



An
Bord
Pleanála

Inspector's Report

ABP-305765

Development	(a) Construction of a single storey extension at ground floor to the rear, a garden studio and store (b) General repair and refurbishment of the existing house
Location	66 Brighton Square, Rathgar, Dublin 6.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3712/19
Applicant(s)	Angela Hoban and Glenn Cahill.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	First Party v Condition.
Appellant(s)	Angela Hoban and Glenn Cahill.
Observer(s)	None.
Date of Site Inspection	18 th January 2020.
Inspector	Rachel Kenny

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1.0 Site Location and Description

- 1.1. The appeal site is located within a residential conservation area of Rathgar, to the south west of Brighton Square. The dwelling is one of a pair of semi-detached three-storey, three-bedroom dwellings. The existing dwelling has a three storey return, which extends to c.4m beyond the rear wall of main house. The rear garden is c.26 m in length beyond the return.
- 1.2. The dwelling houses located either side, are three storey of the Victorian era. The Square is surrounded by predominantly 2 storey dwellings with a single storey building and tennis courts with the square itself.

2.0 Proposed Development

- 2.1. The proposed development would comprise (a) an infill extension to the rear adjoining the return to make provision for a playroom and (b) the construction of a new storage shed and studio space at the southern end of the garden (c) internal refurbishment and alterations to existing residential house to include removal of some original building fabric and internal partitions and a bathroom on the second floor return and (d) All associated site works including tree planting to rear garden and screen planting on the first floor terrace and the introduction of a new access stairs from garden level to first floor terrace level.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a notification of a decision to grant permission subject to eight conditions including Condition No.2 (a),(b) and (c) which are the subject matter of this appeal. Condition No.2 requires the proposal be amended to remove the access to the roof of the ground floor extension and its use as a first floor terrace, removal of the french access doors, the screening around the terrace as well as the terrace / garden access stairs:

- **C2:** (a) The first floor roof terrace element shall be removed from the proposal
(b). the proposed first floor rear elevation French double doors opening from the kitchen shall be omitted and a window opening identical to the second floor rear bedroom window above shall be provided instead.
(c) The screening around the proposed roof terrace shall be omitted and the external stairs from the rear garden to the proposed first floor roof terrace shall also be omitted.

Reason: To protect the amenities of the occupiers of adjoining properties.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Development would be located to the rear and would not be visible from the street scene or public viewpoints;
- Proposed design of garden structure and extension would be in keeping with the with the character of the urban location;
- The internal works would not have a negative impact on the property.
- The structures would not have a negative impact on neighbouring properties
- However, the roof terrace would have a negative impact on the amenities of adjoining properties.
- The proposed terrace would be used as a primary space given its location adjacent to the kitchen. Concern expressed regarding potential noise disturbance and overlooking impact on adjoining properties.
- Propose condition to omit the terrace in its entirety including the external garden access stairs and french double doors from the kitchen.
- Satisfied compliant otherwise with Z2 zoning and open space requirements have been met.

3.2.2. Other Technical Reports

- **Drainage:** No objection subject to standard conditions.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

- None

4.0 Planning History

4.1. Appeal site

- **2219/19:** (Withdrawn). Planning for a one storey extension to the rear at ground floor and the addition of vehicular access to the front.
- **3550/09:** (Grant with conditions) Demolition of existing out houses, 1 rear ground floor extension, a minor 2nd floor extension, alterations and refurbishment work to existing house and associated site works.

5.0 Policy Context

5.1. Development Plan

5.1.1. The policies and provisions of the Dublin City Development Plan 2016-2022 apply. The site lies within an area zoned 'Z2' which has a stated aim to 'protect and/or improve the amenities of residential conservation areas'.

5.1.2. Chapter 11 and Chapter 16 of the Plan are relevant, including in particular the following extracts:

- **Policy CHC4:** To protect the special interest and character of all Dublin's Conservation areas.
- **11.1.5.4** Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- **16.10.12 Extensions and Alterations to Dwellings and Appendix 17 – Guidelines for Residential Extensions:** Applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:
 - Not have an adverse impact on the scale and character of the dwelling

- Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Hughes Planning and Development Consultants representing the first party. The appeal relates solely to Condition No.2 attached to the Planning Authority's decision. The appeal asserts that the condition is unnecessary, as the proposed alterations to the dwellinghouse do not adversely impact the residential amenity of the area. A summary of the principal planning matters raised is set out below:

- The site is zoned Z2 and cites the need to 'protect and/or improve the amenities of residential conservation areas' It is asserted that the proposed development will have no undue effects on adjacent residential amenity.
- The proposed development is in accordance with the standards and principles for residential extensions as set out in the Development Plan.
- The proposed development is of modest form and scale, with design and materials which integrate with the existing dwelling.
- The proposed development will not give rise to any undue impacts on neighbouring dwellings and recent precedents for similar residential extensions within the area containing balconies and roof terraces are cited.
- It is requested that Condition 2 be set aside.

6.2. Planning Authority Response

6.2.1. The Planning Authority did not respond.

6.3. Observations

- None

7.0 Assessment

7.1. Introduction

- 7.1.1. This is a first-party appeal which is made only against Condition number 2 parts a,b and c attached to the Planning Authority's decision to grant permission. Condition No.2 requires the proposal be amended to omit the first floor roof terrace and associated french double doors, removal of associated screening and also the removal of the external stepped access to the terrace from the garden. The condition is attached for reasons relating to the protection of the residential amenity of neighbouring properties. The appellant considers these conditions to be unnecessary and would compromise their enjoyment of the dwellinghouse in its extended form in particular at first floor level.
- 7.1.2. The planning authority raised no objections to the single storey nature of the rear extension, to the rear garden studio structure or the internal refurbishment works and I similarly have no concerns in this regard. I also note that no objections were received to the original planning application. I consider it reasonable, therefore, to consider the appeal under S139 of the Planning and Development Act, and that a *de novo* assessment is not required. The following assessment is limited to the matters raised under Condition No.2.

7.2. Condition number 2 assessment

- 7.2.1. The assessment criteria for extensions are set out under Chapter 16 (16.10.12 Extensions and Alterations to Dwellings and Appendix 17 – Guidelines for Residential Extensions) of the current Dublin City Development Plan 2016-2022. In recognising the need for people to extend and renovate their dwellings, Dublin City Council policy provides that extensions are considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. The Plan also encourages sensitively designed extensions which do not negatively impact on the environment, on adjoining properties or on neighbouring areas and this is cited as especially critical within all Residential Conservation or Architectural Conservation Areas of Dublin City (Policy CHC4) whereby they must positively enhance the character of the area.

- 7.2.2. The proposed rear extension is a modest infill insertion adjoining the existing three storey return and is dwarfed by the 2 storey extension to the adjoining property to the east. The extension and associated terrace cannot be seen from the street. Therefore, the extension can only be viewed from the rear garden of the site and the rear of the gardens of the immediately adjacent properties. Because of the length of the rear garden, the proposed and existing screen planting and additional tree planting and the scale of the extensions to the properties immediately contiguous to the open space it cannot be seen from any location other than neighbouring gardens. In any event, I am satisfied that given its recessed location and modest scale it will not provide any opportunity for overlooking of adjoining properties and having regard in particular to the scale of the adjoining property to the east and to the existing return to the west it is unlikely to be the source of noise disturbance to adjoining properties and will not therefore, seriously injure the residential amenities of the adjoining properties.
- 7.2.3. I do not consider it necessary to omit the terrace, french doors or access stairs and as such do not consider condition 2 to be warranted.

7.3. Conclusion on condition No.2

- 7.3.1. Having regard to the nature of development in the area (including the large extensions to the rear of adjoining properties) and the design of the proposed terrace area, I am satisfied that the proposal would not give rise to any unacceptable negative impact on the residential amenity of the adjoining properties and is in accordance with the policies set out in Chapter 11 and 16 of the Dublin City Development Plan 2016-2022. Accordingly, I recommend that the Planning Authority are directed to remove condition no. 2 in its entirety which I consider is not warranted in this instance.

7.3.2. For clarity, I would recommend that condition 1, relating to the plans and particulars, be amended to have regard to the details submitted on appeal on 25/10/2019.

7.4. **EIAR**

7.4.1. The proposed development is not of a nature or scale which would fall within the fifth schedule of the PD Regulations 2001 (as amended) such as would necessitate the carrying out of an EIAR.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the minor nature and scale of the proposed development, the location of the site in a serviced urban area and the separation distance and absence of a source-pathway receptor to 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 a European site.

8.0 Recommendation

- 8.1. Having regard to the nature of the conditions the subject of the appeal, it is considered that the determination of the relevant application as if it had been made to the Board in the first instance would not be warranted and it is recommended that based on the reasons and considerations set out below, that the Planning Authority are directed under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to **REMOVE** condition number 2 in its entirety and to amend condition 1 to include the date 25/10/2019 to reflect the proposed minor amendments to the extension at appeal stage by the applicant..

9.0 Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed development and the existing pattern of development in the area, it is considered that, the introduction of a first floor roof terrace over the proposed ground floor extension, which provides access to the rear garden from the kitchen via an external stairs, would not seriously injure the residential amenities of the adjoining properties and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Rachel Kenny
Director of Planning

18th January 2020