



An
Bord
Pleanála

Inspector's Report ABP 305341-19

Development	Construction of single storey extension to the side, a two-storey extension to the rear.
Location	39 Congress Avenue, Drogheda, Co Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	19/354
Applicants	Lisa and Colm Rafferty
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellants	Lisa and Colm Rafferty
Observer(s)	None
Date of Site Inspection	22 nd Dec. 2019 and 8 th Jan. 2020
Inspector	Brendan Coyne

1.0 Site Location and Description

1.1. The site (0.02 ha) is located on the western side of Congress Avenue in Drogheda, County Louth. The site contains a two storey 2-bedroom end-of-terrace dwelling. The roof profile of the dwelling is hip-ended, and its elevations comprise red brick finishing. The front roadside boundary is undefined, and a footpath provides external access to the front, side and rear of the dwelling.

2.0 Proposed Development

2.1. Application as lodged on the 10th May 2019 - Permission sought for the construction of the following;

- Single storey extension to the side and front of the dwelling,
- Two storey extension to the rear,
- New vehicular entrance, gate, piers and driveway to the front,
- All associated works.

Stated floor area of proposed works: 49.5 sq.m.

2.2. Revised Proposal as submitted by way of Further Information on the 18th July 2019:

- Provision of 2 no. velux roof lights to the northern roof slope of the proposal, serving Bedroom No. 3.

Documentation submitted includes;

- Revised Roof Plan showing the proposed 2 no. velux roof lights,
- Layout Plan showing the proposed new driveway, gate, piers and drainage detail.
- Cover Letter addressing the Further Information request.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Louth County Council refused permission for the proposed development. The reason for refusal was as follows;

1. Section 6.6.9 (Extension to Residential Properties) of the Drogheda Borough Council Development Plan 2011-2017 states *“planning applications for extensions to residential properties should ensure that the proposal does not cause any overshadowing or overlooking of an adjoining property”*. The proposed extension by reason of its height, scale, massing and location of window opening would, if permitted, result in overshadowing, overbearing and overlooking of adjoining properties. Accordingly, to permit the proposed development would materially contravene the policy provisions of the Drogheda Borough Council Development Plan 2011-2017 and would thereby be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports (20th June 2019 and 09th August 2019)*

Basis for the Planning Authority's decision. Includes:

- The proposed two storey extension, by reason of its ridge height at 6.4m, eave height of 5.4m, length at 8m, and its proximity 0.5m from the northern common boundary, would adversely impact on the property to the north by way of overbearing impact and overshadowing.
- The windows in the side elevation of the proposal at first floor level would result in overlooking of neighbouring property to either side.
- The applicant was requested to submit by way of Further Information, a revised proposal showing a single storey extension to the rear. The revised drawings submitted did not show any material change in the overall form of the proposed two storey extension, except for the provision of 2 no. velux roof lights to the roof serving Bedroom No. 3.

- Notwithstanding letters of support from neighbours to both sides of the subject dwelling in support of the proposed development, it is the role of the Planning Authority to protect the residential amenity of existing and future residents of neighbouring property.
- If permitted, the proposed development would result in overshadowing, overbearing impact and loss of outlook of neighbouring property.

3.2.2. **Infrastructure Section**

No objection subject to Conditions.

4.0 **Planning History**

None for subject site.

5.0 **Policy and Context**

5.1. **Drogheda Borough Council Development Plan 2011 - 2017**

Zoning: The site is zoned 'RE – Residential Existing' with the objective 'to protect and/or improve the amenity of developed residential communities'.

S. 6.6.8 Design and Scale

The proposed design, orientation and massing shall not cause any unacceptable overbearing or overshadowing on existing dwellings and the applicant will be required to demonstrate that there are no adverse effects on the existing buildings.

S. 6.6.9 Extension to Residential Properties

Planning applications for extensions to residential properties should ensure that the proposal does not:

- Detrimentially affect the scale, appearance and character of the existing dwelling.

- Conflict with the existing building in terms of materials and finishes.
- Cause any overshadowing or overlooking on adjoining properties.
- Lead to a reduction in garden size of more than 25% or 25sq.m whichever is greater.

S. 6.7.6 Privacy and Spacing between Buildings

The design and layout of a development should ensure sufficient privacy for its intended residents both inside and outside the dwelling.

A distance of at least 22 metres is recommended between the windows of habitable rooms which face those of another dwelling. In the case of windows of non-habitable rooms within 22 metres of another facing window, obscure glazing may be acceptable.

Where new dwellings are located very close to adjoining dwellings, the planning authority may require that daylight and shadow projection diagrams are submitted. The recommendations of ‘Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’ (B.R.E.1991) or B.S. 8206 ‘Lighting for Buildings, Part 2 1992: Code of Practice for Day lighting’ should be followed.

Table 6.6 Residential Car Parking Standards

Policy HC 20 Ensure that car parking provision in residential areas is in accordance with the standards set down in table 6.9, except within certain town centre developments where a financial contribution in lieu may be acceptable.

5.2. Other Relevant Government Guidelines

Quality Housing for Sustainable Communities Guidelines – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.3. Natural Heritage Designations

The site is located 0.3km to the south of the River Boyne And River Blackwater SAC (Site Code 002299).

The Appeal

5.4. Grounds of Appeal

5.4.1. A first-party appeal was received from the applicants Lisa and Colm Rafferty, against the decision made by the Planning Authority to refuse permission for the proposed development. The following is a summary of the grounds of appeal.

- The subject dwelling is a two-bedroom dwelling, which is insufficient for the size of the 4 (soon to be 5) person family living in the dwelling.
- The existing bedroom no. 2 at 8.8 sq.m. is too small to accommodate 3 no. young children of mixed gender.
- 7 no. dwellings along Congress Avenue have been granted permission for similar large two storey extensions.
- The neighbours to either side of the site have been consulted and have no objection to the proposed development.
- The issue of overlooking can be rectified by re-engineering the design of the proposal by removing the side elevation windows and replacing them with roof-lights.

5.4.2. Supporting material submitted includes the following;

- Aerial photograph showing dwellings in the vicinity which have been granted permission for two storey extensions similar to the proposed development.
- Aerial photograph showing the distance from the subject site to nearby amenities.
- Planning drawings and documentation as submitted to the Planning Authority.

5.5. Planning Authority Response

5.5.1. The Planning Authority confirms that it has no further comment to make.

5.6. Observations

None received.

6.0 Assessment

The relevant planning issues in this appeal relate to the following;

- Overlooking
- Overshadowing and Overbearing Impact

These are addressed under the headings below.

6.1. Overlooking

- 6.1.1. The Planning Authority refused permission for the proposed development on the grounds that the window ope on the side elevations of the proposal at first floor level would result in overlooking of neighbouring properties to either side.
- 6.1.2. The floor plans submitted show that the proposal would provide 1 no. window ope on both its northern and southern side elevations at first floor level. The window ope on the northern side elevation of the proposal would serve Bedroom No. 3 and the window ope on the southern side elevation would serve a hallway. The proposed 2 storey extension would maintain a setback of 0.5m from the northern side common boundary and 0.5m – 3.3m from the angled southern side common boundary.
- 6.1.3. The drawings submitted do not include a northern side elevation of the proposal and the contiguous rear elevation drawing of the proposal submitted does not show the ground floor window opes of the adjoining dwelling No.40. Site inspection found that there is a ground floor window ope close to the shared common boundary and a window ope directly facing the common boundary on the single storey rear return annex of No. 40.
- 6.1.4. In order to address the issue of overlooking, the applicant submitted by way of Further Information to the Planning Authority a revised roof plan providing 2 no. rooflights to the northern roof slope of the proposal, serving Bedroom No. 3. In the Grounds of Appeal submission, the applicant states that the issue of overlooking can be rectified by removing the side elevation windows and replacing them with rooflights. Given that the proposed window ope on the southern side elevation would serve a hallway (a non-habitable room), it is my view that omission of this window

ope and its replacement with rooflights would be acceptable. This would prevent overlooking of the neighbouring dwelling to the south.

- 6.1.5. I have concerns, however, that the omission of the window ope on the northern side elevation serving Bedroom No. 3 and its replacement with rooflights would provide a poor-quality living environment for the occupants of this bedroom. Such development would be contrary to Section 5.3.1 of the Quality Housing for Sustainable Communities Guidelines (2007) which recommends that the window opes of habitable rooms provide a street view and that windowsills should be below the eye-level of seated persons.
- 6.1.6. Given the proximity of the proposal to the northern side common boundary (a distance of 0.5m), it is my view that the window ope on the northern side elevation of the proposal would result in overlooking of the rear garden and rear facing rooms of the neighbouring dwelling to the north, No. 40. Such overlooking and loss of privacy would adversely impact the residential amenity of this dwelling and would, therefore, be contrary to Section 6.6.9 of the Drogheda Borough Council Development Plan which requires that extensions to residential properties not cause overlooking of adjoining properties.
- 6.1.7. Notwithstanding the above, and having regard to the floorplans submitted, it is my view that if revisions were made to the internal room layout of the proposal, with the swapping of the position of Bedroom No. 3 with the main bathroom at first floor level, a similar level of accommodation can be provided. This would meet the needs of the applicants while not compromising the residential amenity of the neighbouring dwelling to the north by way of overlooking. Subject to a Condition requiring that the window ope of the re-located bathroom be permanently fitted with obscure glazing. I consider that this issue can be dealt with by way of Condition in the event of a grant of permission.
- 6.1.8. I recommend, therefore, that the appeal should succeed in relation to this issue.

6.2. **Overshadowing and Overbearing Impact**

- 6.2.1. The Planning Authority refused permission for the proposed development on the grounds that the proposal, by reason of its height, scale and massing would result in overshadowing and overbearing impact on neighbouring property.

- 6.2.2. In the Grounds of Appeal, the applicants put forward a case that similar large two storey rear extensions have been granted permission in the surrounding area, with reference to specific examples along Congress Avenue and adjacent Platin Road. Notwithstanding the case put forward by the applicants, it is considered that the planning permissions for development to properties along Congress Avenue and Platin Road were assessed under previous Development Plans. As such, the policy context of these decisions was materially different and cannot be considered precedent in this instance. Furthermore, the scale and design of each planning application would have been materially different to the proposed development and were unique to their site context. As such, referred to permitted development on adjacent sites cannot be considered precedent for the proposed development under the current application.
- 6.2.3. The proposed two storey extension would have a depth of 7.9m, a width of 3.8m, an eave height of 5m and a roof ridge height of 6.5m. As detailed above, the proposal would maintain a setback of 0.5m from the northern side common boundary and 0.5m – 3.3m from the angled southern side common boundary.
- 6.2.4. With regard the issue of overshadowing, Section 6.7.6 of the Drogheda Development Plan states that the recommendations of 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (B.R.E.1991) or B.S. 8206 'Lighting for Buildings, Part 2 1992: Code of Practice for Day lighting' should be followed. Having regard to Section 2.2 of the *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice* (BRE2011) guidelines, the application of the 45° approach as recommended, and the separation distance between the proposed development and adjoining dwelling No. 40, it is found that height of the proposed development would result in a loss of sunlight to windows on the rear elevation of adjoining dwelling No. 40 at ground floor level. However, taking into account the generous rear garden length of dwelling No. 40 and its west facing orientation, it is my view that the height and length of the proposed two storey extension would not be unduly detrimental to the residential amenities of the adjoining dwelling No. 40.
- 6.2.5. Having regard to the height, scale and extent of the proposed development and its setback from the common side boundaries, it is my view that proposed development would not adversely impact on the neighbouring dwellings to either side by way of overbearing impact.

6.2.6. I recommend, therefore, that the appeal should also succeed in relation to this issue.

6.3. Screening for Appropriate Assessment

6.3.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway to any 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 a European site.

7.0 Recommendation

7.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

8.0 Reasons and Considerations

Having regard to the scale, form and design of the proposed development, it is considered that, subject to compliance with the Conditions set out below, the proposed development would not adversely impact on the residential amenity of neighbouring property. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 18th day of July 2019 and by the further plans and particulars received by An Bord Pleanála on the 04 th day of September, 2019, 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
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	<p>development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority, revised drawings showing the following;</p> <p>(i) The omission of the window ope on the southern side elevation of the proposal at first floor level and its replacement with the provision of 2 no. roof lights on the southern roof slope of the proposal, serving the hallway beneath.</p> <p>(ii) Proposed Bedroom No. 3 relocated to the position of the main Bathroom at first floor level and the main Bathroom relocated to the position of Bedroom No. 3 (i.e. the position of both rooms is swapped over).</p> <p>(iii) The window of the relocated bathroom permanently fitted with obscure glazing.</p> <p>(iv) The provision of a window ope of adequate size serving the re-positioned Bedroom No. 3.</p> <p>Reason: In the interest of residential amenity and safety.</p>
3.	<p>The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>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.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The following requirements of the Planning Authority shall be adhered to in full;</p> <p>(i) The vehicular access, serving the proposed development, shall</p>

	<p>comply with the requirements of the Planning Authority for such road works.</p> <p>(ii) Any gate to be installed shall be inwards opening only and shall not open across the public footpath or the shared vehicular access driveway.</p> <p>Reason: In the interest of traffic and pedestrian safety.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>

Brendan Coyne
 Planning Inspector

23rd January 2020