 86 New Haven Bay to the east, and by reason of a habitable room window on the rear elevation at first floor level, would cause a loss of privacy to No. 34 and 35 Trimleston to the south.
- 7.1.4. Section 3.5.13.1 of the Fingal Development Plan acknowledges the need for people to extend and renovate their homes. Associated Policy SPQHP41 and Objective SPQHO45 support and encourage domestic extensions where they do not negatively impact on adjoining properties or the surrounding area, whilst Section 14.10.2.2 relates to the assessment of applications for side extensions requiring that such applications will be evaluated against proximity to boundaries, size and visual harmony with existing and impacts on residential amenity.
- 7.1.5. The existing dwelling is two-storey with a side elevation within c. 2 metres of the eastern property boundary and the rear elevation within c. 2.4m of the southern property boundary. Both the eastern and southern boundaries interface directly with gardens of adjoining dwellings.
- 7.1.6. The eastern boundary of No. 87 New Haven Bay is shared with the side garden of No. 86, which comprises the same site layout with the side garden being the main area of private open space for this dwelling type.
- 7.1.7. At present, the dwelling on the site comprises 2no. bedroom windows on the eastern elevation at first floor level. These windows are within c. 2 metres of the eastern

boundary and overlook the side garden of the No. 86. The proposal, for all intents and purposes, would comprise extending the dwelling in its current form c. 2m to the eastern boundary. There would be no windows on the eastern elevation. On that basis, I consider that the proposal would result in no loss of privacy to No. 86.

7.1.8. In terms of outlook, I would make the following observations:

- The dwelling at No. 86 faces west and is sited perpendicular to the appeal site dwelling, both fronting onto a courtyard style parking area.
- The front building line of the dwelling at No. 86 aligns with the eastern side boundary of the appeal site.
- The southern side elevation of the dwelling at No. 86 is within c. 3m of the front elevation of the dwelling which is the subject of this appeal. The southern elevation of No. 86 comprises double doors at ground level which interface with the side garden, being the main area of private amenity space serving the dwelling.
- The proposed two-storey side extension would have an external depth of c. 5.5m along the eastern boundary to No. 86, with a gable end wall measuring c. 5.23m to the eaves front and back and c. 7.7m to the roof ridge.

Based on the above observations, I note that, in terms of depth at c. 5.5m, the eastern elevation of the proposed side extension would cover more than half the length of the boundary to the side garden of No. 86. Therefore, I consider that the c. 2m separation that exists between No. 87 and its eastern property boundary provides an important building line setback in terms of outlook for No. 86. Therefore, I consider that the proposed two-storey side extension, by reason of its scale and bulk, particularly given its height and depth on the eastern property boundary, would have an undue overbearing impact when viewed from No. 86 New Haven Bay and on the amenity of its side garden, being the main amenity area for the dwelling.

7.1.9. I acknowledge the appellant's argument that the omission of windows on the eastern elevation at first floor level would remove the current situation in terms of overlooking. However, these windows represent an existing situation, with a similar format evident in other dwellings in the vicinity.

7.1.10. The Planning Officer concluded that the proposed side extension would result in an overshadowing impact on the garden of No. 86, although this did not form part of the



refusal. The southern side elevation and interfacing garden at No. 86 have direct southern aspect. At present, the side gable of the dwelling on the appeal site is within c. 2m of the boundary to the garden of No. 86. While the extension would affect the shadow pattern particularly mid to late afternoon, I consider that by reason of the context of the existing dwelling, the impact would be minor and would not result in an adverse loss of amenity to No. 86 to such an extent to warrant a reason for refusal on this basis.

- 7.1.11. The rear elevation of No. 87 faces south and is located within c. 2.4m of the southern property boundary. Given its long narrow profile, the southern boundary is shared with the rear gardens of 4 no. dwellings to the south, namely No. 32, 33, 34 and 35 Trimleston. Of relevance to the appeal are No. 35, whose rear garden more closely interfaces with the rear elevation of the proposed side extension.
- 7.1.12. At present, No. 87 comprises 1no. non-habitable / stairway landing window on the southern elevation at first floor level. The proposed two-storey extension includes a bedroom window on the southern elevation at first floor level. Objective DMSO23 of the Fingal Development Plan requires a 22m separation distance between directly opposing rear first floor windows unless alternative provision has been designed to ensure privacy, whilst SPPR 1 of the *Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024*, allows for separation distances of less than 16m where suitable privacy measures have been adopted.
- 7.1.13. The proposed bedroom window would be located within c. 2.3m of the rear garden and within c. 13m of opposing rear first floor windows of No. 35 Trimleston. This is less than the 16m specified under SPPR 1 and I note that the application as lodged with Fingal County Council does not include any measures to counteract overlooking impact on properties to the south. The appellant refers to the option of using obscured glazing in this window. I consider that obscuring this window is not an appropriate option as it would be the only window serving a bedroom and, as such, I consider any degree of obscure glazing on the window would negatively impact the amenity and outlook of the room. I am of the view that relocating the window to the eastern boundary would not be a suitable option as it would involve placing a window directly on the boundary with No. 86, resulting in direct overlooking of its primary amenity area.
- 7.1.14. Having regard to the foregoing, I consider that the proposed side extension, by reason of the location of a habitable room window on the rear elevation at first floor level,

would negatively impact on the residential amenity of residential properties to the south, particularly No. 35 Trimleston, by virtue of the limited setback from the southern boundary, contrary to Policy SPQHP41 and Objective SPQHO45 of the Fingal Development Plan, which support and encourage domestic extensions where they do not negatively impact on adjoining properties.

## **7.2. Other Matters**

- 7.2.1. I note a minor discrepancy between the 'existing floor plans' and 'existing east side elevation' drawings submitted. The existing floor plans indicate that there are no windows at ground or first floor on the eastern elevation, whereas the elevation drawings show 2no. windows at each level. During a site inspection, I observed windows on both elevations, consistent with the elevation drawings. I consider this to be minor technical error and inconsequential in determining the appeal. I further note that the application was deemed valid by the Planning Authority.
- 7.2.2. In the Planning Authority's response to the First Party appeal, they have indicated that should the appeal be successful, provision should be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme. Under Section 11(i)(a) of the Fingal County Council Development Contribution Scheme, 2021- 2025, the first 40 square metres of domestic extensions are exempt from the payment of a development contribution, and the scheme further noted that this exemption is cumulative and limited to 40 square metres in total per dwelling.

## **8.0 AA Screening**

Refer to Appendix 2. Having regard to the nature, scale and location of the proposed development and proximity to the nearest European site, 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

I recommend that planning permission be refused for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

- 10.1.1. The subject site is located in an area zoned 'RS' – Residential, the objective of which is *'to provide for residential development and protect and improve residential amenity'*, as set out in the Fingal Development Plan 2023-2029. Having regard to its scale and bulk, particularly given its height and depth on the eastern property boundary, the proposed side extension would have an undue overbearing impact and therefore negatively impact on the residential amenity of No. 86 New Haven Bay. And by reason of the location of a habitable room window on the rear elevation at first floor level in conjunction with the limited building setback from the southern boundary, the proposed side extension would cause a loss of privacy and therefore negatively impact on the residential amenity of residential properties to the south, particularly No. 35 Trimleston, therefore the proposal would be contrary to Policy SPQHP41 and Objective SPQHO45 of the Fingal Development Plan 2023-2029 and contrary to the proper planning and sustainable development of the area.

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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Jim Egan  
Planning Inspector

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30<sup>th</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-320558-24		
<b>Proposed Development Summary</b>	Construction of extension and all associated site works.		
<b>Development Address</b>	87 New Haven Bay, Balbriggan, 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>	
		<b>No</b> X	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>			
Yes			EIA Mandatory EIAR required
No			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>
No			No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

## **Appendix 2**

### **AA Screening**

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The site is not located within or adjacent to any European Sites. The closest European Site, part of the Natura 2000 Network, is the North-West Irish Sea SPA (Site Code: 004236), located c. 1.4km east of the site.

The proposed development is located in an urban area and comprises extension of an existing dwelling. The development would be connected to all public services including water, sewer and surface water mains.

Having considered the nature, scale and location of the proposed development, and having regard to the AA Screening carried out by the Planning Authority, 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:

- Nature and scale of the proposed development;
- Urban location with access to all public services and utilities; and
- The distance from European Sites, absence of ecological pathways to any European Site.

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.