



An
Coimisiún
Pleanála

Inspector's Report ABP-322433-25

Development	Construction of extension and dormers with associated site works
Location	35 The Walk, Robswall, Malahide, Co. Dublin, K36 T862
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F25A/0158E
Applicant(s)	Lisa and Nathaniel Cope
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First Party
Appellant(s)	Lisa and Nathaniel Cope
Observer(s)	None
Date of Site Inspection	3/7/25
Inspector	Ronan Murphy

1.0 Site Location and Description

- 1.1. The appeal site has a stated site area of 0.013 hectares and comprises of a two-storey mid-terrace dwelling which is orientated on a north-south axis with the front and rear elevations presenting as gable profiles.
- 1.2. The appeal site is located on the northern side of a street known as The Walk within an area known as Robswall, which is located c. 1.2km to the southeast of Malahide Town Centre.
- 1.3. The appeal site is attached to existing two storey residential dwellings to the east and west. To the south of the site is a courtyard providing car parking and a vehicular access to the rest of the development. To the north of the site are properties within the Biscayne Estate. Given the contours of the land, the appeal site is slightly higher elevation than the dwellings in the Biscayne Estate.

2.0 Proposed Development

- 2.1. The proposed development comprises of a ground floor, single storey extension to the rear of the dwelling and the construction of 2 dormers to the rear of the dwelling at attic level.
- 2.2. The ground floor extension to the rear of the dwelling would have an external depth of c. 5.6m and an external width of c.6.2m to provide a floor area of 21m². The ground floor single storey extension would have a height of c. 3.2m with a flat roof.
- 2.3. The proposal also includes an attic conversion with 2 dormer structures. The dormers would be located within the eastern (side) and western (side) facing gable roofs to the rear of the dwelling.
- 2.4. The east facing dormer would have the following characteristics of c.2.1m high x 3.2m wide x 3.9m in depth. The west facing dormer would have the following characteristics 1.8m high x 3.7m wide and 3.9m in depth. Both dormers are shown as being set down from the ridge of the dwelling and both are set back from the eaves. Neither of the dormer structure have windows. The proposal includes a large Apex window within the rear elevation at attic level.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 22nd April 2025 the Planning Authority decided to grant planning permission subject to 9 conditions. The conditions are generally standard with the exception of Condition 5 which requires the following:

5. The window proposed to serve the attic level on the rear elevation (north) shall not exceed the following measurements, 1810mm (w) x 1500mm (h), eliminating the apex glazing.

REASON: *In the interest of Residential amenity.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 There is one area planners report on file dated 22nd April 2025. The area planner outlines that the proposed ground floor extension is modest in nature and would integrate appropriately without undue visual impact. With respect to the dormers the area planner acknowledges that the design has adequately addressed the reasons for refusal of a previous application on the land and would not be unduly dominant. However, the area planner outlines concern with respect to the Apex window within the rear gable in combination with the level difference with the site to the rear would lead to a perception of overlooking. The area planner recommended that the height of the window should not exceed 1.5m and a width of 1.810m, effectively eliminating the glazing extending into the apex.

3.2.2. Other Technical Reports

- **Water Services:** Report dated 3/4/25 outlining no objection, subject to conditions.

3.3. Prescribed Bodies

None

4.0 Planning History

4.1 Appeal site

F24A/0890E: Application for a new single storey extension to the rear of the existing house at ground floor level, the construction of 2 new dormers to the rear of the house, incorporating juliet balcony and new rooflights to existing roof. Permission refused for the following reason:

- 1. The proposed rear dormer structures would be unduly dominant on the rear roof slope and would be visually overbearing upon the adjoining properties when viewed from the private amenity spaces. Furthermore, the excessive glazing and juliet balcony would create an unacceptable degree of new third level of overlooking. The proposed development would fail to integrate within the rearward setting and would be seriously injurious to the amenities of the properties. The development as proposed would be contrary to Policy 14.10.2.4 and objective SPQHO45 of the Fingal Development Plan 2023-2029 which would in turn be contrary to the RS Zoning Objective which seeks to Provide for residential development and protect and improve residential amenity.*

The design of the development currently being considered has been altered from that which was refused on the following ways:

- The height of both dormers has been reduced.
- The level of glazing in the apex window has been reduced.
- The Juliet balcony has been omitted from the proposed development.

4.2 Nearby relevant planning history

Reg. Ref. F24A/0863 / ABP-321428-24 39 The Walk. Application for Retention of garden shed/gym/playroom. Retention permission granted, subject to conditions, this decision was the subject of a third-party appeal to An Bord Pleanála. The decision of the planning authority was upheld.

Reg. Ref. F24A/1122. 39 The Walk. Application to retain amended glazing to first-floor extension granted under permission F19B/0142 from 2.8m x 1.3m to 4m x 2.4m. Permission and retention permission granted, subject to conditions.

Reg. Ref. F23B/ 0115. 33 The Walk. Application for a new single storey extension to the rear of the existing house at ground floor level and the construction of a new attic dormer window, including roof lights, all to the existing rear roof slope and all associated site works. Permission granted, subject to conditions.

Reg. Ref. F19B/0102. 29 The Walk. Application for a new single storey extension to the rear and conversion of the existing attic to storage space to include proposed rooflights to the rear and front roof slope with all associated site works. Permission granted, subject to conditions.

Reg. Ref. F19B/0049. 27 The Walk. Application for a new single storey extension to the rear, conversion of the attic space to include a new dormer window to the rear roof slope and 1 no. roof light to the front roof slope with all associated site works. Permission granted, subject to conditions.

Reg. Ref. F19B/0142 / ABP-305203-19 39 The Walk. Application for 2 storey extension to rear of existing dwelling. Permission granted, subject to conditions. This decision was subject to a third-party appeal to An Bord Pleanála. The decision of the Planning Authority was upheld.

Reg. Ref. F16B/0167 / PL06F.247251 31 The Walk. Application for the construction of a single storey extension, internal modifications to house and all associated site works. Permission granted, subject to conditions. This decision was the subject of a third-party appeal to An Bord Pleanála. The decision of the planning authority was upheld.

Reg. ref. F15B/0172 / PL06F.245578 31 The Walk. Application for Part double, part single storey extension to rear of dwelling, new window to rear of 2nd storey with internal modifications and associated works. Permission granted, subject to conditions. This decision was the subject of a third-party appeal to An Bord Pleanála. The decision of the planning authority was upheld.

5.0 Policy Context

5.1. Development Plan

5.1.1 The *Fingal County Development Plan 2023-2029* is the operational plan for the area. The appeal site is zoned 'RS,' Residential with the associated land use objective '*to provide for residential development and to protect and /or improve residential amenity.*' The appeal site is also located within the Dublin Airport Noise Zone C.

5.1.2 The following sections /policies / objectives are pertinent:

Section 14.10.2.5 which states that roof alterations (including attic conversions and dormer extensions) will be assessed against a number of criteria including the character of the area, existing roof variations in the area, distance to the proposed roof end and harmony with the rest of the roof structure. It is noted that excessive overlooking should be avoided.

SPQH41: which seeks to support the extension of existing dwellings.

SPQH045: which seeks to encourage sensitively designed extensions to existing dwellings.

Section 14.6.6.4 which states that development proposals must assess levels of overbearance and potential to cause significant levels of overlooking to neighbouring properties. Overlooking may also be addressed by appropriate design-led solutions including the sensitive placement of fenestration and balcony treatments.

5.2. Natural Heritage Designations

5.2.1 There are no designated sites in the immediate vicinity of the appeal site. The closest sites are the Malahide Estuary SPA, the Malahide Estuary SAC, and the Malahide Estuary pNHA which are 329m to the north-east of the site.

5.2.2 There is no connection to any European (Natura 2000) sites and no pathways.

5.3. EIA Screening

5.3.1 See completed Form 1 below. The proposed development is not a class for EIA purposes.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Lisa and Nathaniel Cope against conditions. The first party appeal includes a design statement prepared by James Grieve Architects and photographs of the property at No.39 The Walk, Robswall, Malahide, Co. Dublin.

6.1.2 While the appeal does identify the specific number of the condition being appealed, I am satisfied that it relates to Condition 5.

6.1.3 The appeal can be summarised as follows:

- The dwelling has gables elevations at the front and rear instead of the more usual situation of at the sides of the dwelling. The dormer must go to the end where the apex of the roof is.
- They cannot build in a more traditional way as the first floor en-suite is required to be retained to provide a tailored bathroom for the applicants 4-year-old daughter, who is disabled.
- The back wall is a triangle and as result the window needs to be apex shaped.
- The previous application was refused permission purely based on the shape of the window as permission was granted for dormer windows with larger areas at No's 27 and 33 The Walk.
- The alterations to the apex window including the changing the shape and size would mean that the applicants would have to bend down to look out the window, which is not reasonable.
- No.39 The Walk was granted retention permission for wall to ceiling windows.

6.2. Planning Authority Response

6.2.1 Letter dated 21/5/25 stating that the development was assessed against relevant policy and guidance in the *Fingal County Development Plan 2023-2029* and relevant national and regional policy. The Planning Authority engaged in pre-planning with the

applicant who were advised that certain elements of the proposal would not be acceptable in principle. The Planning Authority decided that the proposed development adequately addressed the reasons for refusal with Reg. Ref. F24A/0890E and as such was acceptable, subject to condition which reduced the size of the window and eliminating the apex glazing. It is noted that the attic accommodation does not meet minimum floor to ceiling heights and would be non-habitable. An Coimisiún Pleanála is requested to uphold the decision of the Planning Authority and if permission is granted then to include conditions relating contributions in line with the Section 48 Development Contribution Scheme and tree bonds.

6.3. Observations

6.3.1 There are no observations on file.

7.0 Assessment

7.1 The appeal relates to a first party appeal against conditions. The first party appeal documentation does not specifically state which condition is being appealed; however, having read the first party appeal I am satisfied that this appeal relates to Condition 5 of the Notification of Decision to Grant Planning Permission.

7.2 Condition 5 requires that the window proposed to serve the attic level should not exceed 1810mm (w) x 1500mm (h), eliminating the apex glazing.

7.3 I consider that there is no other planning issues raised in the application, other than the said condition, and I recommend that the Board consider the appeal under section 139 of the Planning and Development Acts 2000, as amended, and confine its consideration to the matters raised in the appeal. Condition 5 is considered below.

Overlooking

7.4 In broad terms that area planner's report outlines concerns that the combination of the height of the Apex window with the level difference of the appeal site to sites to the rear would lead to a perception of overlooking.

7.5 I note the concerns of the Planning Authority with respect to the potential of overlooking from the proposed Apex window. While there may be some level of overlooking from this window, I am satisfied that the level would be similar to available

overlooking from the existing first floor windows. In my opinion, mutual overlooking of the rear of properties is to be expected in urban areas. I note that the window would be set back c. 23m from the opposing rear elevation of No. 144 Biscayne. This is in excess of the separation distance of 16m between opposing windows serving habitable rooms set out in SPPR1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024.

Floor to ceiling height

- 7.5 I note that the design of the window is essentially a floor to ceiling window at attic level and this might be considered unusual in a setting such as the appeal site. However, the planning authority has granted permission for a similar layout at No.39 The Walk (**Reg. Ref.** F24A/1122- see planning history above), and in this context, I am satisfied that the proposed Apex window is acceptable.

Shape of the window

- 7.6 While the shape / design of the Apex window is unusual in a residential area, the proposal would be to the rear of the dwelling, in a backland situation which would not be visible from the public realm. I am therefore satisfied that the proposal would not have any impact on the residential amenity of the area and is therefore acceptable.

Conclusion

- 7.6 Overall, I would have no significant concerns regarding the impact of the proposed development on adjoining properties. On balance, the proposals will improve the usable floor space of the dwelling for the residents without impacting negatively on surroundings. I therefore recommend that condition 5 be removed.

9.0 Recommendation

- 9.1 Arising from my assessment above, I recommend condition no. 5 of the Planning Authority's decision be removed.

10.0 Reasons and Considerations

- 11.1 Having regard to the nature and scale of the proposed development and the pattern of development in the area, it is considered that, the proposed development would not have a significant impact on the residential or visual amenities of the area and would therefore be in accordance with the proper planning and sustainable development of the area. I therefore recommend that **condition no. 5 of the Planning Authority's decision removed.**

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.

Ronan Murphy
Planning Inspector

9 July 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322433-25
Proposed Development Summary	Construction of extension and dormers with associated site works
Development Address	35 The Walk, Robswall, Malahide, Co. Dublin, K36 T862
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project.' Proceed to Q2. <input type="checkbox"/> No, no further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	10(b)(i): Construction of more than 500 dwelling units 10 (b)(iv): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

