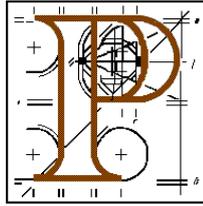


# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** PL29N.245255

**Development:** Two storey extension to rear to include use for home-based economic activity, together with vehicular access to garage at rear accessible from Connaught Street to No. 41 Shandon Drive, Phibsborough, Dublin 7

### Planning Application

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref.: WEB1152/15  
Applicant: Graham & Nin Thew  
Planning Authority Decision: Grant permission

### Planning Appeal

Appellant(s): (i) Francis Cummins  
(ii) Marie Bruen  
(iii) Shandon Residents' Association

Type of Appeal: Third parties

Observers: None

Date of Site Inspection: 8<sup>th</sup> October 2015

**Inspector:** Donal Donnelly

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The appeal site is located on Shandon Drive in Phibsborough approximately 2km north-west of Dublin City Centre. The Shandon area contains terraces of Victorian style 2-storey dwellings developed in the 1920's to the south of the Royal Canal and east of the now disused railway line.
- 1.2 Shandon Drive is a cul de sac located on an east to west axis to the south of a pitch and putt course. The dwellings on this road have gardens to the front and there is a tree-planted grass strip separating the footpath from the road. On-street parking occurs on the southern side of the road to the east of the cul de sac and on the northern side along the western part. There are laneways to the rear of dwellings accessed at the end of terraces.
- 1.3 No. 41 Shandon Drive is situated on the southern side of the road at the western end. The dwelling on site has a stated area of 101.2 sq.m. and the site area is 210 sq.m. The length of the rear garden between the rear wall of the dwelling and the garage at the end is approximately 15m. Single storey extensions have been added to the dwellings either side.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposed development comprises of the following main elements:
- 2-storey extension to the rear (34 sq.m. at ground level and 27 sq.m. at 1<sup>st</sup> floor level);
  - The use of the extension to include home based economic activity;
  - Increase width of existing garage at rear;
  - Vehicle access included to garage off a laneway accessible from Connaught Street.

### **3.0 PLANNING HISTORY**

Dublin City Council Reg. Ref: 3783/09

3.1 Permission granted at No. 17 Shandon Drive for construction of a 2 storey rear extension comprising:

- Ground floor open plan kitchen / breakfast room;
- First floor bathroom;
- Attic conversion with dormer window;
- 2 no. velux roof lights to the rear.

Dublin City Council Reg. Ref: 4441/09

3.2 Permission granted at No. 46 Shandon Drive for a 2-storey and single storey extension to the rear.

Dublin City Council Reg. Ref: WEB1101/11 (PL29N.239379)

3.3 Permission granted at No. 26 Shandon Drive for

- Two-storey barrel-roofed extension to rear;
- Attic conversion with flat roofed dormer window to rear.

### **4.0 PLANNING AUTHORITY DECISION**

#### **4.1 Planning and technical reports**

4.1.1 Under the assessment of the application, it is noted that the proposed development would be acceptable in principle under the zoning objective for the area.

4.1.2 It is noted that the eastern extent of the proposed extension will match that of the ground floor extension on the adjoining property. In view of the footprint of the adjoining development and its orientation, it is considered that the proposal would not impact on the amenities of this property. However, it is considered that the full width of the extension would detract from the amenities of the adjoining property to the east and therefore the proposed bedroom should be reduced in width by 1.2m from the boundary wall. The roof height of 7.029m is considered acceptable in order to

achieve satisfactory floor to ceiling heights. Overshadowing is not considered to be an issue.

- 4.1.3 The proposed home-based economic activity is a Chinese medicine practice that would generate between 15 and 20 visits a week. It is stated that the area indicated for the proposed use would be commensurate with a home-based economic activity. The Roads and Traffic Planning Division consider the proposal acceptable subject to condition precluding the use of the garage for visitors to the new activity.
- 4.1.4 The Case Planner concludes that the scale and nature of the enterprise would be in accordance with the provisions of the Development Plan and would therefore be acceptable.

## **4.2 Planning Authority Decision**

- 4.2.1 Dublin City Council issued notification of decision to grant permission subject to eight conditions.
- 4.2.2 The applicant is required by condition to set back the first floor bedroom extension from the western site boundary by 1.2m and to locate fenestration centrally at first floor level.

## **5.0 GROUNDS OF APPEAL**

- 5.1 Three third party appeals have been lodged against the Council's decision by/ on behalf of the owners of both adjoining dwellings, and on behalf of the Shandon Residents' Association. The grounds of appeal and main points raised in this submission can be summarised as follows:

### *Frances Cummins, 39 Shandon Drive*

- Proposed development as presented in application drawings does not accurately represent the existing extensions and associated building lines to the rear of No. 39 Shandon Drive.
- Size, scale and massing of proposed extension is excessive and will have an adverse impact on the character and amenity of the existing house and adjoining dwellings. 1<sup>st</sup> floor extension will comprise of a 6.6m high blank wall on the eastern side and no set back has been conditioned.

- Traffic and car parking requirements for the proposed home-based economic activity cannot be accommodated on Shandon Drive. Street fails to meet current car parking demand and it is not possible to regulate the number of visits to the clinic.
- Proposed development will establish a precedent for similar scaled extensions and economic uses in an area incapable of absorbing this type of development. Established precedent in the Shandon area is for first floor extensions that do not exceed 3-4m in depth.
- Layout of the proposed extension will provide for substandard accommodation within the existing dwelling. First floor part of the extension should be omitted in its entirety and home-based activity should be refused.

Marie Bruen, 43 Shandon Drive

- Scale of development is out of proportion to the existing terraced dwellings.
- Proposal will completely destroy any amenity of sunshine from the east and south currently enjoyed by the appellant.
- There is no detailed information on the proposed commercial activity – it is completely out of context with this quiet cul de sac and could compromise security.
- Laneway to the rear is not designed to service commercial clients.
- It is likely that the 2-storey development will be constructed on community sewers and it could significantly impair their operation.

Shandon Residents' Association

- Roads and Traffic Department of the Council has already determined that there are not enough spaces per house to facilitate a residents' parking scheme on Shandon Drive – home-based economic activity will exacerbate the already chronic parking issue.
- There is no explicit condition to restrict the number of clients – why is there a need for a waiting room if such a low number of clients is anticipated?

- Applicant states that clients will be encouraged to park on Shandon Road which is pay and display and Shandon Drive is free parking.
- There are a large number of children living on Shandon Drive and residents are aware of this and drive accordingly.
- There are a considerable number of local commercial premises available for rent in the area for such an activity.
- Development Plan states that a temporary permission for three years may be granted for home-based economic activity.
- Permission for an extension of this size and scale, if left stand, sets a dangerous precedent that risks undermining the whole fabric of this residential area.
- There is an existing, established pattern of development in the Shandon area which allows for extensions at ground level and modest 1<sup>st</sup> floor extensions. Scale of the proposed extension vastly exceeds the established norm.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

- 6.1.1 In response to the first party appeal, the Planning Authority considers that the Planning Report deals with the issues raised and justifies its decision.

### **6.2 Responses to appeals**

- 6.2.1 The applicant's agent submitted individual responses to the third party appeal. The main points raised in these submissions are summarised as follows:
- Precedent set by the proposed development for subordinate, clean line rear development could greatly support contemporary family living along these streets – there is a higher density to the east of Shandon Road.
  - Extensions in the past on Shandon Drive have not positively impacted on the visual or recreational amenity of adjoining properties.

- Shadow of the proposed development is mostly on roofs of existing extensions and overlays existing shadow patterns.
- There are extension schemes of greater impact and scale at Connaught Street (2308/05) and Shandon Park (WEB/1031/11).
- Impact of the observed drawing inaccuracy pertaining to No. 39 is that the new building will have even less effect on adjoining amenities.
- There have been strict limits in the surrounding area within north-facing gardens on how far extensions protrude into gardens. Gardens on north side of Shandon Drive are shorter and would be fully overshadowed.
- Home working concept is promoted in the Local Area Plan, Development Plan and National Spatial Strategy.
- Area assigned for the clinic is 11.4 sq.m. or less than 7% of the overall house.
- Three year permission unlikely to be required but applicant welcomes monitoring of the ongoing integrity and authenticity of their business activities.
- Proposed 2-storey extension has an effect on the immediate environment but this has been carefully mitigated to ensure that there is no adverse impact on the scale and character of the dwelling or the amenities of adjoining occupants.
- Extension shape, size, appointment and materials harmonise with the existing house and adjoining buildings. There will be very little invasion into the historic fabric of the house.
- Applicant accepts the insight of the condition requiring the setback from the western boundary.
- Appellant's comments regarding substandard accommodation should be set aside – applicant is satisfied with the quality of spaces and architect is bound to comply with building regulations.
- The creation and fostering of home activity, such as that proposed, are central and core principles of community consolidation. Such activity provides a day-to-day presence and surveillance on the street.

- Shadows cast by extension will not lie across the garden of No. 43, excepting a zone where there is already extensive shadow cast by extension within that property.
- Garden wall has been extensively extended vertically by the resident of No. 43 and this screening has a significant impact in terms of shadows cast.
- Applicant has described precisely the nature of the business, what the client profile is, how regularly appointments would take place and what they entail.
- Several businesses are already registered at and potentially practising from Shandon Drive.
- Private domestic garage is for applicant's own use and not for clients. There are at least three vehicle accessible garages to the rear of Shandon Drive and Connaught Street.
- Any matters that arise with respect to drainage will be dealt with in the appropriate fashion and according to correct procedure.
- Local Authority is satisfied that the use will have a low to no impact and that this activity will be conducted precisely and faithfully as described.
- Waiting area will be used for clients if practitioner runs over an allotted slot or a client arrives early.

## **7.0 POLICY CONTEXT**

- 7.1 Within the Dublin City Council Development Plan, 2011-2017, the appeal site is zoned Z2, where the objective is *"to protect and/or improve amenities of residential conservation areas"*.
- 7.2 It is stated under Section 17.9.8 that permission to extend dwellings will be granted provided the proposal:
- Has no adverse impact of the scale and character of the dwelling;
  - Has no unacceptable effect on the amenities of adjoining properties.
- 7.3 Guidelines for residential extensions are included in Appendix 25.

7.4 Section 17.9.12 sets out the Planning Authority's considerations when determining applications for home-based economic activity.

## **8.0 ASSESSMENT**

8.1 In my opinion, the main issues to be addressed in this appeal are as follows:

- Development principle;
- Impact on the scale and character of the dwelling;
- Impact on residential amenity.

### Development principle

8.2 The appeal site is zoned Z2, where the objective is "to protect and/or improve amenities of residential conservation areas". The proposed extension of the dwelling would therefore be acceptable in principle subject to an assessment of the proposal under relevant Development Plan criteria.

8.3 Home-based economic activity is permitted in principle under the Z2 zoning. The proposed extension includes an area of 11.5 sq.m. for home based economic activity (Chinese medicine practice). This proposal would fit the description in the Development Plan as a small scale economic activity carried out by residents of a dwelling being subordinate to the use as a single family dwelling.

8.4 There is a presumption in favour of home-based economic activity subject to an assessment of the nature and extent of the work, impact on adjoining amenities and traffic levels. It is also stated that a temporary permission for three years may be granted to enable the Planning Authority to monitor the impact of the development on the area.

### Impact on the scale and character of the dwelling

8.5 Appendix 25 of the Development Plan sets out principles that should be followed for new extensions. In general, extensions should not have an adverse impact on the scale and character of the dwelling. It is advised that the extension should not dominate the existing dwelling and should harmonise with the existing house. The extension should therefore play a supporting role to the main

dwelling and contemporary solutions should not detract from its character.

- 8.6 It is also noted in the Development Plan that *“development within conservation areas should be so designed so as not to constitute a visually obtrusive or dominant form of development. New alterations and extensions should complement existing buildings/structures in terms of design, external finishes, colour, texture, windows/doors/roof/chimney/design and other details.”*
- 8.7 It is proposed to increase the floor area of the existing dwelling from 101.2 sq.m. to 172 sq.m. The proposed 2-storey rear extension will have a mono-pitched roof sloping down from the proposed rear elevation. The structure will protrude from the existing rear elevation by approximately 6.6m.
- 8.8 In my opinion, the scale and bulk of the proposed extension is maximised by its design. The mono-pitched roof increases the height of the rear elevation of the extension, and moreover, the first floor layout, which essentially wraps around a light well, increases the overall bulk of the extension. The projection of 6.6m is marginally above the depth of the existing dwelling (approx. 7.6m).
- 8.9 It should be noted that the Board attached a condition to a permission for a 2-storey extension at No. 26 (PL29N.239379), which reduced the depth of the proposed structure from 3.8m to 3m. In normal circumstances, I would be of the opinion that a depth of 3m is reasonable in a terraced setting. However, some consideration should be given to the fact that the dwellings on both sides of the appeal site have single storey extensions and therefore the degree of protrusion only becomes apparent above ground level.
- 8.10 Notwithstanding, I would still be of the opinion that the proposed extension is overly dominant by virtue of its width, depth and height relative to the host dwelling. The Planning Authority has attached a condition requiring the setting back of the extension from the western boundary. I consider that this condition is reasonable. I would also be of the view that the overall depth of the extension at first floor level should be reduced to 4.5m.
- 8.11 I would be of the view that these reductions would impact on the internal layout of the first floor to an extent that a complete redesign would be required. However, I do not consider that an overly dominant proposal should be permitted so as to maintain the internal layout. The designer may therefore be required to facilitate the clinic and waiting area elsewhere within the dwelling.

8.12 I would have no objection to the proposed design of the extension. In my view, the brickwork and fenestration, together with the roof profile will provide a welcome contrast to existing rear elevations. The extension will not be visible within the streetscene and I also note that the extension permitted at No. 26 has a barrel vaulted roof.

*Impact on residential amenity*

8.13 Issues have been raised in third party appeals relating to the overbearing and overshadowing effects of the proposed extension, as well as the nature of the proposal and associated car parking.

8.14 I would have no concerns regarding the overshadowing impact of the proposed extension having regard to the southern aspect to the rear. In normal circumstances, a south-facing extension that projects from the rear building line by as much as 6.6m would overshadow adjoining properties in the morning and evening. However, in this case the extensions to adjoining properties shield from the effects of overshadowing.

8.15 Similarly, the overbearing effects of the proposed extension would be most apparent within any immediately adjoining private amenity space. The proposed extension, however, may give rise to an overbearing or over-dominant appearance when viewed from other adjoining properties, particularly to the east. As noted above, the Planning Authority considered it necessary to set the extension back from the western boundary by 1.2m. This, together with my recommendation to reduce the depth of the extension, will reduce the overall dominance of the extension when viewed from adjoining property on both sides.

8.16 In terms of the nature of the home-based activity and associated parking, I would be of the view that the internal area devoted to the proposed acupuncture clinic limits the traffic impact of the proposal. The proposed development is unlikely to attract any more than two vehicles to the premises at any one time. There would be sufficient capacity in surrounding streets to absorb this volume of traffic. Furthermore, the proposed clinic will be operational during the day when there would be lower demand for parking from residents.

8.17 It is suggested by appellants that a temporary permission for three years should be granted for the home-based economic activity. It is also highlighted that there is no explicit condition to restrict the number of clients attending the clinic.

8.18 In my opinion, it would be more appropriate to attach a condition to any grant of permission that limits the floor area allocated to the proposed clinic. As part of a condition to reduce floor area at first

floor level, I propose that the clinic floor area of 11.5 sq.m is maintained and not exceeded within any internal reorganisation of floorspace.

Appropriate Assessment

- 8.19 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

## **9.0 CONCLUSIONS AND RECOMMENDATION**

- 9.1 It is considered that the proposed development should be granted for the reasons and considerations hereunder.

### **REASONS AND CONSIDERATIONS**

Having regard to the zoning objective, the overall appearance of the proposed extension and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenities of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **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 points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

- 2 The proposed development shall be amended as follows:
- (a) The first floor of the extension shall be reduced in depth to no more than 4.5m. and set back from the western boundary by 1.2m;
  - (b) The internal layout and fenestration shall be amended accordingly;
  - (c) The floor area allocated to the clinic and associated waiting area shall not exceed 11.5 sq.m.;
  - (d) Any residual flat roof over the ground floor element of the extension shall not be used for general access or as a roof terrace/garden and access onto the roof shall be for maintenance purposes only

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

- 3 The proposed garage at the rear shall not be used for visitor parking associated with the home-based economic activity.

**Reason:** In the interests of amenity and of traffic safety.

- 4 Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

- 5 The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** To restrict the use of the extension in the interest of residential amenity.

- 6 Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public

holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

- 7 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Donal Donnelly  
**Planning Inspector**  
**Date: 22<sup>nd</sup> October 2015**