



An
Bord
Pleanála

Inspector's Report 306824-20

Development	First floor extension to rear & side over existing return; 2 no. new windows at 1 st floor level to existing side elevation & all associated works
Location	No. 113 Brian Road, Marino, Dublin 3.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4720/19
Applicant(s)	Dave & Joyce Murray
Type of Application	Planning permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	First Party v. Condition
Appellant(s)	Dave & Joyce Murray
Observer(s)	None
Date of Site Inspection	15 th June 2020
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 284 m² and is located at No. 113 Brian Road, Marino, Dublin 3. The existing property is a two-storey, end-of-terrace dwelling with off-street car parking to the front. The dwelling has an L-shaped, single-storey pitched roof extension to the rear, which wraps around an external courtyard space.
- 1.2. The rear garden extends to a depth of approximately 22 m beyond the rear extension and is bounded by mature planting along its western and eastern boundaries. This planting provides a high level of screening to the adjoining property to the west at No. 115 Brian Road and to the neighbouring property to the east at No. 111 Brian Road.
- 1.3. No. 111 Brian Road forms part of a separate terrace of 2-storey dwellings, the front building line of which is set back from that of No. 113 Brian Road by approximately 3.4 m.

2.0 Proposed Development

- 2.1. The proposed development comprises a first-floor extension to the rear and side over the existing return, the insertion of 2 no. new windows (1 no. obscured) at first-floor level to the existing east (side) elevation and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission subject to 9 no. conditions issued on 17th February 2020.
- 3.1.2. Condition no. 2 requires bedroom no. 5 to be omitted and the first-floor extension to be off-set from the western property boundary by a minimum of 3.5 m. The proposed west-facing window at first floor level is also required to be omitted and replaced by rooflights.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

3.2.3. Dublin City Council's Planning Officer considered that the adjoining dwelling at No. 115 Brian Road would likely experience significant overshadowing along its rear elevation on foot of the proposed development.

3.2.4. It was further considered that the proposed extension would result in significant overlooking of the rear garden of No. 115 Brian Road due to the proposed westward facing, first-floor window.

3.2.5. **Other Technical Reports**

3.2.6. **Engineering Department Drainage Division:** No objection subject to conditions.

3.3. **Prescribed Bodies**

3.4. **Irish Water:** None received.

3.5. **Third Party Observations**

3.6. None received.

4.0 **Planning History**

4.1. **Planning Authority Reg. Ref. 5857/04:** Planning permission granted on 24th March 2005 for a single-storey extension to the rear and part projecting at the side, new driveway and parking space to the front.

5.0 **Policy and Context**

5.1. **Dublin City Development Plan 2016-2022**

5.1.1. **Zoning**

5.1.2. The site is subject to land use zoning "Z2" (Residential Neighbourhoods – Conservation Areas) which has the objective "to protect and/or improve the amenities of residential conservation areas".

- 5.1.3. Section 14.8.2 of the development plan states that Residential Conservation Areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. 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.
- 5.1.4. **Policy CHC4:** To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- 5.1.5. **Extensions and Alterations**
- 5.1.6. The policy regarding extensions and alterations is set out in Sections 16.2.2.3 and 16.10.2 and in Appendix 17 of the Development Plan. In general, applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied the proposal will: (1) not have an adverse impact on the scale and character of the dwelling, and (2) not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

6.0 Natural Heritage Designations

- 6.1. None.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. A first party appeal has been lodged by Delahunty & Harley on behalf of the applicants. The appeal relates to Condition No. 2 of the Planning Authority's Notification of the Decision to Grant Permission, with the following grounds of appeal being raised:

- Light analysis for 10.00, 13.00 and 15.00 hours in March, June, August and November indicate that there will be minimal additional overshadowing to Nos. 111 and 115 Brian Road on foot of the proposed development;
- Due to the orientation of the garden spaces, overshadowing during the day is predominantly cast by the existing urban fabric and the mature hedgerows and planting surrounding the site;
- The inclusion of obscure glazing in the first-floor corridor window will address the overlooking concerns of Dublin City Council's Planning Officer. In addition, the west-facing windows are setback 3 m from the boundary with No. 115 Brian Road and are concealed from view behind the massing of the proposed L-shaped return;
- The proposed east-facing bathroom windows at first-floor level contain obscure glazing, while the proposed landing window faces the gable of No. 111 Brian Road;
- The proposed development will provide much need habitable space for the occupants and is acceptable under the Z2 zoning objective which applies to the site;
- The proposed development complies with development plan policy (sections 16.2.2.3 and 16.10.12 and Appendix 17). The extension has been sensitively designed to reflect the character of the area, the design and materials of the existing and adjoining properties and will have little impact on the streetscape;
- The adjoining north-orientated gardens extend more than 20 m to the rear boundaries and the proposed extension will not significantly affect the amenities of the adjoining properties in terms of privacy and access to daylight;
- Condition No. 2 of this permission is inconsistent with recent planning applications which have been granted in this area, including Planning Authority Reg. Refs. 2293/00; 2742/00; 0449/01; 4300/04; 946/07 and WEB1019/14;
- No objections have been raised in relation to the proposed development by the immediate neighbours of the application site;

- 7.1.2. The appeal submission includes light analysis diagrams for March, June, August, and November. Drawing no. 321 (Proposed Elevations and Sections) is also provided to confirm that obscure glazing will be used in the west-facing window at the proposed first-floor level.

7.2. **Planning Authority Response**

- 7.2.1. None received.

7.3. **Observations**

- 7.3.1. None received.

8.0 **Assessment**

- 8.1. This is a first party appeal against Condition No. 2 as attached to the Planning Authority's Notification of the Decision to Grant Planning Permission. Condition No. 2 requires bedroom no. 5 of the proposed first-floor extension to be omitted, and the extension to be off-set by a minimum of 3.5 m from the western property boundary. This condition also requires the omission of the west-facing windows in the proposed corridor area at first floor level and their replacement with rooflights.
- 8.2. Following my examination of the planning file and grounds of appeal, I consider it appropriate that the appeal should be confined to Condition No. 2 only. Accordingly, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and that the Board should determine the matters raised in the appeal only in accordance with Section 139 of the Planning and Development Act 2000, as amended.
- 8.3. In assessing the proposed development in accordance with the guidance document "Site Layout Planning for Daylight and Sunlight" (BRE, 2011), Dublin City Council's Planning Officer considered that the proposed development would result in significant overshadowing of the rear elevation of the adjoining dwelling at No. 115 Brian Road. The Planning Officer further considered that the proposed westward facing, first-floor window within the extension would result in significant overlooking of the rear garden of this neighbouring property.

- 8.4. The applicant's appeal submission includes light analysis drawings for 10.00, 13.00 and 15.00 hours in March, June, August and November. The applicant's agent submits that these images confirm there will be minimal additional overshadowing to Nos. 111 and 115 Brian Road on foot of the proposed development.
- 8.5. In considering the overshadowing concerns of Dublin City Council's Planning Officer, I note that the proposed first-floor extension reflects the footprint of the existing ground floor extension and has an L-shaped configuration around the existing central courtyard space which extends to a depth of 2.5 m. This arrangement reduces the depth of the first-floor extension to 3.9 m along the shared boundary with No. 115 Brian Road. The proposed extension also has a gable-ended roof profile onto the shared boundary, which in my opinion, will serve to reduce the perceived bulk of the proposed roof profile from the neighbouring property. I further note that No. 115 Brian Road has a rear garden space of approximately 22 m beyond the rear façade of the proposed extension and that the existing screen planting within the application site provides a high level of privacy between these properties.
- 8.6. While Dublin City Council's Planning Officer considered that the proposed development would result in significant overshadowing of No. 115 Brian Road, in my opinion, no significant overshadowing will occur given that the proposed first-floor extension is orientated to the north-east of the neighbouring property and having regard to the configuration of the proposed development as discussed above. This is supported by the light analysis drawings which accompany the appeal and which indicate that the development would only result in minor additional overshadowing of the rear garden of No. 115 Brian Road at 10.00 on March 21st, 10.00 on June 21st and 10.00 on August 21st.
- 8.7. In my opinion, the extent of overshadowing which would occur to No. 115 Brian Road does not warrant the amendments which are required to the development as imposed under Condition No. 2 of the Notification of the Decision to Grant Permission. The existing dwelling is modest in scale and I note that the development will provide much needed additional family accommodation as set out in the applicant's appeal submission. I further consider that the proposed development would not have any adverse impact on the character of the existing dwelling or any neighbouring dwelling and would not adversely affect the amenities enjoyed by the

occupants of the adjacent buildings in terms of privacy or access to daylight or sunlight.

8.8. While Dublin City Council's Planning Officer considered that the windows in the proposed corridor at first-floor level should be omitted and replaced with rooflights to prevent the overlooking of No. 115 Brian Road, the applicant has clarified that obscure glazing will be provided to these windows as illustrated on Drawing No. 321 (Proposed Elevations & Sections) which accompanies the appeal. Given that these windows serve a corridor space only, this amendment is considered acceptable in this instance.

8.9. Thus, in conclusion, I am satisfied that the application of Condition No. 2 is unnecessary and unreasonable in this instance and would serve to undermine the ability to deliver an improved standard of residential accommodation on the subject site. As such, I recommend that the Planning Authority should be directed to omit Condition No. 2 for the reasons and considerations set out below.

8.10. **Appropriate Assessment**

8.10.1. Having regard to the nature and scale of the proposed development, the residential land use zoning of the site, 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.

9.0 **Recommendation**

9.1. It is recommended that the Planning Authority be directed to omit Condition No. 2 for the reasons and considerations set out hereunder.

10.0 Reasons and Considerations

10.1. Having regard to the residential land use zoning of the site, the nature and scale of the proposed development and its orientation to the north-east of the adjoining property at No. 115 Brian Road, it is considered that the modifications required by the Planning Authority in its imposition of Condition No. 2 are not warranted, and that the proposed development, with the omission of Condition No. 2, would have no significant overshadowing or overlooking impact on any neighbouring property and would be acceptable in terms of form and scale. Therefore, the proposed development would be in accordance with the proper planning and sustainable development of the area.

Louise Treacy
Planning Inspector

22nd June 2020