



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307107-20

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<b>Development</b>	Partial demolition of garage, side gable wall and rear wall and roof, and construction of a part two storey part single storey extension to the side and rear.
<b>Location</b>	13 Kirkpatrick Drive, Clonsilla, Dublin 15
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	FW20B/0019
<b>Applicant(s)</b>	Stuart and Laura Butler.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First Party v's Condition.
<b>Appellant(s)</b>	Stuart and Laura Butler.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	10 <sup>th</sup> of August 2020.

**Inspector**

Stephanie Farrington

## 1.0 Site Location and Description

- 1.1. The appeal site is located at no. 13 Kirkpatrick Drive, Clonsilla. The site has a stated area of 0.0305 hectares and fronts onto the southern side of Kirkpatrick Drive. The site accommodates a two-storey semi-detached dwelling with a single storey flat roof garage to the side. The front elevation is red brick at ground floor level with painted render above.
- 1.2. The existing property has a stated floor area of 110 sq.m. The garden to the rear of the property is south facing, has a stated area of 172 sq.m. and is c.19m long. The garden is enclosed by a 1.6m high boundary wall to the east, west and south.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the partial demolition of the existing single storey side garage, side gable wall and rear wall and roof, and the construction of a new part two storey part single storey extension to the side and rear, including internal alterations to the ground and first floors with associated hard and soft landscaping.
- 2.2. The extension has a gross floor area of 55 sq.m. The ground floor projects 5.15m beyond the existing rear building line and the proposed first floor extends to 4.525m beyond this building line. The extension has a flat roof and a maximum height of 5.7m. The extension accommodates kitchen and living space at ground floor level and en suite double bedroom at first floor.

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission granted for the proposed development subject to 10 no. conditions. Condition no. 2 outlines the following:

*Prior to the commencement of development on site, the developer shall submit for the written agreement of the Planning Authority revised plans and elevations which show:*

- (a) The proposed single storey extension to the rear shall project a maximum of 5.0 metres beyond the current rear building line established by the existing two storey walls to the rear.*
- (b) The proposed 2 storey extension shall project a maximum of 3.5metres beyond the current rear building line established by the existing 2 storey walls to the rear.*
- (c) The omission of the velux window in the front roof plane.*
- (d) The provision of a store to the front of the dwelling for the storage of three “wheelie” type bins.*
- (e) The ridgeline of the roof of the proposed extension to the side set down by 200mm below the existing ridgeline of the roof.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planner’s report reflects the decision of the planning authority. The following provides a summary of the points raised.

- The proposal will not impact unduly on residential amenity through overlooking.
- The proposed velux window in the front slope of the existing roof is considered to impact unduly in a negative manner on the visual impact of the area. No other velux windows in the front pane of the roof were noted in existing properties in the area.
- The proposal is considered to impact unduly on residential amenity through overshadowing and overbearing. Condition is recommended to address concerns in this regard to reduce the length of the ground floor of the extension to 5m and two storey extension to 3.5m beyond the existing rear walls.
- Ridgeline of the proposal should be lower than the ridgeline of existing dwelling on site to ensure that the proposal does not contribute to terracing of development along Kirkpatrick Drive.

### 3.2.2. Other Technical Reports

Water Services Department: Recommends further details in relation to proposed surface water proposal following principles of SuDS in compliance with the Greater Dublin Strategic Drainage Study.

### 3.3. Prescribed Bodies

Irish Water: No objection subject to conditions.

## 4.0 Planning History

None relating to the appeal site. The following relates to applications within the vicinity.

### **PA Ref FW17A/0185 – 18 Kirkpatrick Drive**

Planning permission granted in December 2017 for two storey side extension. Condition 2 related to submission of revised plan illustrating the reducing in the ridge height of the first-floor extension by 0.2m.

### **PA Ref FW18B/0045 – 16 Kirkpatrick Drive**

Planning permission granted in July 2018 for 2 storey side extension. The applicant indicated in a response to a request for further information that the ridge height of the extension would be 200mm below the existing roof ridgeline.

## 5.0 Policy Context

### 5.1. Development Plan

Fingal County Development Plan 2017-2023

5.1.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan. A number of Development Plan objectives are relevant:

- The site is zoned RS with an objective to “provide for residential development and protect and improve residential amenity”.

- Objective PM46 encourages sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.
- Section 12.4 sets out 'Design Criteria for Residential Development'. The following extract relates to extensions to dwellings:

*"The need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area."*

- Objective DMS42: Encourage more innovative design approaches for domestic extensions.
- First floor rear extensions will be considered on their merits, noting that they can often have potential for negative impacts on the amenities of adjacent properties. The Planning Authority must be satisfied there will be no significant negative impacts on surrounding residential or visual amenities. The following factors will be considered:
  - Overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries.
  - Remaining rear private open space, and its usability.
  - External finishes and design, which shall generally match the existing. Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space.
- Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation) and impacts on residential amenity. First floor side extensions built over existing structures and matching existing dwelling design and height will generally be acceptable. Though in certain cases a set-back of an extension's front facade and its roof profile and ridge may be sought to protect amenities, integrate into the streetscape and avoid a 'terracing' effect. External finishes shall generally match the existing.

- Table 12.3 Minimum Room Sizes and Widths for Houses and Apartments- (Minimum bedroom floor areas exclude built in storage space). Double room 11.4sq.m. Double including en suite – 13 sq.m.
- Separation distances - A minimum standard of 22 metres separation between directly opposing rear first floor windows shall be observed, normally resulting in a minimum rear garden depth of 11 metres.

### Transport Objectives

The zoning map illustrates a hatched blue line which runs to the south of existing properties on the southern side of Kirkpatrick Drive, including the appeal site, through the existing back gardens. The zoning map index identifies this objective as Greater Dublin Area Cycle Network.

Objective MT14 The Council will work in cooperation with the NTA and adjoining Local Authorities to implement the Greater Dublin Area Cycle Network Plan subject to detailed engineering design and the mitigation measures presented in the SEA and Natura Impact Statement accompanying the NTA Plan.

This objective does not correspond with a route identified within the Greater Dublin Area Cycle Network Plan as detailed in the attached presentation document.

### Green Infrastructure

The site is also located within the Liffey Valley Special Amenity Area as illustrated in the Green Infrastructure Map 1 of the Fingal County Development Plan.

Objective NH44 of the Fingal County Development Plan seeks to *“Protect and enhance the character, heritage and amenities of the Howth and the Liffey Valley Special Amenity Areas in accordance with the relevant Orders”*.

On review of the contents of the Liffey Valley Special Area Amenity order I note there are no restrictions on extensions to existing properties.

## **5.2. Natural Heritage Designations**

There are no designated sites within the immediate vicinity of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first party appeal against condition no. 2(b) which states that the proposed 2 storey extension shall project a maximum of 3.5m beyond the existing building line. The first floor extension as proposed extends to 4.525m beyond the existing property.

The grounds of appeal are summarised below: -

- Requests that part 2(b) of the condition or the entirety of Condition 2 is removed.
- The proposed first floor extension as originally proposed would not have a significant negative impact on neighbouring dwellings and complies in full with Development Plan objectives. It is requested that Condition 2(b) is removed.
- The basis for the attachment of the condition relates to overshadowing and overbearing. The assessment of impact on neighbour's amenity is subjective and not reflective of the actual impact of the proposal.
- The appeal site and adjoining properties all have long south facing gardens which get direct light all day long. The effect of the proposal on the adjoining property is minor and would not cause the "significant negative impact" as prohibited by the development plan.
- The effect of the proposed extension will be minor and the reduction to 3.5m does not reduce impacts in any significant way. The reduction would have a significant impact on the applicants as it would result in 2 box bedrooms at first floor level.
- The first-floor extension is proposed to be on the eastern part of the first floor and effects are primarily on properties to the east of the site.
- 3D images are submitted which illustrate the massing of the proposed and reduced extension and overshadowing impact.
- It is stated that the 3D images illustrate that the first-floor extension will not cast shadows on windows of the house to the west. Due to the ground floor

extension of adjoining property and existing planting the proposed first floor will not be overbearing.

- In terms of the adjoining property to the east it is stated that this property is set back 2.4m from the shared boundary wall. While overshadowing is evident as a result of the proposal, this is not considered significant. Reduction of the proposed first floor does not significantly reduce impact; the difference is cited as indistinguishable at afternoons.
- It is stated that the 3D images illustrate that both in terms of overbearing and overshadowing the proposed first floor extension does not have a significant negative impact on adjoining properties. A case is made that the requirements of the condition are unduly onerous on applicants while having almost no impact on the amenity of adjoining dwellings.

## 6.2. Planning Authority Response

- None.

## 6.3. Observations

- None.

## 7.0 Assessment

7.1. This is a first-party appeal only against Condition no.2 attached to the Planning Authority's decision to grant permission. While the vast majority of the appeal sets out a case for the removal of condition 2 (b) I note the reference in the first page of the appeal to remove Condition no. 2 in its entirety. I consider the full requirements of Condition no. 2 of this basis.

7.2. Condition no. 2 requests revised plans/elevations illustrating the following amendments:

- (a) The proposed single storey extension to the rear shall project a maximum of 5.0 metres beyond the current rear building line established by the existing two storey walls to the rear.

- (b) The proposed 2 storey extension shall project a maximum of 3.5metres beyond the current rear building line established by the existing 2 storey walls to the rear.
- (c) The omission of the velux window in the front roof plane.
- (d) The provision of a store to the front of the dwelling for the storage of three “wheelie” type bins.
- (e) The ridgeline of the roof of the proposed extension to the side set down by 200mm below the existing ridgeline of the roof.

7.3. Having regard to the nature and scale of the proposed development and the nature of Condition no.2, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance, would not be warranted.

7.4. I consider, therefore, that the appeal should be dealt with in accordance with Section 139 of the Planning and Development Act 2000 (as amended).

#### 7.5. **Condition no. 2**

##### Condition 2 (a) and (b)

- 7.5.1. Condition no. 2 (a) and (b) of the permission relate to a reduction in the length of the proposed rear extension to 5m beyond the existing building line at ground floor level and 3.5m at first floor level. The reason for the condition relates to the visual and residential amenity. Concerns relating to the overbearing and overshadowing impact of the extension are expressed within the planner’s report.
- 7.5.2. The Fingal County Development Plan 2017-2023 outlines that applications for first floor extensions will be considered on their merits and the Planning Authority must be satisfied there will be “no significant negative impacts on surrounding residential or visual amenities”. Factors including overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries, remaining open space and external finish and design will be considered in this regard.
- 7.5.3. The appellant has made the case that the proposed first floor extension as originally proposed would not have a significant negative impact on neighbouring dwellings in terms of both overshadowing and overbearing.

- 7.5.4. Drawing no 100 "Proposed Plan" illustrates that the extension as originally proposed extended 5.15m from the rear building line at ground floor level and 4.5m at first floor level. The ground floor extension runs adjacent to site boundaries to the east and west. The first floor extension and is primarily concentrated to the east of the property and projects c.0.9m adjacent to the western site boundary. The majority of the first floor extension is set back by c4.3m from the adjoining property to the west at no. 15 Kirkpatrick Drive. The first floor to the shared boundary with no. 11 Kirkpatrick Drive to the east. The extension has a flat roof and a height of 5.7m.
- 7.5.5. In order to address concerns relating to overshadowing, a Sunpath Analysis is submitted in conjunction with the first party appeal. This illustrates shadows cast by the proposed and reduced extension at 9am, 12pm and 3pm during Summer Solstice and 10am, 12pm and 3pm during Winter Solstice. A case is made that the reduction in the depth of the proposed first floor extension to 3.5m as set out in Condition 2(b) does not significantly reduce overshadowing impacts in any significant way.
- 7.5.6. Having regard to the orientation of the site and the set back of the majority of proposed first floor extension from the western site boundary I do not envisage significant overshadowing impacts on the adjoining property to the west at no. 15 Kirkpatrick Drive. This is illustrated in the Sunpath Analysis submitted in conjunction with the first party appeal.
- 7.5.7. While some overshadowing is evident in the Sunpath Analysis in the rear garden of no 11 Kirkpatrick Drive, I do not consider such impact to be significant having regard to the orientation and extent of the garden. I furthermore consider that there appears to be limited difference in terms of overshadowing between the first-floor extension as originally proposed and as reduced in line with the requirements of Condition no. 2 (a) or (b).
- 7.5.8. On this basis I do not consider that a reduction in the depth of the proposed first floor extension as set out within Condition 2 (a) and (b) is justified on the basis of overshadowing.
- 7.5.9. In terms of overbearing, the elevations submitted in conjunction with the first party appeal illustrate an outline of the extension as originally proposed and that as amended in accordance with the requirements of Condition 2 (a) and (b).

- 7.5.10. The existing back garden at no. 13 is c.19m long and south facing. Existing boundary treatment includes a 1.6m wall to the south, east and west of the site.
- 7.5.11. Having regard to the set back of the majority of first floor extension from the western site boundary, the depth and orientation of the existing rear garden of the adjoining property to the west and existing site boundaries I do not consider that the extension as originally proposed either at ground or first floor level would be visually overbearing from no. 15 Kirkpatrick Drive.
- 7.5.12. The proposed extension runs adjacent to the shared boundary with no. 11 Kirkpatrick Drive to the east. On review of the elevations submitted in conjunction with the first party appeal which illustrate an outline of the proposed and reduced extension I do not consider there to be a material difference in terms of overbearing impact on no.11.
- 7.5.13. I consider that due to the depth and southern orientation of the existing rear garden at no 11, existing site characteristics including the set back of the residential property by 2.4m from the boundary and existing site boundaries that the extension as originally proposed would not unduly impact on the residential amenity of no. 11 by means of overbearing.
- 7.5.14. Having regard to the above reasons and considerations it is my view that the proposed extension at ground and first floor level as originally proposed would not result in an overbearing impact on neighbouring dwellings to such an extent that the proposal as originally proposed could be deemed to have a significant negative impact.
- 7.5.15. No issues of overlooking arise as windows are not proposed on the eastern or western elevations of the extension at first floor level and the rear garden maintains a width of over 14.5m to the south.
- 7.5.16. I note that no objections were lodged in respect of the proposal by adjoining landowners and consider that the revisions as proposed in Conditions 2 (a) and 2 (b) would have a significant impact on the layout of the proposed extension particularly at first floor level.
- 7.5.17. Having regard to the above reasons and considerations, I consider that concerns raised by the planning authority have been addressed within the first party appeal. I

consider that Condition 2 (a) and (b) requiring the reduction in the depth of the proposed extension to 5m at ground floor level and 3.5m at first floor level are, therefore, not warranted.

Condition 2 (c)

7.5.18. Condition no. 2 (c) of the permission requests the omission of the velux window in the front roof plane. The planner's report sets out a rationale for the inclusion of this condition on grounds of undue negative impact on the visual amenity of the area. It is stated that no other velux windows in the front pane of the roof were noted in existing properties in the area.

7.5.19. At the outset, I note that planning authority have incorrectly described the proposed rooflight on the front roof pane as a velux window. On review of the application drawings and having regard to the limited scale of the rooflight I do not consider that it would represent a visually discordant feature in the area. The proposed rooflight would enhance the overall amenity of the property. I therefore do not consider the requirements of Condition 2 (c) to be warranted.

Condition 2 (d)

7.5.20. Condition no. 2(d) relates to the provision of a store to the front of the dwelling for the storage of three "wheelie" type bins. I have no objection to the inclusion of this condition.

Condition 2 (e)

7.5.21. Condition 2 (e) of the permission requests that the ridgeline of the roof of the proposed extension to the side set down by 200mm below the existing ridgeline of the roof. The planner's report sets out a rationale for the inclusion of this condition ensure that the proposal does not contribute to terracing of development along Kirkpatrick Drive.

7.5.22. I note Development Plan guidance regarding terracing and recent decisions in the area where similar conditions have been imposed as detailed in the planning history section of this report. I have no objection to the inclusion of this condition in this regard.

## 7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and small scale of the proposed development and the distance from 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 condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the Planning Authority under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to REMOVE part (a), (b), (c) of Condition 2 and ATTACH part (d) and (e) of Condition 2 .

## 9.0 **Reasons and Considerations**

REMOVE part (a), (b), (c) of Condition 2

Having regard to the residential land use zoning for the site, and to the pattern of development in the area, it is considered that the proposed depth of the extension as originally proposed and the proposed rooflight on the front roof pane would not seriously injure the visual or residential amenities of the area or of properties in the vicinity by reason of overshadowing, overbearing or overlooking.

The planning authority's Condition 2 (a), (b) and (c) (requiring the reduction in the depth of extension and removal of proposed roof light in the front roof pane) is, therefore, not warranted.

ATTACH Condition 2 (d) and (e). In the interests of visual amenity.

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Stephanie Farrington  
Senior Planning Inspector  
2<sup>nd</sup> of September 2020