



An
Coimisiún
Pleanála

Inspector's Report PL-501261-DR-26

Development	Demolition of rear extension and construction of part single storey part two storey extension to the rear, with associated works.
Location	73, Foster's Avenue, Mount Merrion, Co. Dublin, A94HF57
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D26B/0069/WEB
Applicant(s)	Gregory Dowling
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Philip O'Connor
Observer(s)	None
Date of Site Inspection	10 July 2026
Inspector	Natalie de Róiste

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1.0 Site Location and Description

- 1.1. The site, 73 Foster's Avenue, measures some 980 sqm and contains a two-storey semi-detached house, previously extended with a full-height side extension and a single-storey rear extension/projection. It is located on the north side of Foster's Avenue, and backs onto the grounds of UCD. The site slopes down gently from the house to the rear of the garden. The house is attached to the east to 71 Foster's Avenue (the appellant's property) and borders 75 Foster's Avenue to the west. The party wall between 71 and 73 is a stepped concrete block wall, c. 1.7- 2.0 metres tall, although a section close to the houses rises to c. 2.3 metres in height. The boundary between 73 and 75 is a planted boundary of mature trees, with a mix of leylandii and deciduous types.

2.0 Proposed Development

- 2.1. It is proposed to demolish the rear kitchen (c. 15 sqm) and construct a part-single, part-two-storey extension of c. 65 sqm, to provide an enlarged kitchen and living area to ground floor, and an additional bedroom over. A lift shaft is provided, to allow for the future installation of a lift. A pergola is provided between the living area and the existing shed (shown to contain laundry facilities).

3.0 Planning Authority Decision

3.1. Decision

Grant permission.

3.1.1. Conditions

Nine conditions were attached, including the following:

3. The glazing within the first floor North East side elevation (Bedroom 4) 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 interests of residential amenities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Site location, context and adjacent planning history noted. Technical reports and third party submission noted. Scale, layout and setbacks considered acceptable, subject to obscuring of first floor window. Grant recommended.

3.2.2. Other Technical Reports

- Environmental enforcement – conditions recommended in the event of a grant.
- Drainage planning – no objection subject to conditions.

3.3. Prescribed Bodies

None on file.

3.4. Third Party Observations

One received, from appellant. Issues raised are as per appeal.

4.0 Planning History

No history files provided by Local Authority. First and third parties both reference D01B/0358 on the appeal site, two-storey extension to side, 2001.

5.0 Policy Context

5.1 Dun Laoghaire Rathdown Development Plan 2022-28

- 5.1.1. The zoning objective for the subject development site is “A”: To provide residential development and improve residential amenity while protecting the existing residential amenities.
- 5.1.2. Chapter 4: Neighbourhood – People, Homes and Place sets out policies and objectives on housing in Section 4.3: Homes.

Policy Objective PHP19: Existing Housing Stock - Adaptation

It is a Policy Objective to:

Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.

Densify existing built-up areas the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

5.1.3. Chapter 12 gives detailed guidance on Development Management.

Section 12.3.7.1 Extensions to Dwellings provides guidance on various types of extensions (front, rear, side, and at roof level).

The following Section provides guidance with respect to porches, front extensions, side extensions, rear extensions, roof alterations, attic conversions and dormer extension.

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

- *Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries.*
- *Remaining rear private open space, its orientation and usability.*
- *Degree of set-back from mutual side boundaries.*
- *External finishes and design, which shall generally be in harmony with existing.*

5.2. Relevant National or Regional Policy / Ministerial Guidelines

5.2.1. Site layout planning for daylight and sunlight (BRE 209 2022)

- 5.2.2. These guidelines are referenced in the Compact Settlement Guidelines, and give advice on the achievement of good daylighting and sunlighting. They provide useful guidance on impacts to existing residences.

5.4 Natural Heritage Designations

None of relevance.

6.0 EIA Screening

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 (or Part V of the 1994 Roads).

7.0 The Appeal

7.1. Grounds of Appeal

One third-party appeal was received, from the owner of the adjoining house to the east. Issues raised are summarised as follows:

- The development as granted includes a high level window within a habitable room which would allow direct views into no 71. The condition requiring this to be frosted is insufficient; it should be fixed by condition, or eliminated entirely. There is adequate provision for light and ventilation from the other window to this room.
- The first floor element of the development will substantially reduce daylight and sunlight to no 71, which has west-facing ground floor windows and doors to the lounge and kitchen, and will add overshadowing late into the day to the deck and rear garden.
- The design, scale, and location of the extension would lead to overbearing impacts on no 71, exacerbated by the slightly higher elevation of no 73.

- The proposal materially contravenes the zoning objective for the area, and is contrary to *Section 12.3.7.1(ii) Extensions to Dwellings* of the Development Plan.
- The commission is requested to refuse permission, or in the alternative, attach amending conditions to reduce the scale of the extension, and remove the window facing the boundary, or condition it to be fixed and obscured.

7.2. Applicant Response

A response was received from the applicant's agent as follows:

- Regarding overlooking, the applicant is happy to accept a condition that the window facing the appellant's property be a fixed window with permanent frosted glazing.
- Regarding overshadowing, the proposed development is in keeping with the pattern of development in the area, is only 1.5 metres' greater than the return to no 71, and has a hipped roof to minimise overshadowing.
- Regarding overbearing impacts, the proposed development is set back 3.882 metres from the shared boundary, which is greater than the setback of 3.585 metres of the appellant's return. The total separation distance is 7.467 metres, a normal and acceptable distance for domestic extensions. An aerial view of the rear of the properties (an extract from google earth) is provided to illustrate the situation.

7.3. Planning Authority Response

The planning authority refers the Commission to the previous planner's report, noting that the appeal does not raise any matter which would justify a change of attitude to the proposed development.

7.4. Observations

None received.

7.5. Further Responses

None received.

8.0 Assessment

8.1. I have examined the application details and all other documentation on file, including the submission received in relation to the appeal, the reports of the local authority, and the material submitted by the applicant. I have inspected the site, and I have had regard to relevant local/regional/national policies and guidance. I consider the substantive issues to be considered as follows:

- Overlooking
- Overshadowing and impacts on daylight
- Overbearing impacts

8.2. Overlooking

8.3. The appellant has concerns regarding overlooking from the window in the side elevation. I note the appellant refers to this as a 'high level' window; it is a first floor window, but set at a regular height within the bedroom. It is a second window to the bedroom, predominantly east-facing, while the larger window looking over the garden is predominantly north-facing. It also allows daylight into the deepest part of the room. As such, it serves a useful function in admitting daylight and sunlight, and I would not be minded to omit it. I note the applicant's proposal to provide a fixed window. Mutual privacy would be assured between the properties by a condition requiring the window to be fixed, without undue impacts on the residential amenity of the new bedroom (which also has a skylight). I recommend such a condition be attached in the event of a grant.

8.4. Overshadowing and impacts on daylight

8.5. I have consulted the BRE Guidelines *Site layout planning for daylight and sunlight BRE 209 2022*, which sets out guidance on avoiding significant loss of daylight and sunlight to existing buildings. (An earlier version of this document is

available on the Office of the Planning Regulator's website). This sets out the benefits of sunlight to gardens, and sets out that if half of an amenity area (like a rear garden) receives at least 2 hours of sunlight on March 21st, it will appear adequately sunlit.

- 8.6. No shadow path diagrams have been submitted by either party. However, having observed the size of the gardens on my site visit, having regard to the photographs submitted by the appellant, and having regard to the design of the proposal, I have no concerns regarding overshadowing. Any additional overshadowing will be transient, and the appellant's garden will continue to enjoy good sunlight.
- 8.7. Regarding daylight, the relevant angle of elevation for developments which are directly in front of a window is 25 degrees – if the angle between the midpoint of the window and the top of the new building opposite it is 25 degrees or less, daylighting is unlikely to be significantly affected, and no further assessment is required. For extensions beside a window, a different test is used, with a 45 degree angle being of relevance.
- 8.8. Having considered the drawings, the angle of elevation between the kitchen window and the proposed new two-storey extension is in the region of c. 32 degrees. There may be some impacts to daylight to this window; however, this is in part due to the proximity of the window to the boundary; the closer a window is to the boundary with a neighbouring property, the more vulnerable it is to impacts from developments on that property.
- 8.9. I note also that there is an existing solid wall of considerable height between the properties, a large mature tree close to the shared boundary, and very large mature trees to the west boundary, including leylandii close to the house. Any additional impacts on daylight and sunlight from the new extension are not likely to be significant, in the context of the existing environment.

8.10. **Overbearing impacts**

- 8.11. I have considered the photographs submitted by the appellant, as well as the drawings on file. I do not consider the proposed development to be unduly overbearing. The applicant has not submitted any contextual elevations; however, it is clear from the drawings, the site visit, and the aerial mapping available, that the

proposed development has a similar setback from the shared boundary as the two-storey return to the appellant's house, which is of similar (though not identical) scale. I do not consider the existing extension at no. 71 unduly overbearing on no 73, and consider that the proposed extension will have similar impacts on the neighbouring property.

9.0 AA Screening

- 9.1. 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. I conclude that the proposed development (alone) would not result in likely significant effects on any European site. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.

10.0 Water Framework Directive

- 10.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.
- 10.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.
- 10.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.
- 10.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

11.0 Recommendation

- 11.1. I recommend a grant of permission, for the reasons and considerations below.

12.0 Reasons and Considerations

Having regard to the provisions of the Dun Laoghaire Rathdown Development Plan 2022-28, including Section 12.3.7.1, the character of the area, the scale and nature of the domestic development, and the suburban context, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the area.

13.0 Conditions

1. The development shall be carried out and completed 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. 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.

REASON: In the interest of clarity.

2. The proposed development shall be modified as follows:

The first floor window to the north-east elevation shall be fixed, and of 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 neighbouring residential amenity, to avoid overlooking and ensure mutual privacy.

3. 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, as amended. The contribution shall be paid prior to 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 matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

REASON: It is a requirement of the Planning and Development Act 2000, as amended, 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.

4. The 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.

REASON: To prevent flooding and in the interests of sustainable drainage.

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.”

Natalie de Róiste
Planning Inspector

10 July 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	501261-DR-26
Proposed Development Summary	House extension
Development Address	73 Foster's Avenue, Mount Merrion, County Dublin.
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?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
(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)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ 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
☒ 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?	

☒ 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.	
☐ 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
☐ 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 ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____