



An
Bord
Pleanála

Inspector's Report PL29S.247273

Development	Demolition of conservatory / store and the construction of single storey extension to rear of house.
Location	No. 12 Rathdown Park, Terenure, Dublin 6W.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3238/16
Applicant(s)	Ursula and Tony Duffy
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Michael Cranston Kenny Triona Stack and Stephen Higgins
Observers	none
Date of Site Inspection	7 th December, 2016
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located in Rathdown Park, an established residential area of two storey semi-detached dwellings located between the Rathfarnham Road and Templeogue Road in Dublin 6W.
- 1.2. The existing dwelling on the site is a two storey semi-detached dwelling that dates from the 1920s. The dwelling has previously been extended to the rear by the addition of a conservatory and sun room structure that runs across most of the width of the rear of the house and which currently extends approximately 5.5 metres down the garden adjacent to the boundary with the adjoining semi-detached dwelling at No. 10 Rathdown Park.
- 1.3. The stated floor area of the existing dwelling on the site is 227 sq. metres (inclusive of conservatory) and the stated area of the appeal site is 678 sq. metres.
- 1.4. The adjoining dwelling to the north at No.10 Rathdown Park has been extended to the rear by the addition of a sunroom that extends c.1.8 metres beyond the main rear elevation in proximity to the boundary with the appeal site. To the north, No.14 Rathdown Park retains its original layout and has not been extended.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing rear conservatory structure and a small boiler house structure that is located to the south and for the construction of a single storey L shaped extension. This extension has a stated floor area of approximately 60 sq, metres and is proposed to extend c. 10.5 metres from the original rear elevation of the house along the boundary with the semi-detached dwelling to the north (No.10 Rathdown Park).
- 2.2. The proposed extension would have glazing on the east and south facing elevations and is proposed to enclose a patio area to the south east of the extension. The roof of the proposed extension comprises a double pitched and hipped roof with rooflights in both pitches. The extension is proposed to be 3.2 metres high to eaves level and c. 4.35 metres high to roof apex level. At the boundary with No.10 to the north the extension is proposed to have a parapet wall that extends above eaves level and which from the drawings is approximately 3.7 metres above existing ground level.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 6 conditions all of which are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the nature of the proposed development and outlines the objections received. A decision consistent with the Notification of Decision issued is recommended.

3.2.2. Other Technical Reports

Drainage Division – No objection subject to conditions.

3.3. Third Party Observations

A total of two objections were made to the Planning Authority and the issues raised can be summarised as follows:

- Validity of the application and public notices.
- Negative impact on residential amenity due to loss of light, overshadowing, overlooking and overbearing visual impact.
- Materials not matching the existing in the area. Inaccuracies in the submitted drawings.
- That the widening of the vehicular access has not been undertaken in accordance with the permission granted.

4.0 Planning History

The following planning history is of relevance to the assessment of this appeal:

Dublin City Council Ref. 5225/08 – Permission granted by the planning authority for the widening of the existing vehicular access to the site.

5.0 Policy Context

5.1. Development Plan

It is noted that the application the subject of this appeal was assessed by the Planning Authority under the provisions of the Dublin City Development Plan, 2011-2017. Since the decision of the Planning Authority the new Dublin City Development Plan, 2016-2021 has come into effect.

The appeal site is located on lands that are zoned Objective Z2 under the provisions of the Dublin City Development Plan, 2016-2021. The stated objective for Z2 lands is *'to protect and or improve the amenities of residential conservation areas'*. It is stated in 14.8.2 of the Plan that the general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. Residential development is a permissible use on lands that are zoned Objective Z2.

Policy CHC4 relates to developments within conservation areas, including Objective Z2 residential conservation areas and requires that development will not harm buildings and street patterns that contribute to the special interest of the area, shall not harm the setting of the conservation area and shall not constitute a visually obtrusive or dominant form.

Appendix 17 of the Plan sets out design guidance with regard to residential extensions.

Paragraph 16.10.12 of the Plan relates to alterations and extensions to dwellings and states that development will only be granted where it will not have an adverse impact on the scale and character of the area and will not adversely affect amenities enjoyed by occupants of adjacent buildings In terms of privacy, access to daylight and sunlight.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the two third party appeals submitted:

- That the scale of the proposed extension is excessive and would have a negative impact on residential amenity of No.10 due to overshadowing, overbearing visual impact and loss of light.
- That the drawings are inaccurate in that the height of the boundary wall is incorrectly shown as 2.0 metres when it is actually 1.5 metres.
- That the height of the proposed ceiling in the extension is greater than necessary and could be reduced.
- That the parapet wall on the northern side of the extension where it adjoins No.10 is excessively high and could be reduced in height. The exact height of this element of the extension is not indicated on the submitted plans.
- That the height of the side wall adjoining No.10 internally in the extension is 2.65 metres which could be reduced without compromising the design / layout.
- That the proposed south facing windows towards No.14 would facilitate overlooking of the adjoining property.
- That the floor level of the extension and proposed patio is elevated above existing garden level (by approximately 350mm) and together with the inaccurate height of the boundary walls shown on the plans would result in the potential overlooking of adjoining sites.
- That the proposed layout is excessively large in plan and would result in the interior of the house being very dark.
- That the scale and floor area of the extension is excessive relative to the size of the existing accommodation.
- A number of revised options for the layout are proposed that would reduce the depth of the extension and which would reduce the impact on the amenity of

the residents of No.10 without reducing the amenity of the extension to the applicants. A number of design amendments / revisions to the submitted layout are also proposed.

- That the report of the planning officer makes no attempt to address the issues raised in the observations submitted. Only standard conditions are attached and there is concern that no site inspection was undertaken.
- That the application is invalid due to the public notices not being in a recognised paper.
- That there is an extension c. 6.3 metres deep under construction to the rear of No. 16 and the occupant of No.14 is concerned that he will be in effect left in a courtyard between the two extensions (at Nos. 12 and 16).
- That if the Board grants permission then the windows facing south towards the garden of No.14 should be omitted and extract vents not permitted to face the property of No.14.
- That conditions relating to ref. 5225/08, the widening of the entrance to No.12 have not been complied with and specifically no gates have been erected to the widened entrance. If permission is granted for the extension, then a condition requiring the provision of gates should be attached.
- That the roof should have clay roof tile to match the existing and not slates.

6.2. Applicant Response

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That the proposal integrates with the existing dwelling as required by 17.9.8 of the plan.
- That the proposed development would result in the retention of a large rear garden of c. 350 sq. metres. The proposal would not therefore have any impact on the character and scale of the existing dwelling and would have no unacceptable impacts on the amenities enjoyed by the occupants of the adjacent buildings in terms of privacy and access to daylight and sunlight.

6.3. Further Referrals

The first party response to the appeals was referred to the third parties for further comment. The following is a summary of the submissions received in response to these referrals:

- That the ownership of No.10 has now changed and confirmation of change of address / contact details.
- That the concerns regarding overlooking relate to the proposed building and not to the garden of No.12. The comments of the first party regarding the extent of garden to be retained are not relevant.
- There is no information as to why a window facing No.14 should be permitted.
- That the boundary wall to No.14 has been measured and is 1.59 metres on the side of No.12 and not 2 metres as shown on the drawings. On the appeal site side of the boundary the height of the wall is 1.7 metres and not the 2.0 metres shown on the drawings.
- That the level of the garden at No.14 is lower than what is indicated.
- That there may be other errors in the drawings that understate the impact on residential amenity.
- That the increase in floor level in the proposed extension would be 0.4 metre or greater and would facilitate overlooking of No. 14.
- There is no reference to compliance with conditions attaching to No.5225/08 or why the public notice was published in a community / local paper.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development.
- Accuracy of Drawings

- Design Scale and Impact on Residential Amenity
- Other Issues

7.2. Principle of Development

7.2.1. The appeal site is located on lands that are zoned Objective Z2 under the provisions of the Dublin City Development Plan, 2016-2021. Under this land use zoning objective residential development is normally permissible subject to compliance with other relevant development plan policies regarding design, layout and impact on residential amenity.

7.3. Accuracy of Drawings

7.3.1. The appellants have raised queries about the accuracy of the submitted drawings and have noted the omission of some dimensions from the submitted drawings. The principal issue raised relates to the height of the boundary wall between the appeal site and Nos. 10 to the north and No.14 to the south. It is contended that the actual height of the boundary wall is in the range of 1.5 – 1.6 metres rather than the 2.0 – 2.1 metres indicated on the submitted plans. During the course of my inspection of the site I measured the height of the boundary wall on both sides from within the appeal site. By my measurement the height on both sides, when measured from within the site is approximately 1.55 metres. I would therefore agree with the third party appellants that the boundary wall is not accurately represented in the drawings submitted.

7.3.2. I note the comments of appellants Triona Stack and Stephen Higgins regarding the absence of dimensions for the height of the proposed boiler house, internal height and length dimensions and particularly the exact height of the north facing side elevation towards No.10 and the lack of clarity regarding the height of the proposed parapet wall in this area. From my inspection of the plans there do not appear to be figured dimensions for the height of the boiler house or for the height of the parapet wall on the northern side of the extension, however an indication can be obtained by scaling from the submitted drawings. I also note that the overall external depth of the extension measures c. 8.6 metres when scaled from the floor plans (Drg. PP004)

and c. 9.1 metres when scaled from the site section drawing (Drg. No. PP005). It would also appear that the depth of the existing extension / sunroom to the rear of No.10 is inaccurately shown on drg. PP005 and that the correct depth of this extension was 1.85 metres rather than the c. 2.75 metres indicated. In the event that a grant of permission is being considered it is recommended that the submission of detailed plans showing all the main dimensions be required by way of condition.

7.4. Design Scale and Impact on Residential Amenity

- 7.4.1. The main issue raised in the appeal submissions relate to the potential impact of the proposed development on residential amenity. In the case of the owners of No.10 to the north this perceived impact relates primarily to the scale, length and bulk of the extension adjacent to the boundary and the impact on light and overbearing visual impact. For the occupant of No. 14 to the south of the appeal site the primary concern relates to the orientation of south facing windows in the extension, the raising of ground level in the extension and the resulting potential for overlooking of the appellant's property.
- 7.4.2. The proposed extension is of a significant scale and is laid out with an L shaped footprint such that it would provide the maximum level of light and amenity to the occupants. The extension does however adjoin the northern boundary with No.10 and has an external depth of c. 9.1 metres for the extension and c. 10.5 metres when the proposed boiler house is included. The height on this side of the extension where it addresses No.10 is also significant and I estimate the height of the parapet wall in this location to be c. 3.7 metres above ground level on the appeal site. The third party appellants (Triona Stack and Stephen Higgins) contend that the height on their side of the boundary would be slightly higher at c. 3.8 metres as the ground level on their side of the boundary is slightly lower. In either scenario, it is my opinion that the scale of the proposed development on the residential amenity of No.10 Rathdown Road is potentially significantly adverse given that this property currently only has a shallow extension to the rear that is c. 1.85 metres deep. The proposed extension would therefore create a gable c. 7.25 metres in length that would project c. 2.3 metres above the existing 1.55 metre high boundary wall. Such a scale of development would in my opinion be visually over bearing when viewed

from No. 10 Rathdown Park. I also consider that the extension in the form proposed has the potential to significantly overshadow the rear of the No.10, particularly in the mid morning period. No shadow projection diagrams have been submitted by the first party to clarify the likely impact in terms of shadowing.

- 7.4.3. For these reasons it is my opinion that the length and height of the proposed extension needs to be reduced. Consideration has been given to requiring that the extension would be moved from the shared boundary with No.10 however this would significantly compromise the internal layout of the extension. I consider that a better solution and one which would not impact so significantly on the internal layout of the extension is that the depth of the extension is reduced to a maximum of 7 metres from the original main rear elevation of No.12. This would result in a reduction in the depth of the extension of c. 2.1 metres from that currently proposed and would mean that it would project c.5.15 metres beyond the line of the rear extension to No. 10 Rathdown Park. With regard to height, the third party appellants have made a number of suggestions as to how this could be reduced in the vicinity of the boundary with No.10. These suggested amendments include a reduction in the internal headroom closest to the boundary from the proposed 2.65 metres to 2.2 metres and for a reduction in the height of the proposed parapet wall or its omission entirely. In the event of a grant of permission it is recommended that a reduction to the height on the northern side of the extension would be required.
- 7.4.4. I note the comments of the third party appellants regarding the proposed location of the boiler house at the eastern end of the extension and adjacent to the boundary with No.10. I would agree that this does not appear to be an optimal location for the boiler and also that the size of the proposed structure appears very large. In the event of a grant of permission this boiler should be relocated or reduced in scale such that it does not project above the height of the boundary wall.
- 7.4.5. I note that the third party appellants have submitted a number of proposed alternative layouts. These would all mitigate the potential impact on the amenity of the residents of No.10 however they also have the effect of increasing the scale of development on the southern side of the site, thereby altering the potential impact on the resident of No.14 and potentially impacting on their residential amenity. For this reason, it is not considered that revisions to the design along the lines of that proposed by the third party can be required by condition.

7.4.6. With regard to the impact of the proposed development on the amenity of the dwelling to the south (No. 14 Rathdown Park), the main concern expressed by the appellants concerns the ground level of the extension and the potential for overlooking. Regarding ground levels, the submitted drawings indicate that the finished ground level outside the extension would be -0.500 while the FFL of the majority of the existing ground floor of the house is 0.00 and that of the kitchen area - 0.150. It is assumed that the FFL of the extension would match that of the existing kitchen and would therefore be c. 350mm above the existing ground level. There would therefore appear to be some potential for the lowering of the FFL of the extension which would facilitate a further reduction in the height of the extension thereby further reducing the impact on No.10 Rathdown Park as well as reducing potential overlooking from the extension towards No.14. Potential overlooking of No.14 would also be reduced if the south facing window proposed to be located c. 1.6 metres from the boundary with No.14 was omitted. The other south facing glazing proposed in the extension is located c. 6.5 metres from the boundary and is considered acceptable. In order to mitigate potential overlooking of No.14 it is also recommended that the ground level of the proposed patio area would be no higher than the existing ground level in this area, which is c. -0.500 based on the submitted plans.

7.5. Other Issues

- 7.5.1. The third party appellants have highlighted the fact that permission was previously granted for the widening of the vehicular access to the appeal site and that one of the conditions attached to this decision was for the erection of gates to the revised entrance. It is stated that these gates have not been erected and it is requested that this is included as a condition in any grant of permission. The responsibility for enforcement of existing conditions lies with the Planning Authority and it is not considered that it is appropriate that conditions relating to this aspect of the site should be attached in the case of a grant of permission for the proposed extension.
- 7.5.2. The appellants have also questioned the validity of the newspaper notices published and the paper in which they were included. The application was deemed valid by the City Council on the basis that the notices were contained in papers recognised as

acceptable for the purposes of compliance with the Planning and Development Regulations and any issue regarding validity of the application on this basis is considered to be a matter between the third party and the Planning Authority.

- 7.5.3. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area 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 amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 amended as follows:
- (a) The depth of the extension on the northern side where it adjoins No.10 Rathdown park shall be reduced to a maximum of 7.0 metres (exclusive of boiler house structure) from the original rear elevation of the house.
 - (b) The internal floor to ceiling height in the area closest to the boundary with No.10 Rathdown Park shall be reduced to a maximum of 2.2 metres.
 - (c) The parapet wall to the northern side of the proposed extension shall be reduced to the minimum height feasible.
 - (d) The finished floor level of the proposed extension shall be a maximum of 100mm higher than the existing ground level adjoining the rear of the extension.
 - (e) The level of the proposed patio shall be no higher than the existing ground level in this area.
 - (f) The south facing window to the proposed dining area located 1.6 metres from the boundary shall be omitted from the development.
 - (g) The proposed boiler house shall not project above the level of the boundary wall between the appeal site and No.10 Rathdown Park.
- Reason:** In the interests of visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the attenuation and 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.

5. Site development and building works shall be carried only out 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.

6. 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.

. Stephen Kay
Planning Inspector

20th December, 2016