



An
Bord
Pleanála

Inspector's Report

ABP-321656-25

Development	Construction of a new detached dormer bungalow and all associated site works.
Location	78 Ballinteer Park, Ballinteer, Dublin 16, D16 KP20
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D24A/0829/WEB
Applicant(s)	Stuart Stein
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Stuart Stein
Observer(s)	Declan Coyle Philomena Donohoe & Tim Aseervatham Caroline Flannery Marie B. Stanley
Date of Site Inspection	24 March 2024
Inspector	Natalie de Róiste

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1.0 Site Location and Description

- 1.1. The site, 78 Ballinteer Park, comprises a two-storey semi-detached house (c. 85 sqm, ridge height 6.8 metres) with front, rear, and side gardens on a wedge-shaped site of 502 sqm, narrowing to the rear. It has pedestrian access only. It is the last in the row of houses on the east side of the road, close to the junction with Ballinteer Avenue. It is bordered to the south by the rear gardens of two-storey houses (17-20 Ballinteer Park, which are located facing onto Ballinteer Avenue). To the north, it is attached to no 77 Ballinteer Park. This is a mature residential housing estate, characterised by narrow-plan two-storey houses, most of which have been substantially extended to the rear.

2.0 Proposed Development

- 2.1. It is proposed to construct a three-bedroom, detached, dormer bungalow (105 sqm, ridge height 5.75 metres) in the rear garden, with two car parking spaces, vehicular access and a wayleave along the side garden. The site is to be subdivided to provide a rear garden of 71 sqm to the new house, with the existing house retaining a stated 60 sqm of rear garden (measuring at 49 sqm). A new vehicular entrance is also proposed to the existing house.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused, for the following reason:

Having regard to the size and shape of the site, it is considered that the proposed 3-bedroom dwelling at this location by virtue of its height, extensive footprint and its relationship with the existing dwelling on site, would constitute overdevelopment of a constrained site. In addition, the proposed development would be contrary to Section 12.3.7.6 Backland Development of the County Development Plan 2022-28 and would materially contravene the provisions of the current Dun Laoghaire-Rathdown County Development Plan, would seriously injure the amenities of the future occupants of the proposed

development and of property in the vicinity and would therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One report, summarised as follows:

- Site context, third party submissions and technical reports noted. Proposal not compliant with Development Plan policy on backlands development, constituting overdevelopment, and having overbearing impacts.

3.2.2. Other Technical Reports

- Drainage Planning – no objection subject to standard conditions
- Transport Planning – no objection subject to conditions, including amendments to comply with Development Plan policy on vehicular entrances.

3.3. Prescribed Bodies

Uisce Éireann – no objection in principle, standard condition recommended.

3.4. Third Party Observations

Seven observations received, all from neighbouring residents of Ballinteer Park.

Issues raised included the following:

Discrepancies in application documents; overlooking and impacts on privacy; overbearing impacts; overshadowing; noise from new driveway; overdevelopment of a constrained site; insufficient separation distances from neighbouring properties; 2-storey proposal contrary to Section 12.3.7.6 of Development Plan; contrary to local character and pattern of development; overspill car parking

4.0 Planning History

Planner's report notes no planning history on site.

Recent relevant permissions on nearby sites;

- 79 Ballinteer Park

D23A/0643 – permission granted for new 1½ storey 3-bedroom house to the rear, following submission of further information revising the scale of the proposal.

D22A/0997 – permission refused for two-storey 3-bedroom house to the rear, for 3 reasons, non-compliance with Development Plan policy on backlands development, on access to backlands development, and on vehicular access.

5.0 Policy Context

5.1. Dún Laoghaire-Rathdown County 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.* Residential is permitted in principle as a land use in this zoning.

5.1.2. Chapter 4: Neighbourhood – People, Homes and Place sets out policies and objectives on housing in Section 4.3: Homes.

5.1.3. Policy Objective PHP18: Residential Density

It is a Policy Objective to:

- *Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.*

- *Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.*

5.1.4. 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 in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.*

5.1.5. Policy Objective PHP20: Protection of Existing Residential Amenity.

It is a Policy Objective to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

5.1.6. Policy Objective PHP42: Building Design & Height

It is a Policy Objective to:

- *Encourage high quality design of all new development.*
- *Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF)*

5.1.7. Chapter 12 gives detailed guidance on Development Management.

Section 12.3.4.2 refers to standards set out in *Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities* (2007), and *Site Layout Planning for Daylight and Sunlight, A guide to good practice* (Building Research Establishment Report, 2011).

Section 12.3.7 deals with additional accommodation in built-up areas. Section 12.3.7.6 Backland Development sets out detailed standards for backland development as follows:

- *Generally, be single storey in height to avoid overlooking.*
- *Appropriate scale relative to the existing dwelling and of high quality of design.*
- *Adequate vehicular access of a lane width of 3.7 metres must be provided to the proposed dwelling (3.1 metres at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.*
- *A wider entrance may be required to a backland development to or from a narrow laneway. Existing dwelling and proposed dwellings shall have minimum individual private open spaces - exclusive of parking - of 48 sq.m. each for one/ two bedroom units, or 60 sq.m. plus for three/ four or more bedroom units.*

- *Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.*
- *Proposed two storey backland dwellings shall be located not less than 22 metres from the rear façade of the existing dwelling where windows of habitable first floor rooms directly face each other. Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.*
- *A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.*

5.1.8. Section 12.4 Transport sets standards for car and cycle parking and access.

5.1.9. Section 12.8 Open Space and Recreation sets standards for private open space and separation distances.

5.2. **National Policy and Guidance**

5.2.1. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024).

This document sets out four Specific Planning Policy Requirements (SPPR) which take precedence over any contradictory standards in Development Plans.

SPPR 1 – Separation Distances. This sets out that a separation distance of at least 16 metres shall be maintained between opposing above-ground windows serving habitable rooms.

SPPR 2 – Minimum Private Open Space Standards for Houses. This sets a minimum of 30 sqm for a 2-bedroom house, and a minimum of 40 sqm for a 3-bedroom house.

SPPR 3 – Car Parking. This sets a maximum rate of 1.5 spaces per dwelling in accessible locations such as this one.

SPPR 4 – Cycle Parking and Storage. This sets minimum quantitative and qualitative standards for cycle parking.

5.2.2. Quality Housing for Sustainable Communities (2007)

This sets out in *Section 5.3.2 Space Requirements and Room Sizes* the target gross floor area required for houses of various types, and the room areas and widths required to accommodate appropriate furniture and circulation space.

5.3. Natural Heritage Designations

- South Dublin Bay and River Tolka Estuary SPA 004024 – 4.9 kilometres
- South Dublin Bay SAC 000210 – 4.9 kilometres
- South Dublin Bay pNHA 000210 – 4.9 kilometres
- Fitzsimon's Wood pNHA 001753 – 1.3 kilometres

5.4. EIA Screening

See completed Form 1 and 2 on file. Having regard to the nature, size, and location of the proposed development and to the criteria set out in schedule 7 of the regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

One appeal was received, from the applicant against refusal. Issues raised are summarised below.

- Development complies with Policy Objective PHP19.
- Council's concerns are acknowledged, and modifications are proposed to address them as follows:
 - Omission of front elevation window to bedroom 2, and front window to bedroom 3, to address overlooking of existing house
 - Integration of side greenway inside the boundary wall, to provide a total of 62 sqm of open space to the existing house

- Lowering of proposed house level by 450 mm
- Automatic gates will be omitted
- The distance between first floor windows of the existing house and the proposed house is 14.1 and 15.1 metres, not 10 metres as stated in the planner's report, which is the distance from the single-storey extension.
- The proposed dwelling has a plot ratio of 0.33, (less than the average of 0.4-0.5 for backlands development) and site coverage of 18%. The existing dwelling has a plot ratio of 0.45, and site coverage of 29%. The overall plot ratio is .38 and the overall site coverage is 36%.
- The proposal does not constitute overdevelopment, and complies with recent national planning recommendations promoting higher density development in response to the housing crisis.
- Additional private open space could be provided to the existing house by reducing the size of the proposed dwelling
- There is no objection to the provision of fixed windows to bathrooms.

6.2. Planning Authority Response

Response received dated 23 January. The Planning Authority did not consider that the grounds of appeal raised any new matter which would justify a change of their attitude, and referred the Board to their previous report.

6.3. Observations

Four valid observations were received, all from residents of neighbouring houses in Ballinteer Park. Issues raised are summarised below:

- Proposal is overscaled, obtrusive, and overbearing.
- Proposed amendments do not address concerns previously expressed. Omission of certain windows risks increasing overlooking from remaining windows, and reduction in height (450 mm) is minimal.
- Proposal for greenway to side of house is unclear, as no plans submitted.

- Potential for noise impacts from access to rear of site.
- The proposed overdevelopment of the site precludes any extension to the existing property, or revisions to its excessively steep staircase.
- Separation distance is substandard and misrepresented on drawings, windows less than 22 metres from no 17 Ballinteer Park and no 10A Ballinteer Park
- Serious impacts on amenities, including privacy and visual amenities, contrary to Development Plan policy.
- Precedent cited (D23A/0643) is not relevant, with a much larger plot size and larger separation distances.

6.4. Further Responses

None received.

7.0 Assessment

- 7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal and the report of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Residential amenity of proposed development
- Neighbouring residential amenity

The appellant has suggested revisions to the development to overcome the appeal. However, no revised drawings have been submitted, and the below assessment is of the application as refused.

7.2. Residential amenity of proposed development

- 7.2.1. The Ministerial Guidelines *Quality Housing for Sustainable Communities (2007)* set out standards for room sizes and widths for new houses. There are a small number of discrepancies in the figures noted on the drawings, and the figures as measured.

There are also a number of discrepancies in the drawings, with a window to bedroom 2 shown on the plans but not on the elevation, and the L-shaped dormer window wider in elevation than in the roof plan. The figures as measured are shown below, and compared with the standards for a three-bedroom two-storey house.

	Minimum area required	Proposed	Minimum width required	Proposed
Living room	13	9.38	3.8	2.8
Aggregate living area	34	32.4		
Bedroom 1	13	14	2.8	3.2
Bedroom 2	11.4	12.3	2.8	3.4
Bedroom 3	7.1	7.65	2.1	2.4
Aggregate Bedroom Area	32	34		
Storage	5	6.1		
Total Gross Floor Area	92	104.6		

- 7.2.2. I note there is a combined kitchen/living/dining area, and the kitchen could be reduced in size or relocated to better accommodate a living area capable of accommodating sufficient living room furniture for five people. The aggregate living area is slightly deficient, with a small shortfall of less than 5%. I note the relevant guidelines do not make any reference to a variation of 5%, unlike the Design Standards for New Apartments 2020.
- 7.2.3. Proposed floor-to-ceiling height is 2.45 to the ground floor, rather than the more established 2.7 metres. I note also the significant overhang of the first floor over the dining room window, which would limit both daylight and sunlight from the southwest. Floor-to-ceiling heights are variable to the first floor, due to the arrangement of the dormers and the roof pitches; the floor-to-ceiling height at the eaves is c. 1.6 metres; the staircase rises under the eaves, and the headroom would be wholly inadequate on the landing. Any increase to the ceiling height here would have additional impacts on the property to the north (discussed further below).

- 7.2.4. The proposed private open space is c. 70 sqm. The relevant standard in the recent *Compact Settlement* Guidelines is 40 sqm (although the Planner's Report referred to the earlier, countermanded, Development Plan standards). The garden is overlooked by neighbouring properties, in a manner consistent with the suburban location; it is not visible to the public road, it would not be unduly overlooked or overshadowed, and would provide adequate residential amenity. I note the shadow study submitted is not correct, (showing identical shadows in the morning of July and November, for example). Nonetheless, given the location and orientation of the garden, and the distance from neighbouring two-storey structures, it would enjoy adequate sunlight.
- 7.2.5. Mutual overlooking and overbearing is discussed below.

7.3. Neighbouring residential amenity

- 7.3.1. The proposed house is located c. 9.7 metres east of the existing house, with a rear garden of c. 6.4 metres in length retained to the existing house. The garden measures c. 49 sqm, which exceeds the quantitative standard set out in the *Compact Settlement* Guidelines. It would be largely overshadowed by the existing house in the evenings, due to the shallow depth, though it would be likely to be adequately sunlight as a whole over the course of the day.
- 7.3.2. Regarding overlooking, there are three first floor windows in the new house at a short distance, located between c. 3.8 and 4.8 metres from the boundary, (with the centre window angled towards the new driveway). The existing house has two bedroom windows and a landing window at first floor. The above-ground window-to-window distance at first floor is c. 14.1 metres and c. 15.1 metres. This does not meet the relevant standard (the 16 metres distance set out in the *Compact Settlement* Guidelines, rather than the Development Plan standards referred to in the Planner's Report). However, I note that one window was shown (on one drawing) as frosted, and the appellant now proposes omitting two windows entirely. As each window serves a bedroom which has two windows, this could be done without undue impacts on future residents' amenity. However, the central window (while angled) would require some additional privacy screening.
- 7.3.3. However, I consider that the proposed new house is located unacceptably close to the existing house, and they would have undue overbearing impacts on each other.

- 7.3.4. A number of third parties have expressed concerns regarding overlooking; given the distances from the proposed new windows to the site boundaries, and the further distances to nearby properties, as well as the angle of outlook relative to neighbouring properties, I do not find that there would be undue overlooking of neighbouring properties. However, the location of the house c. 1.2 metres from the rear garden wall of 17 Ballinteer Avenue is of concern. While there is a distance of c. 21.2 metres from one structure to the other, this is a function of the length of the rear garden to 17 Ballinteer Avenue, and the proximity of the structure to the rear garden wall would have unacceptable overbearing impacts and impacts on visual amenity from that house and garden. The house is located just 368 mm from the adjoining property at 77 Ballinteer Park, and runs for a length of 10.1 metres, with a height of 5.75 metres. This neighbouring property, located to the north of the site, is the most sensitive to overshadowing, and the combined, height, length, proximity, and location in the mid-garden area would lead to unacceptable overshadowing and overbearing impacts.
- 7.3.5. On the whole, considering the overbearing impacts on neighbouring properties, including the parent property, and the design of the house with inadequate floor to ceiling height on the first floor landing due to the roof arrangement, this does not constitute a house of appropriate scale relative to the existing dwelling and of high quality design as set out in *Section 12.3.7.6 Backland Development*. I note the Planning Authority's refusal reason refers to a material contravention; in my view, as Section 12.3.7.6 does not comprise of a policy or objective of the plan, but supporting text, the development is not a material contravention of the plan.

7.4. Other Issues

- 7.4.1. Car and cycle parking provision is assessable under the relevant SPPIRs of the *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities*. However, due to the substantive reasons for refusal, I do not intend to interrogate this issue further.

8.0 AA Screening

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

9.0 Recommendation

I recommend permission is refused for the following reason.

10.0 Reasons and Considerations

1. Having regard to the size and shape of the site, it is considered that the proposed 3-bedroom dwelling at this location by virtue of its height, extensive footprint and its relationship with the existing dwelling on site, would constitute overdevelopment of a constrained site. In addition, the proposed development would be contrary to *Section 12.3.7.6 Backland Development* of the County Development Plan 2022-28 and of *SPPR 1 Separation Distances* of the *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities*, would seriously injure the amenities of the future occupants of the proposed development and of property in the vicinity and would therefore, be contrary to the proper planning and sustainable development of the area.

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.

Natalie de Róiste
Planning Inspector

1 April 2025

Form 1

EIA Pre-Screening

ABP Case Reference	ABP-321656-25		
Development Summary	Construction of house and all site works		
Development Address	78 Ballinteer Park, Ballinteer, Dublin 16		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	☒
		No	☐
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	☒	Class 10(b)(i) Construction of more than 500 dwelling units	Proceed to Q3.
No	☐		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	☐		EIA Mandatory EIAR required
No	☐	Class 10(b)(i) Construction of more than 500 dwelling units	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	☒	1 dwelling unit	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	☒	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes	☐	Screening Determination required	

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321656-25
Proposed Development Summary	Construction of a house
Development Address	Hy-Brasil, Hainault Road, Foxrock, Dublin 18
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	Construction of a house, and all associated site works. The size is not exceptional. The development would not be exceptional in the context. The development would not result in the production of significant waste, emissions, or pollutants.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The location is a suburban environment, a built up area. The development would not have the potential to significantly impact on an ecologically sensitive site or location.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	There are no likely significant effects on the environment.
Conclusion	
There is no real likelihood of significant effects on the environment. EIA is not required.	

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)