



An
Coimisiún
Pleanála

Inspector's Report

PL-500518-DR-25

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| Development | Alterations to completed approved works including retention of minor alterations and associated works. |
| Location | 35 Eden Park Drive, Goatstown, Dublin 14, D14X6W7 |
| Planning Authority | Dun Laoghaire-Rathdown County Council |
| Planning Authority Reg. Ref. | D25A/0764/WEB |
| Applicant(s) | Ian Dermody & Anne Marie Flanagan |
| Type of Application | Retention |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Carl O'Brien |
| Observer(s) | None |
| Date of Site Inspection | 14/02/2026 |
| Inspector | Rosemarie McLaughlin |

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1.0 Site Location and Description

1.1. No. 35 Eden Park Drive is a semi-detached house located in an established residential area c. 885 m east of Dundrum Town Centre. The two storey, hipped roof house is located on the western side of Eden Park Drive and has been recently extended on the southern gable side and to the rear (west). Within the red line of the subject site, adjacent to the extended southern gable, is an access to an ESB substation which bounds the appeal site and the neighbouring property to the south, No.37 Eden Park Drive. No.37 which is a corner site is splayed towards Eden Park Drive and is the home of the appellant. To the west of the site (rear) is a public open space associated with the Knocknashee housing estate, and to the north of the site is the attached house, No. 33 Eden Park Drive.

2.0 Proposed Development

2.1. The public notices describe the proposed development as follows.

“Alterations to completed works, previously approved under Planning Reg. Ref: D22A/0515, to an existing 2-storey semi detached dwelling. These works include the retention of the overhang of the eaves to the first-floor gable-end extension, the retention of the extended flat roof incorporating a covered area to the single storey extension to the rear, minor alterations to the positioning of window openings to first floor level to the side and rear elevations, together with alterations to the site boundary which now incorporates the side access lane including access to the rear garden and a vehicular entrance to the front of the property, and all associated ancillary site works”.

The application site includes within the red line an access to an ESB substation along the southern gable of the house, with a right of way highlighted in yellow. A letter from a solicitor accompanies the application and states the applicants have acquired the freehold interest in the lane and provide a dealing number with Tailte Eireann, which is pending registration.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority (PA) granted permission subject to four standard type conditions.

3.2. Conditions- summary

1. Development to be retained in accordance with the details lodged.
2. Development to be retained accordance Ref. D22A/0515, save as required by the other conditions.
3. Glazing of the first-floor southern bathroom window to be obscure.
4. Footpath/site construction works condition.

3.3. Planning Authority Reports

3.3.1. Planning Reports

- The planning history, relevant planning policy, relevant CDP provisions and contents of the submitted objection are set out.
- The overhanging eaves and rear flat roof are considered acceptable and align with the CDP provisions. The alterations to the windows are considered minor and a condition can be applied to obscure the first floor window on the southern elevation.
- This application incorporates the laneway to the south and legal matters raised by the observer are not part of the application.
- Permission was recommended in accordance with the report contents.

3.3.2. Other Technical Reports

- **Transport Report:** No objection subject to conditions.
- **Drainage Report:** No objection.

3.4. Prescribed Bodies

None on file.

3.5. Third Party Observations

One observation was submitted from the owner of No.37 Eden Park Drive, which objected to the proposed development on several grounds including the following:

- Unauthorised development and non-compliance with permission ref. D22A/0515.
- Misleading description of development.
- Access lane is subject to a 999 lease to No. 37 Eden Park Drive, where a right of way in favour of the ESB is breached.
- Other issues raised are summarised in the appeal grounds below.

4.0 Planning History

4.1. Relevant history on subject site

- 4.1.1. **D22A/0515:** Permission (parent permission) was granted on 16/02/23, for demolition of extensions, construction of a new single storey extension to the rear and new 2-storey extension to gable, new entrance porch, new bay window, conversion of attic space, velux rooflights, widening of vehicular access and all associated site works. The red line of that application excluded the lane along the southern gable.

4.2. Relevant history on adjacent site

- 4.2.1. **D22/0326:** Retention/Permission for development at 37 Eden Park Drive (to the south) was granted on 11/08/22, for retention of front single storey porch, single storey rear extension, widening of the vehicular entrance, landscaping works and permission for single storey side extension, garage conversion, ancillary elevational alterations, side boundary slatted open timber fences and associated drainage.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dun Laoghaire County Development Plan 2022-2028 (CDP) applies. The site is in an area zoned 'Objective A' which seeks '*to provide residential development and improve residential amenity while protecting the existing residential amenities*'.

5.1.2. Section 12.3.7.1 of the CDP applies to extensions to dwellings where subsection (ii) relates to extensions to the rear. 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.

5.2. **Natural Heritage Designations**

5.2.1. The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA. The closest designations are South Dublin Bay SAC [000210] and South Dublin Bay and River Tolka Estuary SPA [004024] c 3.5 km to the northeast.

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. Refer to Form 1 in Appendix 1 of report.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

- The applicants misled the planning authority which ignored the conditions of D22A/0515 and have been rewarded with a grant of permission for retention. The submission to the PA was not entirely based on ownership issues.
- A privacy issue arises owing to the retention of a large opening in the additional rear single storey extension and is assumed to be a window facing directly into the adjacent property. There are two large scale openings which are excessive and in contravention of the original grant. This creates a privacy issue for the appellant's property. This is exacerbated by the elongated single storey extension and the difference in the site levels where the applicant's unauthorised opening looks directly into the ground floor windows of the rear living area of No.37 Eden Park Drive. Images are attached.

- The application does not include the demolition of sections of the side wall.
- Planning permission was not sought for the unauthorised structure or the additional section of the structure, and the opening should be completely blocked up and not screened or have frosted glass.
- In the original permission, an issue was raised about the development extending over the access lane. This was subsequently revised. Despite this, the development was carried out as originally proposed and was the subject of enforcement. No consent was given to the applicants to allow over sailing. Photographs are submitted.
- Despite the original permission, the applicants demolished approximately 4.5 metres of the rear garden boundary wall causing a privacy issue for the residents at No. 37 Eden Park Drive. The original boundary wall existed to provide privacy between the properties, and this is exacerbated by the difference in elevation and orientation. This is contrary to the original grant of permission. Photographs are provided.

7.2. Applicant Response

The response to the appeal may be summarised as follows.

- The applicants are the freehold owners of the laneway. The appellant has provided no proof of title. The laneway is subsidiary and ancillary to No. 33 Eden Park Drive.
- The concerns about the overhanging soffit in the original application were addressed in further information (FI). During construction, it became apparent that the cut back soffit resulted in an asymmetrical and odd looking arrangement to the hipped roof. The application for retention was made in that context as the applicants have acquired the laneway outright from the freehold owner with whom they had been engaging with for some time.
- In relation to the opening in the single storey extension, this is not a window or door. It is an external opening to the side of an open external overhang, which has timber fins that fully cover the opening. It is not possible to see clearly through from No. 37. The submitted photographs do not refer to the seven foot high, party wall between the properties.

- Development at No.37 Eden Park Drive was unauthorised development. Planning retention for that development was sought upon completion, Ref. D22/0326. The retention granted bears limited resemblance to what has been built. That planning application sought a 2m timber fence which was never erected. This is required to alleviate the appellant's overlooking of the laneway and gardens. Photographs are appended.

7.3. **Planning Authority Response**

The PA refer to the Planner's report and do not consider the appeal raises any matter that would justify a change in attitude.

7.4. **Observations**

None.

8.0 **Assessment**

8.1. I consider that the assessment may be considered under the following headings.

- Principle of development
- Ownership / overhanging eaves
- Impact on residential amenity of neighbouring property
- Non-compliance with D22A/0515

8.2. **Principle of development**

8.2.1. The site is zoned 'A' in the CDP, which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities'. Policy Objective CA8 'Sustainability in Adaptable Design', allows the improvement of standards for habitable accommodation, by allowing dwellings to be flexible, accessible and adaptable in their spatial layout and design.

8.2.2. There are four elements of development to be retained:

- i. Overhanging of eaves to the first-floor gable-end extension (beyond permitted in the parent permission).
- ii. Extended flat roof incorporating a covered area to the single storey extension to rear.

- iii. Alterations to the positioning of window openings to first floor, side and rear elevations.
- iv. Alterations to the site boundary which incorporates the side access lane, including access to the rear garden and a vehicular entrance to the front.

8.3. I consider the above described residential developments to be retained as acceptable in principle, subject to compliance with the applicable criteria outlined in the next sections.

8.4. **Ownership / overhanging eaves**

8.4.1. The appellant states in the observation to the PA, that the laneway (along the gable of No. 35), is the subject of a 999 year lease attached to his property No.37 Eden Park Drive, and provided a copy of a 1952 indenture to the PA. The appellant also contends that the applicants submitted an OS map, not a land registry map, manually marked up which was intended to convince the planners that a section of the property at No.37 is part of the applicants property. The applicants state in the response to the appeal that the access is their freehold land, and a letter from their solicitor provides that they have acquired the freehold which is pending registration with Tailte Eireann and a dealing number is provided.

8.4.2. In relation to the issue of ownership, the applicants submitted to the PA supporting documentation from a solicitor that they may make the application. In this regard, I am satisfied that the application as provided, is validly made, and I concur with the view of the PA as set out in the Planner's report that Section 34(13) of the Planning and Development Act 2000 (PDA2000) as amended applies, as a "*person shall not be entitled solely by reason of a permission to carry out any development*". While I consider the issue of a dispute over ownership of the lane is outside the scope of this appeal, I note that the lane was not included in the application by the appellant for retention and permission in Ref. D22A/0326 at No. 37 Eden Park Drive. There is no current access to the rear of the appellant's property from the lane, and none was indicated on the application for retention/permission Ref. D22A/0326.

8.4.3. The applicants have used the correct OS mapping as required by the Planning and Development Regulations 2001 as amended (PDR2001) which includes the laneway within their red line and illustrates a right of way yellow, in accordance with the

PDR2001. The applicants do not stipulate who has the benefit of the right of way and this is no obligation in the Regulations to provide such details.

- 8.4.4. As I am satisfied that the application is validly made, I will consider the issue of the overhanging of eaves to the first-floor gable-end extension (beyond the parent permission) sought for retention. The appellant objects to this part of the development which overhangs a small section of the laneway as this is contrary to the permitted design which evolved by way of FI during the course of the parent application and on grounds of lack of consent to over sail the access area. As above, I am accepting this application and red line as provided to the PA and therefore, relying on Section 34 (13) of the PDA2000, I concur with the PA and the applicants that the visual impact is acceptable and improved in terms of design coherence. In relation to the development being contrary to condition no.1 of the parent permission, the PA and ACP are not bound by the previous condition when an application for retention is made.

8.5. Impact on residential amenity of neighbouring property

- 8.5.1. A planning issue that arises in the appeal is the impact on privacy on the appellant's home, No.37. I do not consider that any issues arise to the attached property to the north, No. 33 Eden Park Drive. I have addressed the overhanging of the eaves in the previous section and I will address the impacts from the other elements proposed.

Extended flat roof incorporating a covered area to the single storey extension to rear.

- 8.5.2. In relation to the retention of the extended flat roof incorporating a covered area to the single storey extension to rear, this presents as a covered rear veranda (c 1.5m deep and 5.7 m wide) with vertical louvres at each end, within a supporting wall. I do not consider this development has any significant impact on the residential amenity of the property to the south or north. I also do not consider that there is any significant overlooking of No.33 from behind the timber fins. If the veranda were not in place, the garden furniture could be in the same position with a higher degree of mutual overlooking.
- 8.5.3. The appellant maintains the situation is exacerbated by the difference in levels. The appeal site is lower than the appellant's site and the ground floor windows at No.37 are oriented towards the rear garden of No. 35 owing to the splayed layout.

Accordingly, owing to the height of the existing wall along the boundary at No.37 onto the lane, there are limited views to the higher sections of the ground floor windows at No.37 from the rear garden of the appeal site. I consider that the application site is overlooked to a greater degree from the appellant's home as it is on a lower level. I also note that when the appellant received planning permission for retention/permission at No. 33, Ref. D22A/0326, where a 2m timber fence was to be erected along the entire boundary which would eliminate mutual overlooking at the rear. A section of fence is only in place towards the front of the appellant's property and not along the side boundary at the rear.

- 8.5.4. The CDP in section 12.3.7.1 (ii) applies to extensions to the rear of dwellings where length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining will be considered. In this regard, I consider the extended flat roof incorporating a covered area is acceptable and consistent with the CDP provisions. A large rear garden is retained, and a section of the outdoor space has the benefit of a 1.5 m overhanging roof cover which allows shelter, shade and a clothes drying area.

Alterations to the positioning of window openings to first floor, side and rear elevations.

- 8.5.5. In relation to retention of alterations to the positioning of the 2 no. first floor windows on the south and west (rear) elevations, the window sizes and levels are retained as permitted in the parent permission but are marginally relocated within the elevation. I consider the alterations as de minimis and provide no significant change to the surrounding environment. The obscuring of the first floor bathroom window by way of condition by the PA is a normal and acceptable condition, and I note that the window was obscured on inspection, but a condition would clarify this should be a permanent requirement.

Alterations to the site boundary which incorporates the side access lane, including access to the rear garden and a vehicular entrance to the front.

- 8.5.6. The final element of the application for retention is described as alterations to the site boundary which incorporates the side access lane, including access to the rear garden and a vehicular entrance to the front. This element includes the lane within the overall site, and this has been dealt with above. The appellant raises the issue of the removal

of the boundary wall (onto the lane) and believes it should have been specified. I note the parent permission illustrates a wall, and this application includes an open access to part of the rear garden and to the vehicular entrance to the front but does not specifically seek to retain the removal of sections of the wall in the public notices. Drwg No.21-1042 R01 Site Layout Plan 1:500, highlights a red dotted line on the original site boundary, implying this is to be removed. I note the approved vehicular access arrangement is not to change and a pillar is located on the boundary of the lane. I am satisfied the public notices and submitted drawings for retention sufficiently indicate that a section of the wall is to be removed and the description of this element is satisfactory to alert the public to the development sought.

- 8.5.7. As I am accepting the applicants are the owners of the lane subject to Section 34(13) of the PDA2000, the issue next arises, should the removed parts of the boundary wall onto the lane be retained or should they be reinstated.
- 8.5.8. In relation to the section onto the rear garden, the removal of a section of wall allows for passive surveillance of lane and access to the garden over the laneway for bicycles and or bins without taking them through the house. In relation to overlooking to and from the appellant's property, the removal of the garden section of the wall does not in my opinion increase overlooking, owing to the height of the wall on the south side of the lane bounding No.37. Given the distance between the No.37 and No.35 and the pattern of residential development, I consider the issue of limited mutual overlooking is unlikely to have a significant impact.
- 8.5.9. In relation to removing the section of wall at the rear garden onto the lane, this results is a situation where access is available to the rear of the property from the public road as there is no gate to the public road across the access. While the applicants may consider this is acceptable, as planning is concerned with the long term, I consider that the rear private open space should be capable of being enclosed for the occupants of the house for security and safety reasons. In this regard, I consider that a gate should be provided, and this should be agreed with the PA. There is a right of way indicated on the drawings across this section of lane, but a gate on the boundary would not interfere with the right of way and will allow the garden to be secure.
- 8.5.10. In relation to retention of the removal of a low boundary wall between the lane and the front parking area, I note that gates were proposed and permitted in the parent

permission Reg. Ref. No. D22A/051 and the current application annotates “existing vehicular entrance granted permission under planning Reg Ref No. D22A/0515”. No gates have been placed between the pillars, and I consider as the removal of gates is not itemised or annotated in this application, the inward opening vehicular entrance gates are to be completed in accordance with Reg. Ref. No. D22A/051.

- 8.5.11. I can see no specific reason why the section of the wall illustrated on Drwg No.21-1042 R01 should not be removed to the front of the house (adjacent to the parking area) as the open nature of the front space and matching ground surface removes the look of an orphaned access lane providing a coherent appearance to the front of the property, while retaining the right of way. I do not consider that a condition is required about dishing the footpath/works as there is no proposal in relation to the access and this is covered by the conditions in the parent permission.
- 8.5.12. In conclusion, I consider the alterations to be retained which are at variance with the parent permission as consistent with section 12.3.7.1 of the CDP and acceptable in terms of impact on surrounding residential amenity subject to conditions. I concur with the PA that a condition that this permission relates to only the stated works in the public notices and the parent permission is otherwise to be complied with.

8.6. **Non-compliance with D22A/0515**

- 8.6.1. The appellant considers that the PA permission for retention allows a reward for developing contrary to a permitted development. Retention permission is a process under the existing planning legislation that may be utilised in circumstances when no permission was obtained for development, or when development is at variance with a permitted development. The application is for alterations to a permitted development that include retention of stated works, and these are highlighted in the submitted drawings. I consider that the application is in accordance with the legislation, and the description is adequate.

9.0 **AA Screening**

- 9.1. I have considered the proposed residential extension in light of the requirements S177U of the Planning and Development Act 2000 as amended.

- 9.2. The subject site is located c 3.5 km south-west of South Dublin Bay SAC [000210] and South Dublin Bay and River Tolka Estuary SPA [004024] c 4.28 km to the northeast.
- 9.3. The proposed development comprises retention of alterations to a house.
- 9.4. No nature conservation concerns were raised in the planning appeal.
- 9.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works e.g. small scale and nature of the development
 - Location-distance from nearest European site and lack of connections
- 9.6. I conclude that 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.
- 9.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 **Water Framework Directive**

- 10.1. The subject site is located c 710 m north-east of the Dodder, River Waterbody Code IE_EA_09D010900, with a moderate status. The subject site is separated from that waterbody by houses and roads in an urban area.
- 10.2. The proposed development comprises retention of alterations to a house.
- 10.3. No water deterioration concerns were raised in the planning appeal.
- 10.4. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

10.5. The reason for this conclusion is as follows :

- The small scale and nature of the development
- The location-distance from nearest Water bodies and lack of hydrological connections.

10.6. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1. I recommend that permission be granted.

12.0 Reasons and Considerations

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

13.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Register Reference D22A/0515, unless the conditions set out hereunder specify otherwise.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. The section of the rear side garden wall bounding the access lane to the ESB substation and the rear private open space which has been removed, shall be replaced with a gate. The gate shall be the same height as the side boundary wall that bounds the lane and rear private open space. Details of design, materials and dimensions shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of residential amenity, security and safety.

4. The glazing to the first floor gable window shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

Reason: In the interest of residential amenity.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Rosemarie McLaughlin
Planning Inspector
25th February 2026

Appendix 1: Form 1 EIA Pre-Screening

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|---|---|
| Case Reference | PL-500518-DR-25 |
| Proposed Development Summary | Retention of alterations to an approved house |
| Development Address | 35 Eden Park Drive, Goatstown, Dublin 14, D14X6W7 |
| 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? | <input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2. |
| | <input type="checkbox"/> No, No further action required. |
| <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - 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) | |
| 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. | State the Class here |
| <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 | |

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| 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 | State the Class and state the relevant threshold |
| <input 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) | State the Class and state the relevant threshold |
| 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: _____