



An  
Bord  
Pleanála

## Inspector's Report

**ABP 321740-25**

<b>Development</b>	Two-storey rear and side extension with a new garden building and all associated site works
<b>Location</b>	47 Waltham Terrace, Blackrock, Co. Dublin, A94 X6R0
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County
<b>Planning Authority Reg. Ref.</b>	D24A/0854/WEB
<b>Applicant(s)</b>	Shane Horrigan & Catherine McCabe
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John & Grace Dunleavy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7/3/25
<b>Inspector</b>	Rosemarie McLaughlin

## **1.0 Site Location and Description**

- 1.1. No. 47 Waltham Terrace is a detached, 133.8 sqm, two storey house located on a cul de sac in a mature residential area in Blackrock, Co. Dublin. The cul de sac consists of a variety of houses with varying styles and building lines. The cul de sac is an extension of Waltham Terrace which is a straight road of period houses running south of Mount Merrion Avenue and is outside the Waltham Terrace Architectural Conservation Area (ACA).
- 1.2. No. 47 is located on the south side of the road and matches the adjacent house to the west (No. 49) in style and building line. To the east is No. 45, a detached house, the home of the third party appellants which is set back from the front building line of No. 47 and forms one of a group of three similar houses fronting the road. The front entrance to No.47 is on the eastern (side) elevation adjacent to the front garden appellants' home. A single storey garage/shed to the side of No.47 is located on the same front building line as the adjacent house, No.45 and on the rear building line of No.47. To the south is a large, detached house and garden accessed from Avoca Avenue.

## **2.0 Proposed Development**

- 2.1. This is an application for construction of a two storey rear and side extension (c 132.9 sqm), existing front façade amendments, a new garden building, the widening of the existing driveway entrance including the addition of piers & new gates along with the associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority (PA) granted permission.

- 3.1.2. **Conditions:** The PA granted permission subject to 10 standard type conditions. Condition 5 reduced the size of the proposed vehicular to a maximum width of 3.5m and that gates shall not be automatic.

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

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

- 3.2.2. The Planner's report referred to the CDP provisions/zoning, the development details and considered the objection to the development (from the third party appellant). The development was considered acceptable in terms of residential amenity of adjacent property generally. The width of the access and electric gates were not considered in compliance with the CDP and conditions were attached.

#### 3.2.3. **Other Technical Reports**

- 3.2.4. The Transport section and the Drainage section had no objections subject to conditions.

### 3.3. **Prescribed Bodies**

- 3.3.1. None on file.

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

- 3.4.1. One observation was received from the appellants. The points raised are similar to the appeal in relation to negative impact on residential amenity, domineering structure to side, forward of building line and excessive size.

## 4.0 **Planning History**

- 4.1. There is no relevant planning history on the subject site.
- 4.2. Various residential developments in the form of extensions and alterations have been permitted in the vicinity. D06A/1869 Permission for alterations to previously approved permission for a side and rear extension (D06A/0805) was permitted to

No.45 Waltham Terrace, adjacent to the appeal site. Further details are provided in the assessment below.

## **5.0 Policy Context**

### **5.1. Development Plan**

- The Dún Laoghaire-Rathdown County Development Plan 2022 -2028 (CDP) came into effect on the 21st of April 2022 and is the applicable development plan. The site is zoned objective 'A' which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities'. Chapter 4 relates to Neighborhood- People, Homes and Place. The site is outside Waltham Terrace Architectural Conservation Area.
- Chapter 12 provides development management details. Section 12.3.7.1 relates to extensions to dwellings and relevant subsections are (i) Extensions to the Front: (ii) Extensions to the Rear: and (iii) Extensions to the Side.
- Section 12.4.8.1 provides a maximum width of an entrance is 3.5 m and 12.4.8.3 provides that driveways are to be constructed in accordance with SuDs.
- Section 12.3.7.4 relates to detached habitable rooms.
- Section 12.8.7.2 relates to boundaries

### **5.2. Natural Heritage Designations**

- 5.2.1. The subject site is not in or adjacent to a European site. South Dublin Bay SAC [000210] and South Dublin Bay and River Tolka Estuary SPA [004024] are located c 1km to north east of subject site.

## **6.0 EIA Screening**

- 6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations

2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. See Form 1 in Appendix 1 of report.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1. The grounds of the appeal may be summarised as follows.

- A series of photographs and maps are provided for context. Concern is raised about the overbearing and visually oppressive impact of the proposal at No.47 from the two storey side extension on No. 45 (home of appellants) and a massing diagram is attached.
- No. 45 has bay windows to the front and a single and two storey extension to the rear. The front building line of No. 45 is in line with rear building line of No. 47. There is a 0.9 m distance between the gable of No. 45 and the boundary of the appeal site. Two ground floor windows on the gable serve a WC/utility room and two first floor windows serve a hall/stairs (providing light to the ground floor) and bathroom. The side wall of the proposed extension will project 4.6m forward of the front building line of the appellants.
- No specific use of the 38.25 sqm garden room is identified.
- Section 12.3.7.1 of the CDP in relation to extensions to the front is relevant as the development is forward of the building line of No. 45. Significant breaks should be resisted and excessive scale avoided. First floor side extensions may require setbacks to avoid terracing.
- The Council failed to give due consideration to the size and overbearing impact of the proposal which will be 4.6 m forward of No.45 along the boundary at 5.2 m height to eaves and 6.8m to ridge whereas the existing house is 3.5 m from the open boundary. The excessive height and length will impact the outlook.
- The size of the extension will increase with the slope of the road.

- While No. 47 is forward of No. 45, this is mitigated by the separation distance of 4.5 m between the western elevation of No. 45 and eastern elevation of No. 47. The proposal reduces the opposing elevations to 1m and is excessive in scale, with a blank façade of 5.2m in height extending along the boundary . Contrary to the view of the PA, this does have a serious negative impact.
- No consent to oversailing of the boundary by the proposed eaves has been given.
- The cul de sac is distinguished by the sense of spaciousness. Houses like No. 47 at a right angle to the street facing houses are typically extended to the rear with single storey to side/front. No.49 originally the same as the appeal site is extended to rear as are other houses. The proposal will create a precedent.

## 7.2. Applicant Response

7.2.1. The response to the appeal by the applicants may be summarised as follows:

- The site is described, and photographs are provided of the appeal site and environs. A notable feature of the cul de sac is that the dwellings do not form a straight building line and are staggered. The home of the appellant is extended.
- The CDP supports retention and adaption of existing housing stock.
- No windows are proposed on the eastern elevation. The side extension is 3.3m wide and 6.6m high, extending to the shared boundary with No. 45.
- The planning report specifically addressed the issue of overbearing impact. It is robustly denied that No. 47 breaks the building line as it is part of the original design of the housing scheme and is repeated elsewhere in the cul de sac. The bay window at No. 45 protrudes c 500-600 mm and the extension would be c 4-4.1m forward of the bay window.
- The daylight/sunlight to the front sitting room bay window on the north west corner is already impacted from the exiting house/garage and no substantive

evidence has been provided to support their appeal. A shadow diagram is included.

- Only the side of the bay window in the sitting room with an oblique view is available from the side of the bay window, The 3D drawings submitted by the appeal support the application. A light coloured brick is invited by way of condition on the eastern elevation.
- The side windows of No. 45 are obscure glass and are not living rooms. The oversailing on the drawing is an oversight and can be addressed by condition. There is no restriction in planning policy to prohibit two storey extension and each case should be assessed on its merits.
- The development will not create a terrace or alter the open nature of the cul de sac. The stepped proposal avoids a terrace effect. There is an existing garage in situ at the side of the house.
- The submitted drawings are inaccurate. The development is within the boundary and the eastern elevation will have a mix of render and brick, not a blank facade.
- While the applicants wish for permission as sought, should the Board consider it necessary, an amendment by way of condition could allow the side elevation to be set back to align with the front boundary of No.45. and a diagram illustrating this is submitted.

### **7.3. Planning Authority Response(20/02/2025)**

- The PA have no further comment.

### **7.4. Observations**

- None.

## 8.0 **Assessment**

8.1. Having examined the application details, the appeal, all other documentation on file and having regard to the relevant policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows :

- Principle of the proposed development
- Impact on residential amenity of property in the vicinity
- Design and visual amenity
- Garden room
- Oversailing of property

### 8.2. **Principle of the proposed development**

8.3. The appeal site is zoned 'Objective A' "to protect and/or improve residential amenity" where alterations and additions to existing residential properties are deemed to be generally acceptable, subject to safeguards and policies within the CDP. I am therefore satisfied that the principle of the development of proposed development is acceptable at this location subject to a site-specific assessment.

### 8.4. **Impact on residential amenity of property in the vicinity**

8.5. The proposed development is for a large extension ( c133 sqm) which doubles the size of No. 47 Waltham terrace to c 266 sqm. The proposed development is located to the rear and side of No. 47 and is oriented to avail of the south facing rear garden with c 42 sqm at first floor level, in an L shape. The area at issue as raised in the appeal is the two storey extension on the eastern side of No. 47 which extends to the boundary of No. 45 and incorporates the site of the current single storey garage and shed. I consider the single storey element to the rear as acceptable in terms of impact on residential amenity of adjoining properties and I note this is not raised as an issue in the appeal.

8.5.1. The key issue in the appeal arises from the physical relationship between the appeal site and the home of the appellants, where the rear building line of No. 47 is the same as the front building of No. 45 and the front entrance and sitting room window



at No. 47 is on the eastern elevation oriented towards the side boundary of appellants front garden.

- 8.5.2. The home of the appellants has been extended historically to the west towards the boundary of the appeal site, creating a double fronted house. The garage on the site of No. 45 that would have mirrored the location of the existing garage on the appeal site was removed when the two storey side and rear extension was constructed with a c 900 mm side passage between the properties. A distinguishing design feature of No. 45 is the ground floor bay windows on the front (north) elevation on both sides of the front door and one upper floor bay window on the north eastern side. The ground floor bay window at issue is on the north west elevation close to the current front door of No. 47.
- 8.5.3. Generally, garden areas to the front of houses ordinarily open to views from the public realm are not considered private open space and I note that the private rear open space of No. 45 is a south facing space with a living/kitchen open plan area. I do not consider the north facing front garden of the No. 45 as a private amenity area, but I do consider that it forms part of the layout of the estate. The FFL of No. 47 is elevated above the FFL of No. 45 and the absence of any boundary results in overlooking of the bay window in question and the front garden area of No. 45 from the main elevation of No. 47. As there are no windows proposed on the eastern elevation, I do not consider the proposal would remove the current overlooking situation.
- 8.5.4. The appellants consider the development will be overbearing and oppressive particularly to the bay window on the north west elevation. The main section of glass in the bay window (c 3.2m) faces north over the garden and parking area. The western section of the bay currently benefits from the absence of any boundary between the properties which could change if any boundary was planted or constructed. Should a two storey extension be located adjacent to the front garden boundary, I consider it would have a significant adverse visual impact on the front setting of the detached two storey house, No. 45. While the term oppressive is subjective, I accept that the impact of a c 5.1 m high blank wall (to the eaves) along

the side boundary of the front open space will result in a negative impact for the occupants of No. 45.

8.5.5. I consider that the height of the two storey extension at this location is more of an overall design issue than one connected to specific impact on residential amenity on a bay window which would still maintain an open aspect to the north and north east should a two storey extension as proposed be constructed. The design issue is assessed in the next section below.

8.5.6. Both the first party and third party have submitted shadow diagrams that show no significant difference with the proposed development on the front of No.45 and having regard to the orientation, I do not consider this would have a significant impact on the residential amenity of No. 45. The proposed two storey side extension at issue is also located along the side boundary to the extended gable of No. 45 which has windows to non-habitable rooms. In relation to the side windows serving non-habitable spaces and given the large windows to the north and south of the property, I do not consider the proposal along the side gable elevation of No.45 has a significant impact on residential amenity. No. 45 is set back from the side boundary c 900 mm and while I consider a similar setback on the appeal site would be preferable, I do not think that the appeal turns on this point.

## 8.6. **Design and visual amenity**

8.6.1. **Building lines and design:** No.s 47 and 49 at this section of the cul de sac are visually prominent as the houses are located on a bend on the road with gable fronting elevations, on elevated sites and located much closer to the roadside than the houses to the east. The style and set-forward nature of No. 47 is replicated in pockets around the cul de sac. I concur with the applicant that No. 47 does not break the building line with the adjacent properties to the east as the layout of the 1960s estate was deliberately designed where No. 47 and 49 have their own designed front building line. However, I consider the significant deviation in building lines as a critical element for any proposal and cognisance of the building line of No. 45 is a key design consideration for any development on the appeal site. I note the submission of the appellant that these specific gable fronted layouts have only been

extended to the rear. While other gable fronted dwellings have not extended as proposed, each of the plot is unique within the estate and must be assessed on their merit.

- 8.6.2. Unlike No. 45, there is no proposed setback from the mutual boundary. I consider that integral to the layout and design of the small estate is the general set back from side boundaries particularly when properties are located at right angles to each other and where the side of one house faces the front garden of another. In this regard, I consider building out to the boundary and abutting a front garden at two storeys is visually domineering and out of character with the design and layout of the estate.
- 8.6.3. While the applicants wish to develop as proposed, they have considered that the Board may take this view and in the response to the appeal have offered to set back the two storey side extension to correspond with the front building line of the adjacent property (or to have a light coloured brick). A diagram (not to scale and without the necessary floor plan alterations) has been included in the appeal in the form of a red dotted set-back line and I note the shadow diagrams illustrate the proposal and set-back proposal. I consider that the visual impact of relocating the two storey side extension to match the front building line of No. 45 would be a significant visual improvement and though it reduces the floor area, it still allows for a reasonably sized extension. The applicants could also reconsider the design proposal with a two storey element centrally located on the rear elevation in a new application to achieve a larger floor area.
- 8.6.4. The application retains the wide setback on the western boundary while building two storeys up to the boundary on the eastern side where there is a single storey structure at present. While I do not consider that the development should be located onto the boundary line to the front of No. 45, I consider that locating adjacent to the boundary along the gable of No. 45 is acceptable as the space to side of No. 47 is limited owing to extended gable wall of No. 45 and as there are only non-habitable windows on that side currently bounded by the garage/shed.
- 8.6.5. In conclusion, I consider that the proposed two storey side extension should be set back to align with the front building line of No. 45 in the interest of visual amenities,

and this can be achieved by way of condition to be agreed. I note the response to the appeal was not circulated. I do not consider that this is a new issue and a condition to set back the extension is a reasonable approach and compromise.

- 8.6.6. **Open layout:** Many of the houses in the 1960s cul de sac have been altered in design and extended. I consider the open-layout of the estate design has transitioned to include more defined boundaries, mainly by mature planting and hedging. The CDP standards require that boundaries to the front of dwellings should generally consist of softer, more open boundary treatments, such as low-level walls/railings and/or hedging/planted treatments. I consider that the proposed development would result in a radical transformation of the front boundary of No.45 where a 5.1 m ( to eaves ) wall of the proposed building would form a new boundary of part of the front garden of No. 45. This would bring the existing building c 3.5 m closer to the boundary of the front garden of No. 45 and would in my opinion seriously injure the character of the area and the visual amenities of property in the vicinity.
- 8.6.7. I note the proposed boundary with No. 45 is a c 1.2 m block wall between the proposed extension and the roadside. The CDP standards accept low-level walls to the front of dwellings and this is acceptable. As I recommend revisions to the proposal, the revised boundary can be included in a condition to be agreed with the PA.
- 8.6.8. The PA condition that the vehicular access is a maximum of 3.5 m and gates are non-mechanical is considered reasonable, and I recommend a condition to be agreed. A tree on the verge to the front of No. 47 is not noted on the drawings and may require protection to facilitate the proposed widened access. While outside of the application site, details to be agreed upon can be conditioned with the PA as part of the condition on access.
- 8.6.9. **Terracing:** The CDP standards regarding extensions to the side and rear of houses generally apply to buildings on the same or similar building lines and this is reflected in section 13.3.7.1 (iii) where first floor side extensions built over existing structures will generally be acceptable but may require a set-back of an extension's front

façade to protect amenities, integrate into the streetscape, and avoid a ‘terracing’ effect. I consider that the proposed side extension is set back from the front elevation of No. 47 and forward of the front building line of No.45 and in this regard, I do not consider that the proposed development would create a terrace effect, contrary to the CDP. If the development is set back on the same building line as No.45, as recommended, I consider the separation between No.45 and the boundary, the proposed gable front to the pitch and set back from the front building line of No.47 will not create a terrace effect.

#### **8.7. Garden building**

- 8.7.1. The appellants are concerned about the use of the proposed garden building which is a c 32 sqm structure in the southwest corner of the garden. The space is indicated as 2 rooms. I consider that the proposed use is as stated, and any other use would require planning permission. I consider the location, height and size as acceptable in terms of residential amenity of the adjoining properties.

#### **8.8. Oversailing of property**

- 8.8.1. The applicants concede that the oversailing of the boundary as illustrated on the drawings was an error. I consider that this can be addressed by way of condition.

### **9.0 AA Screening**

- 9.1.1. I have considered the proposed extension and alterations in light of the requirements S177U of the Planning and Development Act 2000 as amended. South Dublin Bay SAC [000210] and South Dublin Bay and River Tolka Estuary SPA [004024] are located c 1km to north east of subject site.
- 9.1.2. The proposed development comprises an extension and alterations to a residential dwelling.
- 9.1.3. No nature conservation concerns were raised in the planning appeal.
- 9.1.4. 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 effect on a European Site.

9.1.5. The reason for this conclusion is as follows:

- The small scale and nature of the development.
- The Location-distance from nearest European site and lack of connections.

9.1.6. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## 10.0 Recommendation

10.1. I recommend that permission be granted.

## 11.0 Reasons and Considerations

11.1. Having regard to the provisions of The Dún Laoghaire-Rathdown County Development Plan 2022 -2028, the zoning of the site, and the pattern of development in the vicinity, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the character of the area or the residential or visual amenities of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by the following conditions.</p> <p><b>Reason:</b> To clarify the plans and particulars for which permission is granted.</p>
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2.	<p>The proposed development shall be amended as follows:</p> <p>The proposed two storey side extension on the eastern side of No. 47 Waltham Terrace, shall be set back and align with the front elevation of No.45 Waltham Terrace. The proposed development shall be located wholly within the application site. Revised drawings to a suitable scale showing compliance with these requirements and alterations to facilitate these amendments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual and residential amenity of adjacent property, to maintain the layout, design and character of the housing estate which includes varying building lines and orientation of houses and to clarify the plans and particulars for which permission is granted.</p>
3.	<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><b>Reason:</b> In the interest of public health.</p>
4.	<p>Details of the external finishes and boundaries of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>Details of the vehicular access shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(a) The proposed gate shall be no more than 1.1m in height and may be sliding or inward opening and shall not be automatic gates.</p>

	<p>(b) The development shall comply with the requirements of the Planning Authority with regard to vehicle entrance widths, tree protection and dishing of kerbs/footpaths.</p> <p><b>Reason:</b> In the interest of orderly development, visual amenity, pedestrian, cyclist and traffic safety.</p>
6.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p><b>Reason:</b> In the interest of visual and residential amenity.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the</p>



	<p>matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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.

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Rosemarie McLaughlin  
Planning Inspector

26<sup>th</sup> March 2024

## Appendix 1 - Form 1

### EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	ABP 321740-25			
Proposed Development Summary	Two-storey rear and side extension with a new garden building and all associated site works			
Development Address	47 Waltham Terrace, Blackrock, Co. Dublin, A94 X6R0			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)			<b>Yes</b>	X
			<b>No</b>	
<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)?</b>				
<b>Yes</b>			Proceed to Q3.	
<b>No</b>	X		Tick if relevant. No further action required	
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>				
<b>Yes</b>				EIA Mandatory EIAR required
<b>No</b>				Proceed to Q.4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>				
<b>Yes</b>				Preliminary examination required (Form 2)
<b>5. Has Schedule 7A information been submitted?</b>				
<b>No</b>	X	Screening determination remains as above (Q1 to Q4)		
<b>Yes</b>				

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