



An
Bord
Pleanála

Inspector's Report

ABP-321332-24

Development

Demolition of existing chimney for the construction of an extension to the rear with conversion of the attic to a habitable space and introduction of 1 dormer window to the rear and conversion of existing garage space to a habitable space and all associated site works.

Location

15 The Rise, Mount Merrion,
Blackrock, Co. Dublin, A94 CF74

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D24A/0706/WEB

Applicant(s)

Lorraine Dwyer and Sean Guerin

Type of Application

Planning Permission

Planning Authority Decision

Grant with conditions

Type of Appeal

First Party Appeal

Appellant(s)

Lorraine Dwyer and Sean Guerin

Observer(s)

Colm and Anna-Marie Costello

Date of Site Inspection

3rd February 2025

Inspector

Susan Clarke

1.0 Site Location and Description

- 1.1. The appeal site, measuring 0.067ha, is located at No. 15 The Rise, Mount Merrion, approximately 6km to the south-east of Dublin city centre. The site comprises a two-storey, semi-detached house (5 bedroom) with a hipped roof (total stated floor area 158.8 sq m). The front garden provides for two off-street car parking spaces, while the large rear garden provides amenity space. The property benefits from a side entrance that provides pedestrian access from the front garden to the rear garden along the boundary with No. 17 The Rise.
- 1.2. The site is accessed by the R138 Stillorgan Road and is attached to No. 13 The Rise to the north and bound by a shared wall to No. 17 The Rise to the south. It is part the established residential area of Mount Merrion situated to the west of the N11 and between Stillorgan to the south and Fosters Avenue and Mount Anville Road to the north. The Rise slopes upwards from north to south. In addition, the site slopes from east to west.

2.0 Proposed Development

The proposed development consists of

- Demolition of one existing chimney
- Construction of a new part two-storey, part single storey extension to the rear
- Conversion of the attic to a habitable space and introduction of one dormer window to the rear
- Conversion of the existing garage space to a habitable space and replacement of existing garage door with a new bay window
- Introduction of one rooflight and a first floor window to the side elevation
- Construction of a bike and bin store to the front garden
- Widening of the existing entrance gate
- Construction of a single storey garden room to the rear garden
- Alterations to all elevations, associated landscaping and all ancillary works necessary to facilitate development.

The total gross floor space would increase from 158.8 sqm to 189.9 sqm (i.e. by 31.1 sqm).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a Notification of Decision to Grant Permission on 31st October 2024 subject to 13 No. standard conditions.

- Condition No. 4 states:

The proposed ground-floor rear extension shall be reduced in height to measure a maximum of 3.29m.

Reason: In the interest of residential amenity.

- Condition No. 5 states:

The proposed ground-floor rear extension shall be reduced in depth to extend a maximum of 6.25m beyond the rear elevation of the parent dwelling.

Reason: In the interest of residential amenity.

- Condition No. 8 states:

The Applicant and Contractor shall ensure that:

a) A maximum of 1 no. car parking space shall be provided to serve the proposed dwelling house.

b) All necessary measures shall be taken by the Applicant and Contractor to:

i. prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site construction works,

ii. repair any damage to the public road arising from carrying out the works,

iii. avoid conflict between construction activities and pedestrian/vehicular movements on the surrounding public roads during construction works.

Reason: In the interest of residential amenity and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Report (31st October 2024)

The Notification of Decision to Grant Permission reflects the recommendation of the planning case officer.

3.2.2. Other Technical Reports

Drainage Planning (2nd October 2024) – No objection subject to standard condition.

Transportation Planning (16th October 2024) – No objection subject to condition including that only one car parking space shall be provided.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

One third party observation was submitted to the Planning Authority during its determination of the planning application. The substantive issues raised in these submissions have also been raised in the Observation submitted to the Board.

4.0 Planning History

Subject Site

No applications pertaining to the subject site.

No. 17 The Rise

- Reg. Ref. D18A/0042: Permission granted in April 2018 for *inter alia* the construction of a two storey extension to the side and part two storey/part single storey extension to the rear and infill single story extension to the front.

No. 13 The Rise

- Reg. Ref. D20B/0327: Retention permission granted in January 2021 for an existing 700mm wide side window fitted with obscure glazing to south elevation of first floor master bedroom.

- Reg. Ref. D19B/0056; ABP-304281-19: Permission refused in September 2019 for extended ensuite at first floor and hipped roof due to overbearing impacts on No. 11 The Rise and contradiction with Conditions attached to Reg. Ref. D18A/0926.
- Reg. Ref. D18A/0926: Permission granted in January 2019 for *inter alia* two storey, part single storey extension to rear.
- Reg. Ref. D18A/0568: Permission refused in July 2018 for *inter alia* two storey, part single storey extension to rear.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2022-2028

- 5.1.1. The site is governed by the policies and provisions contained in the Dun Laoghaire Rathdown County Development Plan 2022-2028 (CDP).
- 5.1.2. The site's land use zoning objective is 'A' which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities'. Residential is a 'permitted in principle' land use.
- 5.1.3. Chapter 12 of the CDP provides development management details. Section 12.3.7.1 relates to extensions to dwellings.

- Section 12.3.7.1(ii) (Rear Extensions) states:

Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. The extension should match or complement the main house.

First floor rear extensions will be considered on their merits, noting that they can have potential for negative impacts on the amenities of adjacent properties, and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions the following factors will be considered:

- *Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries.*

- *Remaining rear private open space, its orientation and usability.*
- *Degree of set-back from mutual side boundaries.*
- *External finishes and design, which shall generally be in harmony with existing.*
- Section 12.3.7.1(iv) (Alterations at Roof/Attic Level) states:

Roof alterations/expansions to main roof profiles - changing the hip-end roof of a semi-detached house to a gable/ 'A' frame end or 'half-hip' for example – will be assessed against a number of criteria including:

- *Careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.*
- *Existing roof variations on the streetscape.*
- *Distance/contrast/visibility of proposed roof end.*
- *Harmony with the rest of the structure, adjacent structures, and prominence.*

Dormer extensions to roofs, i.e. to the front, side, and rear, will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions, and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions shall be set back from the eaves, gables and/or party boundaries. Dormer extensions should be set down from the existing ridge level so as to not read as a third storey extension at roof level to the rear.

The proposed quality of materials/finishes for dormer extensions will be considered carefully as this can greatly improve their appearance. The level and type of glazing within a dormer extension should have regard to existing window treatments and fenestration of the dwelling. However, regard should also be had to size of fenestration proposed at attic level relative to adjoining residential amenities.

Particular care will be taken in evaluating large, visually dominant dormer window structures, with a balance sought between quality residential amenity

and the privacy of adjacent properties. Excessive overlooking of adjacent properties should be avoided.

- Section 12.3.7.4 (Detached Habitable Room) states:

This can provide useful ancillary accommodation such as a playroom, gym, or study/home office for the main residence. It should be modest in floor area and scale, relative to the main house and remaining rear garden area. The applicant will be required to demonstrate that neither the design nor the use of the proposed structure will detract from the residential amenity of adjoining property or the main house. Any such structure shall not be to provide residential accommodation for a family member/ granny flat nor shall the structure be let or sold independently from the main dwelling.

5.2. Natural Heritage Designations

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

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development, its location in a serviced built-up suburban area, the absence of any connectivity to any sensitive location and the likely emissions therefrom, I have concluded that there is no real likelihood of significant effects on the environment arising from the proposed development having regard to the criteria set out in Schedule 7 to the *Planning and Development Regulations 2001, as amended*. I conclude that the need for environmental impact assessment can, therefore, be excluded.

6.0 The Appeal

6.1. Grounds of Appeal

The Applicant submitted a First-Party Appeal to the Board on 26th November 2024 in respect of three Conditions (4, 5, and 8a) attached to the Notification of Decision to

Grant Permission. The Appeal is accompanied by a Daylight & Sunlight Assessments of Extension prepared by Digital Dimensions.

The grounds of appeal can be summarised as follows:

- The Planning Authority did not give good reason or sufficient justification or rationale for the attachment of the subject conditions.
- There are no sustainable amenity grounds for the imposition of Condition Nos. 4 and 5 having regard to the Daylight and Sunlight and Overshadow Assessment.
- No site inspection of the rear garden was undertaken.
- Request that the referenced Conditions (4, 5, and 8a) are omitted.

Condition No. 4

- The specificity of the Condition (3.29m) is not justifiable and is unworkable. It does not meet the minimum height to provide for internal ceiling height of 2.6m and insulation and services. It is also lower than the parapet height of No.13 which is 3.35m.
- Due to the topography of the area the parapet height of the extension will be 0.407m above the extension to No. 13 The Rise and 0.403m below the extension to No. 17 The Rise (i.e. there is a proportionate stepped arrangement between the dwellings).
- The permitted extensions by DLRCC to either side of No. 15 The Rise have resulted in a higher parapet to No. 17 The Rise relative. This was acceptable relative to the site context of No. 15 The Rise. This has established a precedent on site.

Condition No. 5

- No. 15 The Rise is the only house of the three (Nos. 13, 15, and 17) which has not been extended to date.
- The extension to No.13 The Rise extends out along the boundary wall with No. 15 The Rise for 4.7 m and extends further beyond this for a final depth of 3m resulting in a total extension length of 7.74m.

- The existing extension to the rear of No. 17 The Rise is circa 8.48m length. On that basis the Planning Authority has granted a precedent for permission for a longer and deeper and higher extension at No. 17 The Rise.
- There is no sustainable basis for reducing the depth of the proposed extension as it does not give rise to unacceptable impacts on amenity in terms of daylight, sunlight or overshadowing or overbearance.

Condition No. 8

- The Transport Department assessed the subject development on the basis that it comprised a new dwelling and not on the basis that it merely comprised an extension to an existing dwelling in a suburban area. The Planner's Report merely accepts the recommendation and does not differentiate between a new dwelling and an extension.
- Application of SPPR3 of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities is incorrect as the proposal is not for a new dwelling.
- The Applicant did not apply for any parking spaces. While the layout plan theoretically showed three parked cars this was notional and was showing that physically the site layout could accommodate the same car parking provision as exists now between the garage and the front driveway.
- The restriction of car parking is outside the scope of the application and ultra vires.
- The proposed layout of the front area to the dwelling provides for a permeable area, which can accommodate the Applicant's parking requirements for two cars within the curtilage of the dwelling off street.
- Neighbouring properties have widened vehicular entrances without any parking restrictions.

6.2. Planning Authority Response

No response received from the Planning Authority.

6.3. Observations

Colm and Anna-Marie Costello of No. 13 The Rise submitted an Observation to the Board on 20th December 2024.

The key points raised in the Observation can be summarised as follows:

- There is no precedent for the scale and form of the extension proposed. The Observation includes a table of the principal dimensions of the extensions to the rear of Nos. 13, 15 and 17.
- The Planning Authority assessment was balanced and acknowledges the negative impact the proposal would have on No. 13 The Rise.
- Condition No. 8a is overly restrictive noting that the subject site is served by two car parking spaces at present.

Condition No. 4

- There is no basis for the claim by the Appellants that the 3.29m is not sustainable or justifiable.
- The Appellants are incorrect in their assertion that the height of the ground floor extension of No. 13 The Rise is higher, as it has a permitted height of 3.29m above finished floor level.
- There is no basis for the Appellant to claim that a 2.68m floor to ceiling height could not be achieved including insulation, services and a green roof.
- The ground levels are highly notable and make the impact of the length and height of the extension at No. 15 at the boundary even more overbearing. Whilst this has the opposite effect next to No. 17, it has a more significant impact on No. 13. This is the reason behind the reduction in height of the ground floor extension.
- The extension will be highly obvious and overbearing on the residents of No. 13 and reduce its residential amenity.
- The First Party misleadingly and inaccurately described the nature and extent of No. 13 The Rise's extension as if it were a rectangular form, rather than its T-shape, with significant set-backs either side of the last 2.966m of its length from both No. 11 and No. 15.

- There is no basis for the claim that the parapet at No. 13 or No. 17 extensions are higher than being proposed or conditioned. The Condition replicates the height of the extension to No. 13 The Rise and remains higher than the extension to the rear of No. 17. There is no evidence for the Board to reach a conclusion that the additional height is required.

Condition No. 5

- The grounds set out in the appeal suggest that the restriction in the depth of the extension somehow reduces the extension to being of a size that is smaller than the extension at No. 13 or No. 17. This is simply not the case. Even when reduced, it remains 7 sq m larger than the extension at No 13, and 18 sq m larger than the ground floor rear extension to No. 17.
- The First Party have included a daylight and sunlight assessment with their appeal, despite overshadowing not being a reason for reducing its depth. It is the overbearing impact of the length and height of the proposed extension immediately adjoining both boundaries that was the primary reason.
- The length of the extensions at Nos. 13 and 17 do not set a precedent for the extension, as applied, to be granted to the rear of No. 15, as in both of the neighbouring properties, there are adequate set-backs to the adjacent boundary, which is not provided at all to No. 13 and minimally to No. 17 in this instance.

6.4. Further Responses

None.

7.0 Assessment

- 7.1. The First-Party Appeal relates only to Condition Nos. 4, 5 and 8a attached to the Planning Authority's Notification of Decision to Grant Permission. Having reviewed the planning file and conducted a site visit, I am satisfied that the development is otherwise in accordance with the proper planning and sustainable development of the area, and that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. My assessment will therefore be limited to

the matters raised in relation to the terms of the subject Conditions, pursuant to the provisions of section 139 of *the Planning and Development Act 2000 (as amended)*.

7.2. Condition Nos. 4 and 5 – Reduced Extension Height and Depth

- 7.2.1. The proposed development includes for *inter alia* a ground floor flat roofed extension with a parapet height of 3.6m (see Dwg. No. P2001, Rev. P04, 'Planning Elevations').
- 7.2.2. Condition No. 4 requires that the proposed ground-floor rear extension shall be reduced in height to measure a maximum of 3.29m in the interests of residential amenity.
- 7.2.3. The Planner's Report states *inter alia*:

*"At ground-floor level, the proposed development seeks permission for a flat-roof extension comprising c.3.664m in height. The ground-floor extension would be built upon the party boundary, and **exceed this neighbouring rear building line by c.3.6m. The scale and massing of the ground-floor extension is therefore deemed to be impactful due to the absence of any setback.***

*On review of adjacent planning history and associated drawings, the difference in parapet heights between the proposed development and rear ground-floor extension, as permitted and built, **is c.0.407m**, with the proposal the higher of the two parapets. **This height, coupled with the c.3.6 extension beyond the neighbouring extension, is considered to present as a visually dominant and overbearing structure.** The concerns of the Planning Authority however can be addressed by way of a condition in the event of a grant of permission, requiring the height of the ground-floor extension to be reduced in line with parapet height of the adjacent ground-floor extension. **It is also considered necessary to apply a condition requiring a marginal reduction to the depth of the ground-floor extension to address overbearing concerns.***

The ground-floor rear extension is otherwise considered acceptable in its scale, massing, and fenestration. It is noted that ample private amenity space is maintained for a dwelling of this size". (Bold: My emphasis.)

- 7.2.4. The Applicant contends that Condition No. 4 is unworkable and does not meet the minimum height to provide for an internal ceiling height of 2.6m and insulation and

services. On the contrary the Observer, contends that there is no basis to claim that a 2.68m floor to ceiling height could not be achieved including insulation, services and a green roof. The Observer argues that the proposed parapet height would be overbearing on No. 13 and reduce its residential amenity.

- 7.2.5. Having regard to the parapet height difference of Nos. 13 and 15 (see Dwg. No. P2001, Rev. P04, 'Planning Elevations'), and the depth of the proposed extension beyond the rear wall of No. 13 (3.6m) (see Dwg. No. P1000, Rev. P04), and noting the large plot sizes of both sites (in particular the rear gardens) in addition to the relatively low-density development in the wider area, I do not consider that the proposed parapet height would unduly impact on the residential amenities of No. 13 by means of overbearing impacts or visual dominance. Furthermore, the Daylight and Sunlight Assessment clearly illustrates that there would be no significant overshadowing or loss of daylight to the neighbouring property. In my view, the stepped nature of the extensions corresponds with the sloping nature of the area. Notwithstanding that I do not consider the depth of the ground floor extension to be excessive as discussed below, I do not consider that the reduction in parapet height as stated in Condition No. 4 would have any material bearing on the overall visual impact of the proposed development when viewed from No. 13.
- 7.2.6. Condition No. 5 requires that the proposed ground-floor rear extension shall be reduced in depth to extend a maximum of 6.25m (from 8.25m proposed) beyond the rear elevation of the parent dwelling, in the interests of residential amenity.
- 7.2.7. Whilst I note that the subject site immediately abuts No. 13, and that no setback is proposed from the boundary wall of the two properties, having regard to the scale and massing of the proposed extension in the context of the large plot sizes and to the scale and massing of the existing extensions to No. 13, I do not consider, that the proposed ground floor extension to No. 15 would adversely impact the residential amenity of No. 13. Contrary to the arguments put forward by the Observer that there is no precedent for the proposed development, in my opinion, both Nos. 13 and 17 do provide similar precedent. The scale and form of the proposed extension is now common practice as residents refurbish and extend their dwellings to meet modern day living requirements.
- 7.2.8. In summary, in my opinion, the height, scale and massing of the proposed ground floor extension is appropriate for the site and would not unduly impact on the area's

residential amenity, including that of No. 13 The Rise. I note the precedent cases referenced by the Observer, however it is important to note that each application is assessed on its own merits. Furthermore, the area is not a Conservation Area nor are the properties designated Protected Structures. Accordingly, noting that the proposal will not adversely impact the area's residential amenity, in my view, there is no requirement to apply overly conservative design criteria as per Condition Nos. 4 and 5 to the proposed development.

7.2.9. Having regard to the foregoing, I recommend that Condition Nos. 4 and 5 are omitted.

7.3. Condition No. 8(a) – Reduced Car Parking

7.3.1. To recap, Condition No. 8 states that a maximum of one car parking space shall be provided to serve the 'proposed' dwelling house. On review of the Transportation Planning report (16th October 2024), it is clear that the Local Authority assessed the proposed development as a new dwelling rather than an extension to an existing dwelling. Whilst three car parking spaces were illustrated on the site layout plans submitted with the application, there was no reference to any alterations to the existing car parking situation in the statutory notices or planning application form. The proposed development will not result in any intensification of use of the site that would result in any increase in traffic movements in the area (post-construction). I highlight that Condition No. 2 attached to the Notification of Decision to Grant Permission requires that the dwelling shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units. I note that the Observer also states that the Condition is overly restrictive. In my opinion, there is insufficient rationale for the imposition of the subject Condition, and accordingly I recommend that the Condition be omitted.

8.0 AA Screening

8.1.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a

significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

9.0 Recommendation

- 9.1. Having inspected the site and reviewed the drawings and documents on file, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted. Accordingly, I consider that it would be appropriate to use the provisions of Section 139 of the 2000 Act, as amended.

I recommend that Condition Nos. 4, 5 and 8a be omitted.

10.0 Reasons and Considerations

Having regard to the residential zoning objective, the character of existing development in the area, the design, scale and massing of the development proposed, and the provisions of the Dun Laoghaire Rathdown Development Plan 2022-2028, in particular Section 12.3.7.1 (Extensions to Dwellings), it is considered that, the proposed development would constitute an acceptable form of development at this location and would not seriously injure the residential amenity of surrounding properties including Nos. 13 and 17 The Rise nor present a traffic safety hazard. The proposed development would, therefore, be in accordance with 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.

Susan Clarke
Senior Planning Inspector

3rd February 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	321332-24		
Proposed Development Summary	Demolition of existing chimney for the construction of an extension to the rear with conversion of the attic to a habitable space and introduction of 1 dormer window to the rear and conversion of existing garage space to a habitable space and all associated site works.		
Development Address	15 The Rise, Mount Merrion, Blackrock, Co. Dublin, A94 CF74		
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	√
		No	
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	√		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	√	N/A	No EIAR or Preliminary Examination required
Yes			

4. Has Schedule 7A information been submitted?

No	√	Preliminary Examination required
Yes		Screening Determination required