



An
Bord
Pleanála

Inspector's Report

ABP-321592-25

Development	Retention of alterations to permitted development Ref: SD22B/0256 of extension, including height increase.
Location	35 Daletree View, Ballycullen, Dublin 24
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD24B/0450W
Applicant(s)	Darren Corrigan
Type of Application	Permission for Retention
Planning Authority Decision	Refuse Permission for Retention
Type of Appeal	First Party
Appellant(s)	Darren Corrigan
Observer(s)	Brian and Anna Ferris
Date of Site Inspection	19 th February 2024
Inspector	Emma Nevin

1.0 Site Location and Description

- 1.1. The appeal site is located in 'Daletree View', within an established residential in Ballycullen and has a stated area of 0.019 ha. On site is a two storey, semi-detached dwelling with a Dutch-hip roof profile. The subject site is served by a vehicular access to the front and amenity space to the rear.

2.0 Proposed Development

- 2.1. The development comprises alterations to a development permitted under Ref: SD22B/0256 including:
- Reduction in area of extension to side of existing dwelling minor alterations to internal layout.
 - Increase in height from permitted 3 metres to 3.3metres.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted refused permission, on 29th November 2024, for the following reason:

“Having regard to the provisions of the South Dublin County Development Plan 2022-2028, it is considered that the development proposed for retention, by reason of height and extent along the site side boundaries shared with adjoining residential properties, would adversely impact on the amenities of these adjoining properties, and would thus be contrary to the 'RES' zoning objective of the site which seeks to protect and/or improve residential amenity. The subject development would thus be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. Planning Report dated 29th November 2024 has been provided.
- 3.2.2. This planning application was assessed under the South Dublin County Development Plan, 2022 – 2028.

3.2.3. The planners report concluded that *“Having regard to the provisions of the South Dublin County Development Plan 2022-2028, it is considered that the extension proposed for retention, by reason of height and extent along side site boundaries shared with adjoining residential properties, would adversely impact on the amenities of these adjoining properties, and would thus be contrary to the 'RES' zoning objective of the site which seeks to protect and/or improve residential amenity”*. Accordingly, permission for retention was refused for the reason set out in Section 3.1.1 above.

3.2.4. Other Technical Reports:

- None referenced in planners report.

3.3. Prescribed Bodies

- None referenced in planners report.

3.4. Third Party Observations

3.4.1. One third party submission was received, the issues raised can be summarised as follows:

- Excessive Height of extension of 3.3m when previously approved under the condition that the height would be reduced to 3m.
- Suspects it to be higher than 3.3m due to the garden level being raised as part of its construction.
- Right to privacy in the adjoining garden and house has also been impacted by the height of the extension and its proximity to the boundary wall.

4.0 Planning History

4.1. The following planning history relates to the appeal site:

- SD22B/0256 – Permission granted by South Dublin County Council on the 27th of July 2022 for a single storey extension to the rear of and side of the existing dwelling.

Condition No. 2 is of relevance which states:

“Prior to the commencement of development, the Applicant shall submit for the written agreement of the Planning Authority revised plan, sectional and elevational drawings which demonstrate the reduction in height of the proposed single storey rear and side extension to 3m.

Reason: In the interests of protecting the visual and residential amenities of adjoining properties”.

SD05B/0442 - Permission granted by South Dublin County Council to convert the attic to storage including a dormer window to the rear, a window to the side and a velux roof light to the front, all at roof level and a change of roof profile; a single storey porch extension to the front; a single storey rear extension at ground floor level.

5.0 Policy Context

5.1. South Dublin County Development Plan 2022 – 2028

5.1.1. The site is subject to zoning objective ‘RES’ which has a stated objective *“To protect and/or improve residential amenity”.*

5.1.2. Relevant Sections and Objectives

- 6.8.2 Residential Extensions
- Policy H14: Residential Extensions Support the extension of existing dwellings subject to the protection of residential and visual amenities.
- H14 Objective 1: To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 13 Implementation and Monitoring and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).
- Policy QDP7: High Quality Design - Development General Promote and facilitate development which incorporates exemplary standards of high-quality, sustainable, and inclusive urban design, urban form, and architecture.

- Policy QDP11: Materials, Colours and Textures Promote high-quality building finishes that are appropriate to context, durable and adhere to the principles of sustainability and energy efficiency.
- Policy H11: Privacy and Security Promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing. Policy H14: Residential Extensions Support the extension of existing dwellings subject to the protection of residential and visual amenities.
- Policy GII: Overarching GII Objective 4: To require development to incorporate GI as an integral part of the design and layout concept for all development in the County including but not restricted to residential, commercial, and mixed use through the explicit identification of GI as part of a landscape plan, identifying environmental assets and including proposals which protect, manage, and enhance GI resources providing links to local and countywide GI networks.
- Section 12.4.2 Development Management and Green Infrastructure - All development proposals shall be accompanied by a Green Infrastructure Plan, which will normally be submitted as part of the suite of Landscape Plans that are required for a development.
- Section 4.2.2 Sustainable Water Management GI4 Objective 1: To limit surface water run-off from new developments through the use of Sustainable Drainage Systems (SuDS) using surface water and nature-based solutions and ensure that SuDS is integrated into all new development in the County and designed in accordance with South Dublin County Council's Sustainable
- Drainage Explanatory Design and Evaluation Guide, 2022.
- Chapter 11, Section 11.2.1: Sustainable Urban Drainage Systems (SuDS) Policy IE3: Manage surface water and protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.
- Chapter 5 Quality Design and Healthy Placemaking QDP6 Objective 7: To ensure, in so far as is practical, that all boundary walls in new residential developments are of a similar height and of a high quality where they are

bordered on either side by a public footpath or an area that has been or is due to be taken-in-charge in order to leverage the opportunity to improve the quality of boundary treatments Chapter 12 Implementation and Monitoring 12.7.6 Car Parking Design and Layout.

- Section 12.6.8 Residential Consolidation.

5.1.3. Other Guidance:

- South Dublin County Council House Extension Guide (2025) – which provides guidance in respect of rear and side extensions, good extension design, overbearing impact and overlooking and loss of privacy.

5.2. **Section 28 Ministerial Guidelines**

5.2.1. Section 28 Guidance:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, Department of the Housing, Local Government and Heritage, 2024.
- Development Management Guidelines for Planning Authorities, 2007.

5.3. **Natural Heritage Designations**

5.3.1. The subject site is not located within any designated European Sites.

5.4. **EIA Screening**

5.4.1. I refer the Board to the completed Form 1 in Appendix 1. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been received by the applicant's agent against the decision of South Dublin County Council (SDCC) to refuse permission under Reg. Ref. SD24B/0450W. The appeal includes a copy of the compliance documents in relation to condition no. 2, precedent examples, and site photos, and can be summarised as follows:

- A rationale for the development.
- The planning officer who refused the application is a different planning officer to the original application and no issues were raised in relation to the length of the building which is now included in the reason for refusal, "by reason of height and extent along the site boundaries".
- The adjoining neighbour's property, No. 37 is 600-700mm above the appellants garden and the instant application has also reduced the length of the extension, thus reducing impact.
- The only property that the extension could impact is No. 33 and the appellant considers that any impact will be minimal.
- The outcome of a refusal to the extensions to grant will be disproportionate with a building cost of tens of thousands of euros.
- The appellant has tried to carry out their obligations with regard to Planning and Building Regulations to the best of their ability. The situation arose from works carried out by the builder on site resulting in non-compliance with the planning grant and the roof completed to seal the building. Retention permission was then sought.
- The planning regulations are referenced in relation to exempted development provisions.
- There is no measurable reason given as to what is seen as an acceptable height.

- The extension is 150mm higher and this additional height will have little or no visual impact on No. 33 and the impact has reduced on No. 37.
- Precedent examples are referenced for extensions that exceed the 3 metre height limit.
- Granting retention permission would allow the appellant to finalise the extension.
- It is requested that the appeal be reviewed with a common-sense approach acknowledging that the height only slightly exceeds the previously permission height.

6.2. Planning Authority Response

- 6.2.1. Report received 23rd January 2025 stating that “*The Planning Authority confirms its decision. The issues raised in the appeal have been covered in the Chief Executive Order*”.

6.3. Observations

- 6.3.1. One observation was received from Brian and Anna Ferris, which raised the following items:
- Regarding the strict deadline and payment criteria in the appeal process, should this appeal be considered null and void?
 - The applicant did not act in good faith as suggested in the appeal.
 - Concerns regarding the structural integrity of the extension built close to the boundary wall.
 - The applicant had numerous chances to rectify the situation and chose to ignore all correspondence and construct the extension.
 - Dates and times of correspondence with South Dublin County Council submitted as part of the observation.
 - The applicant has continued a campaign of threats, harassment and trespassing against the observer and their family.

- The appeal consists of misrepresentation of the truth.
- The appeal shows little regard for the integrity of the planning process.
- The appeal submits that the new measurements for the extension to 3.150m and 3.3m earlier submitted. This is a strategy to try minimising the overbearing impact.
- The appeal also shows the garden level was raised during ground works, and this is now being used to try and manipulate the FFL measurements and as indicated by the appellant to reduce the perceived impact by 50%.
- The garden works were hurried to deceive An Bord Pleanála and re-submit new measurements minimising the height breach.
- Darkened garden and loss of natural light and visual impact.
- The information in the appeal is not factually correct and does not stand up to scrutiny.
- The narrative that the extension had to be completed as the house was exposed and roof was leaking is not true.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the first party appellant's submission (the subject matter of this appeal), the observation, site inspection and having regard to the relevant policies, objectives, and guidance, I am satisfied that the main issues to be considered are those raised in the grounds of appeal and observation, and I am satisfied that no other substantive issues arise. The main issues in determining this appeal relate to the three reasons for refusal as follows:

- I. Principle of Development and Planning History
- II. Impact on Residential and Visual Amenity
- III. Precedent Examples
- IV. Appropriate Assessment, and
- V. Other Matters.

7.2. Principle of Development and Planning History

- 7.2.1. The appeal site is located within an established residential development on lands zoned as 'RES', with the stated land use zoning objective to "Protect and or improve residential amenity". I note that residential is a use permitted in principle under this land use zoning objective, including extensions to existing dwellings, subject to projection of adjoining residential amenity.
- 7.2.2. I reference the South Dublin County Council House Extension Design Guide 2025, which provides guidance in respect to side and rear extensions. In relation to ground floor rear extensions the guidance (Section 3.4.1) states that *"the scale of a rear extension should be proportionate to the scale of the existing house or its plot. The roof form and height of rear extensions adjoining party boundaries should be considered and parapet height should always be minimised. The quantum of garden space remaining following an extension should be of a usable scale"*, and *"Most typical dwellings with rear gardens can accommodate a ground floor rear extension that extends across the entire width of the rear wall of the house. Where proposals are considered substantial in scale, particular attention is given to the relationship with any adjoining houses"*. There is no height restriction referenced in the guidance.
- 7.2.3. The planning history on site is of relevance, permission was granted under Ref: SD22B/0256 for a for a single storey extension to the rear of and side of the existing dwelling. Condition No. 2 of this permission stated: *"Prior to the commencement of development, the Applicant shall submit for the written agreement of the Planning Authority revised plan, sectional and elevational drawings which demonstrate the reduction in height of the proposed single storey rear and side extension to 3m. Reason: In the interests of protecting the visual and residential amenities of adjoining properties"*. I note that compliance details were submitted and approved by the Planning Authority reflecting the required height of the rear extension.
- 7.2.4. However, the extension as construction on site, the subject of this appeal, was modified with the overall floor area reduced from 34 sq. m. under Ref: SD22B/0256 to 29 sq. m. to be retained under Ref: SD24B/0450W. Given the floor area of the extension to be retained relative to the existing dwelling, I do not consider that the extension to be retained is a substantial addition to the rear of the existing dwelling.

- 7.2.5. The overall height of the structure to be retained from site level, as indicated on the submitted plans and particulars, is 3.3 metres with a flat roof, the subject matter of this appeal.

Conclusion:

- 7.2.6. While the principle of extension to and within the curtilage of the existing dwelling would be acceptable on this site, this is subject to the protection of existing residential amenity, which will be discussed further below.

7.3. Impact on Residential and Visual Amenity

- 7.3.1. The reason for refusal considers that by reason of height and extent along the site side boundaries shared with adjoining residential properties, the extension to be retained would adversely impact on the amenities of these adjoining properties and would be contrary to the 'RES' zoning objective of the site. The appellant considers that the extensions height only slightly exceeds the previously permitted height by 150mm, which would not be considered a significant issue as its negative impact is negligible.
- 7.3.2. The observation expresses concerns in relation to the height of the extension and the impact on the adjoining site in terms of loss of light and visual impact. The observer also queries the overall height of the extension and the reference to the height as part of the appeal.
- 7.3.3. The principle of an extension was permitted on this site under Ref: SD22B/0256, and the main consideration in this assessment is the increase in overall height of the extension as constructed on site. The plans and particulars submitted with Ref: SD24B/0450W indicate that the overall height of the extension to be retained is 3.3metres from site level, and 3.150 metres from finished floor level. No revised plans have been submitted as part of the first party appeal. As such, I will base my assessment on the plans and particulars submitted with Ref: SD24B/0450W, i.e. 3.3 metres overall height.
- 7.3.4. I also note that the extension to be retained has been reduced in floor area from 34 sq. m. (permitted under Ref: SD22B/0256) to 29 sq. m. in the instant appeal.
- 7.3.5. The extension to be retained extends some 5.1 metres approx. in close proximity to both the northern and southern site boundaries with the site at No. 33 and No. 37,

respectively and as such will be visible from both adjoining site boundaries to an overall height of 3.3 metres, with a flat roof profile. The extension extends across the width of the rear wall, with an overall modest floor area of 29 sq. m. A rear garden length of 5.68 metres will be retained on the appeal site.

- 7.3.6. The extension to be retained is single storey in nature, and while the extension is in close proximity to both adjoining site boundaries, I do not consider that an increased height in the extension as constructed on site of 300mm as measured from site level, given the size of the extension and remaining regard garden, would result in a significant negative impact on the adjoining residential amenities by overbearing or overshadowing impacts.
- 7.3.7. The extension to be retained has a contemporary design. I again reference the South Dublin County Council House Extension Design Guide 2025 (section 2.5.2) which states that “*New extensions should incorporate good design, contemporary construction technologies, well considered architectural expression and materials, and best practice while observing and taking into consideration the architectural character of the existing house and surrounding context*”. I am satisfied that the contemporary design accords with the finish of the existing dwelling and as such will not impact negatively on adjoining visual amenity.
- 7.3.8. In relation to privacy no windows are proposed to the side of the extension and the ground floor windows are orientated to the rear garden of the appeal site and therefore will not result in overlooking or lack of privacy.

Conclusion:

- 7.3.9. As such, I recommend that permission be granted for the retention of the modifications to the extension as constructed on site.

7.4. Precedent Examples

- 7.4.1. The appeal response references precedent examples of similar rear extensions in the County, with a similar layout where permission has been granted for extensions with height in excess of 3/3.3 metres, etc. The reference to precedent is also raised in the observation.

- 7.4.2. While this is noted, all appeal cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the distance to the nearest European site, no
- 7.5.2. Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.6. Other Matters

7.6.1. Fenestration:

The planners report references the modifications to the fenestration to the rear elevation of the extension to be retained, which has not been included in the development description/statutory notices and considers that this could be addressed by way of additional information.

The development description refers to alterations to the permission application Ref: SD22B/0256, and while the modifications to the fenestration to the rear elevation was not explicitly stated within the development description, these elements are evident from the plans submitted to the planning authority (on 9th October 2024) are considered minor and their retention as part of the instant appeal are acceptable.

7.6.2. Building Cost and Construction:

The appeal cites issues with construction and building costs; however, this is not a planning consideration and as such I do not consider that the Board is in a position to draw any conclusions in relation to the matters raised.

7.6.3. Structural Integrity:

The observation references the structural integrity of the extension as constructed. The issue of compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

7.6.4. Other:

Various issues have been raised in the observation in respect to the timing and contents of the appeal, the garden and other construction works and the alleged behaviour of the applicant. However, this assessment is based on the planning relevant issues pertaining to the appeal, I also note that the relationship between the parties is a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

The appeal lodged on 20/12/2024 under 321538 was deemed invalid. A first party appeal was subsequently received on 6/01/2025 in relation to Ref: SD24B/0450W and was deemed acceptable.

8.0 Recommendation

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

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the South Dublin County Development Plan 2022-2028, the scale and height of the rear extension to be retained and the rear amenity space retained to serve the existing dwelling, it is considered that, subject to compliance with the conditions set out below, the development to be retained would be appropriate in terms of scale, height and layout, would not adversely impact on the residential or visual amenity of neighbouring properties, nor impact on the character or visual amenity of the existing residential estate. The 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, completed and retained in accordance with the plans and particulars lodged with the application, received by the planning authority on the 9 th day of October 2024, except as may otherwise be required in order to comply with the following
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	<p>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 dwelling and the extension shall be jointly occupied as a single residential unit and shall not be used for any other purpose, including short-term letting, unless authorised by a prior grant of planning permission. The extension shall not be let, sold, or otherwise transferred or conveyed save as part of the dwelling. The principal use of the application site shall remain in private residential use.</p> <p>Reason: In the interests of the proper planning and development of the area.</p>
3.	<p>The external finishes of the extension to be retained shall harmonise with those of the existing dwelling in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</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.

Emma Nevin
Planning Inspector

27th February 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	321592-25			
Proposed Development Summary	Single storey extension to rear and side of existing dwelling.			
Development Address	35, Daletree View, Ballycullen, Dublin 24			
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		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or 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	Development is not a project of type listed in Schedule 5, Part 2	No EIAR or Preliminary Examination required
Yes				

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