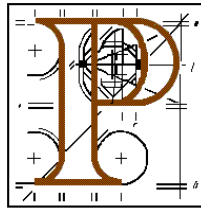


## An Bord Pleanála



## Inspectors Report

**Development:** Development will consist of partial demolition, reconstruction and extension of the existing semi-detached house as follows: demolition of previous additions and the rear return, construction of a new three storey over basement extension to the side and part three storey / part single storey over basement extension to the rear. New dormer and velux-type windows to the rear. Alterations to front façade to remove later lean-to canopy and reinstatement of original dining room window. New iron gates to existing vehicular entrance. All existing parking spaces will be maintained and no significant trees will be affected, all at 7 Shrewsbury Road, Ballsbridge, Dublin 4.

### Planning Application

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref. WEB1312/15  
Applicant: Deirdre Kelly  
Type of Application: Permission  
Planning Authority Decision: Grant

### Planning Appeal

Appellant(s):  
1. Marion Dempsey  
2. Frank & Peggy Muldowney  
3. Shrewsbury Road Residential &  
Environmental Protection Association  
4. Kathy Smurfit

Observers: None  
Type of Appeal: Third Party  
Date of Site Inspection: 31/03/16

**Inspector:** Gillian Kane

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## **1.0.0 SITE LOCATION AND DESCRIPTION**

1.0.1 The subject site is located on the south-eastern side of Shrewsbury Road, a mature tree lined residential road in the south Dublin suburb of Ballsbridge. The site is located approx. 90m south-west the junction of Shrewsbury Road and Merrion Road.

1.0.2 Currently on site is a two storey with attic accommodation semi-detached dwelling with landscaped gardens to the front and rear. No. 5 Shrewsbury, to the north, is the mirror image of no. 7 before it was extended and altered. The dwellings date from approx. 1932, with unifying features of bay windows, red brick and dashed front elevations under hipped roofs. The subject dwelling which is of the Arts & Crafts design approach was extended and altered c. 2009 (DCC reg. ref. 2020/09 refers) to reposition the front door from the side to the centre of the front elevation and the creation of a two storey bay to mirror the original bay. A single storey lean-to extension was added to the side.

1.0.3 To the south-west of the subject site an extensive development is ongoing at no. 9 Shrewsbury Road. To the rear (south) of the site are the grounds of Wanderers Rugby Club. The wider area of Shrewsbury Road accommodates a number of substantial two and three storey detached and semi-detached Victorian/Edwardian buildings on large plots.

1.0.4 Photographs and maps in Appendix 1 serve to describe the site and location in further detail.

## **2.0.0 PROPOSED DEVELOPMENT**

2.0.1 Permission was sought for the demolition of 248sq.m. of an existing two storey with attic accommodation semi-detached dwelling, the reconstruction and extension of the house (618sq.m.) to include construction of new three storey over basement extension to the side and part three storey part single storey over basement extension to the rear, new dormer windows to rear, alterations to front façade to remove lean-to canopy and reinstatement of original dining room window.

2.0.2 Details provided in the application form: total site area of 1465sq.m., with 248sq.m. of the existing dwelling to be demolished and 261sq.m. to be retained, 618sq.m. proposed new building

leading to a total GFA of 879sq.m. Plot ratio of 0.6 and site coverage of 21%.

2.0.2 In addition to the application drawings the application was accompanied by the following:

- Conservation Report
- Engineering Report
- Design Statement

2.0.3 5 no. submissions were submitted to the Council.

### **2.1.0 Reports on File following submission of application**

2.1.1 **Engineering Division Drainage:** No objection subject to developer complying with the Dublin Regional Code of Practice for Drainage Works, to verification of drainage records, to a separate drainage system, to incorporation of SuDS, to design of soakaways being in compliance with BRE guidance, to an FRA being carried out, to the containment of drain fittings within the property and to the lifting of all internal basement drainage via pumping to a maximum depth of 1.5m below ground level before being discharged by gravity from the site to the public sewer.

2.1.2 **Planning Report:** Given the size and orientation of the site, the nature and scale of the proposed development is appropriate. No windows above ground floor level on northern gable, proposed extension 5m from boundary wall therefore no overlooking of no. 5. DCC drainage division has no objection to proposed basement. Proposed development will not negatively impact the streetscape, environmental and residential amenity of the area and is considered acceptable. Recommendation to grant subject to conditions.

### **3.0.0 PLANNING AUTHORITY DECISION**

3.0.1 By order dated 02/12/15 a notification of decision to GRANT permission issued with 6 no. conditions. Conditions no. 6 states:

6. The developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from [www.dublincity.ie](http://www.dublincity.ie) Forms and Downloads). • Dublin City Council's drainage records are indicative and must be verified on site. • The development is to be drained on a completely separate system. • To minimise the risk of basement flooding, all internal basement drainage must be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer. • The development shall incorporate

Sustainable Drainage Systems in the management of stormwater. • Design and construction of soakaways must comply with the requirements of BRE Digest 365 and CIRIA C522. • Prior to the commencement of development the developer shall prepare and submit for written approval, an appropriate flood risk impact assessment, in accordance with the OPW Guidelines. • All private drain fittings such as, downpipes, gullies, manholes, Armstrong Junctions, etc. Are to be located within the final site boundary. Private drains should not pass through property they do not serve. Reason – In order to provide a satisfactory standard of development.

#### **4.0.0 PLANNING HISTORY**

4.1.0 Recent planning history or history within the immediate vicinity of the subject site includes:

2 Shrewsbury Road **DCC reg. ref WEB1216/14** Planning permission was sought for the change of use from former embassy use to a single family residence, addition of a three storey extension to the side (north-western gable), provision of an underground basement comprising of a swimming pool, associated toilets and changing areas, parking garage and ancillary storage areas. Permission was granted subject to 13 no. conditions.

9 Shrewsbury Road **DCC reg. ref. 2648/13** Planning permission was sought for extension to and alteration of existing dwelling including construction of a single storey basement to the side and rear, single storey extension to the rear, two storey extension to the side. Permission granted subject to 9 no. conditions.

4.2.0 An Bord Pleanála planning history in the wider area includes:

- **PL29S.243272** Walford, 24 Shrewsbury Road. Planning permission refused for extension and alteration of Walford and construction of four detached houses was refused on the grounds of the impact of the backland development by reason of its height, scale and layout, including open space disposition, would be out of character with this area, would have a negative impact on the architectural character of the area, would conflict in a material way with the policies of the development plan, and would set an undesirable precedent in this sensitive setting.
- **PL29S.243302** 28 Shrewsbury Road Planning permission was refused for demolition of the existing dwelling and construction of a replacement dwelling on the grounds of notwithstanding the

merits of the contemporary design of the proposed dwelling, it did not have due regard to its setting and the architectural character of the area in terms of design, materials and scale.

- **PL29S.243453** 69 Merrion Road. Planning permission granted for change of use from mixed commercial and multi-occupancy use to embassy office use and caretakers mews.

## **5.0.0 NATIONAL POLICY**

### **5.1.0 Architectural Heritage Protection – Guidelines for Planning Authorities**

5.1.1 This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principal of minimum intervention (Para.7.7.1). In relation to conservation areas, the Guidelines state that: *“the protection of architectural heritage is best achieved by controlling and guiding change on a wider scale than the individual structure, in order to retain the overall architectural or historic character of an area”*.

## **6.0.0 LOCAL POLICY**

### **6.1.0 DUBLIN CITY DEVELOPMENT PLAN 2011 -2017**

6.1.1 The subject site is located in an with the indicative land use zoning objective of **‘Z2’**: *“to protect and/or improve the amenities of residential conservation areas”*. Residential development is permitted in principle in such zones.

6.1.2 The subject site and the wider Shrewsbury Road area are within a designated residential conservation area. Policies for conservation areas are as follows:

**FC40** To protect the special character of the city’s conservation areas through the application of the policies, standards and guiding principles on building heights

**FC41** of the plan seeks: *“to protect and conserve the special interest and character of Architectural Conservation Areas and Conservation Areas in the development management process”*.

**FC26** To protect and conserve the city’s cultural and built heritage; sustaining its unique significance, fabric and character to ensure its survival for future generations

**FC27** To seek the preservation of the built heritage of the city that

makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city

6.1.3 **Section 7.2** of the plan refers to the importance of the built heritage and its contribution to the richness and diversity of its urban fabric. This includes Edwardian architecture and it continues that the challenge for the next decade is to protect the unique character and qualities that characterise the city and create its attractiveness. **Section 7.2.5.3** refers specifically to **Conservation areas**, stating that they have been designated in the city in recognition of their unique architectural character and important contribution to the heritage of the city. Designated conservation areas include extensive groupings of buildings or streetscapes and associated open spaces. Designated areas include the Georgian Core area in recognition of Dublin's international importance as a Georgian city, the city quays, rivers, canals and specific streets and sites. All of these areas require special care in terms of development proposals which affect structures in such areas, both protected and non-protected. The special value of conservation areas lies in the architectural design and scale of these areas and is of sufficient importance to require special care in dealing with development proposals and works by the private and public sector alike. Dublin City Council will thus seek to ensure that development proposals within all conservation areas complement the character of the area, including the setting of protected structures, and comply with development standards

6.1.4 **Section 17.9.8 Extensions and Alterations to Dwellings.** The design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar finishes and windows. Applications for planning permission to extend dwellings will be granted provided that the proposed development:

- Has no adverse impact on the scale and character of the dwelling.
- Has no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.

6.1.5 **Section 17.9.11** acknowledges that basements can be beneficial, but flooding can occur. The planning authority's policy is to discourage any significant underground or basement development or excavations below ground level or adjacent to residential properties in Conservation Areas. In considering applications for basement developments, the planning authority will have regard to the following:

- The permissible size of a basement development to the rear of a property will be guided by the characteristics of the site. In the case of large sites, a basement development to the rear of a property generally should not exceed the footprint of the original building. Furthermore in all cases, a basement development should generally not extend to more than 50% of the amenity/garden space.
- Impact of proposal on future planting and mature development of vegetation and trees on the site.
- Impact on the water table and/or any underground streams and sewers.
- The basement development should provide an appropriate proportion of planted material to mitigate the reduction in the natural storm water infiltration capacity of the site and the use of Sustainable Urban Drainage Systems should be considered.
- Effective measures should be taken by the applicant during demolition and construction works to ensure that the structural stability of the existing property and adjoining properties is maintained.
- Adequate sunlight/daylight penetration will be required which will be influenced by site orientation and size of site and lightwell/courtyard. The planning authority may require a daylight analysis to be submitted as part of a planning application.
- Adequate ventilation will be required; functions such as kitchens, bathrooms and utility areas should ideally be naturally ventilated
- Basements should be provided with a means of escape allowing access to a place of safety that provides access to the external ground level.

6.1.6 **Section 17.10.8** of the development plan refers to developments in Conservation areas. It states that all new buildings should complement and enhance the character and setting of conservation areas. In considering proposals for development in conservation areas, it is policy to have particular regard to:

- The effect of the proposed development on buildings and the surrounding environment, both natural and manmade.



- The impact of development on the immediate streetscape in terms of compatibility of design, scale, height, plot width, roof treatment, materials, landscaping, mix and intensity of use proposed. Development within conservation areas should be so designed so as not to constitute a visually obtrusive or dominant form of development. New alterations and extensions should complement existing buildings/structures in terms of design, external finishes, colour, texture, windows/doors/roof/chimney/design and other details.

6.1.7 **Appendix 10** of the development plan sets out the relevant policies and standards for **Protected Structures and Buildings in Conservation Areas**. **Appendix 25** outlines **Guidelines for Residential extensions**.

## 7.0.0 **GROUNDS OF APPEAL**

7.1.0 Four third party appeals against the Council's decision to grant permission were received.

### 7.2.0 **Third Party (Marion Dempsey, 10 Shrewsbury Road) Appeal against Decision**

7.2.1 The grounds of the appeal can be summarised as follows:

#### Design

- The current proposal would interrupt the harmonious heritage streetscape. The City Council did not have due regard to this context.
- The proposed dwelling looks truncated, like a house and half with an ungainly wing jutting out from the southern end.
- The proposed extension interrupts the planted lateral separation that is a fundamental feature of the road. This is essential to securing the artistic / heritage future of the road.
- The case for the proposed demolition and additions has not been established.

#### 7.2.2 Development Plan

- Proposed development is contrary to the Z2 zoning objective as the excessive and inconsistent additions would have a detrimental effect on the streetscape.
- Residential conservation areas are recognised for their distinctive character, setting the bar higher than a mere residential function. The prime examples of quality architecture and streetscape serve a wider function: tourist, embassy /

consulate and economic. This is a clear signal that streetscape must be part of the planning evaluation.

- The Council has taken the “form of the existing building” into account in WEB1216/14, no. 2 Shrewsbury Road.
- The Council have overlooked the development plan policies which seek to protect and enhance the historic fabric of conservation areas.
- The development plan acknowledges that protection must be afforded to structures that are not protected.
- The distinctive profile of no. 7 and its contribution to the heritage and prestige of Shrewsbury Road would be degraded by the current proposal.
- The contribution of old buildings to the city is recognised in Policy FC27 and section 17.10.8 of the plan. It is submitted that the Council did not have due regard to these provisions.

#### 7.2.3 Planning Authority Decision

- The conditions of the Council's decision relate to mere housekeeping and show little appreciation of the streetscape context.
- The Council's planning report does not refer to the precedent of the Walford case (PL29S.243272 refers) and does not indicate how policies of the development plan were assessed.
- The implications of the scale of the proposed additional floor area were not adequately considered. The assessment that the 'scale of the proposal is appropriate' fails to take account of the Boards decision on Walford and does not understand the architectural and cultural contribution of Shrewsbury Road.
- The Planning Authority's focus on the basement over the streetscape and impact on residential amenity shows a misdirected consideration.
- It is noted that the planning report is dated 03.12.2015 and the Council decision is dated 30.11.2015

#### 7.2.4 Planning History

- The decision of the Board to refuse permission for an apartment building at no.s 1&3 Shrewsbury Road (PL29S.209467 refers) on the grounds of undesirable precedent is submitted to be applicable to the proposed development. The importance of the architectural interest of and the harmonious relation between the houses was noted by the Inspector.

- It is submitted that any intervention must be sensitive to the consistent lateral spacing between street elevations on Shrewsbury Road.
- Regarding the Boards decision to refuse permission for 4 no. houses in the rear garden of Walford, the Board addressed the issue of inappropriate scale of extension to the dwelling and thereby established the reputation of Shrewsbury Road in terms of streetscape. It is submitted that this unprecedented ruling confirmed the contribution of the area to the culture and tourism of the city.

#### 7.2.5 Character of Shrewsbury Road

- The pre-eminence of Shrewsbury Road has been achieved by consistent application of good planning, architecture and landscaping.
- The importance of Shrewsbury Road can be attributed to a consistency and harmony of plot widths, lateral separation and generous planting creating a green buffer whilst allowing the individual design expression of houses. The maturity of the streetscape lends itself to embassies and consulates.
- A sizeable proportion of houses were built in the Edwardian era. Proposals for replacement houses have been resisted.
- The proposed house and a half is at odds with the policy of residential conservation and would form a destructive template and an undesirable precedent.
- It is submitted that no.s 6, 8 and 14 Shrewsbury Road should inform the implementation of the Z2 zoning as they show the strong individual architectural expression, generous curtilage and open elevation. These essential features are submitted as defining the period streetscape. The proposed development with bulk up to the boundary runs counter to the streetscape.
- Implementation of the Councils tourism policy (section 9.4.8 and policy RE30) requires the protection of streetscapes such as Shrewsbury Road.
- House no.s 5 and 7 were built as an adjoining pair. The Board is requested to recognise the shared design features and find that they must be retained.
- Any proposals to reverse inappropriate interventions or restore period features are welcomed.
- It is submitted that a conditional permission would not achieve a more consistent design and the Board is requested to refuse permission.

### **7.3.0 Third Party Appeal (Prof. Frank & Mrs. Peggy Muldowney of 5 Shrewsbury Road) against Decision**

7.3.1 An agent for the residents of no. 5 Shrewsbury Road has submitted a third party appeal with 3 no. appendices. The Board is requested to decide that the proposed development is inappropriate and has a negative impact on the recognised character of this residential conservation area. The grounds of the appeal can be summarised as follows:

#### 7.3.2 Impact on Character of Shrewsbury Road

- Shrewsbury Road is a mature tree lined street with a strong period character. Dwellings share a relatively limited and harmonious palate of building materials but almost all on large plots with a spacious relationship between dwellings. The sequential development pattern of the road has resulted in a variety of architectural styles without contemporary residential development. Shrewsbury Road is typically described as Dublin's premier residential street, which is reflective of a combination of factors: location, street character, style of house, and spacious plots and mature trees offering a quasi-rural seclusion. The unique urban grain of the road is recognised in its Residential Conservation status which is protected under the development plan.
- The proposed development is at odds with the heritage character of the streetscape. The subject dwelling, no. 5 and no.s 1 and 2 Shrewsbury road are thought to date from the same time. The decision of the Board to refuse permission for the demolition of no.s 1 and 2 emphasises the importance of the significant character of the streetscape. Noting the previous alteration of the subject dwelling further erosion of the character should not be permitted.
- The proposed development seeks to mirror the gable form of no. 5 and provide a level of symmetry. The gable of no. 5 is set back from the principal front elevation by approx. 7m and so reads as a secondary element. The proposed gable at no. 7 is set back only 2.6m and so reads as part of the principal elevation. It is submitted that this is visually jarring and will negatively impact on the rhythm of the street. If permission is to be granted, the Board is requested to set back the addition at ground, first and second floor by a minimum of 6m by the reduction in the size of the ground floor entrance hall, first floor study and second floor storage area, to allow it to read as a secondary element. The

Board is requested to not allow the built form to be further extended at the rear to compensate for the setback.

### 7.3.3 Impact on Residential Amenity of no. 5 Shrewsbury Road

- The proposed rear additions are unacceptable due to the unreasonable visual bulk impacts on no. 5, to the north-east of the subject site.
- The proposed development includes a part single party three storey extension to the rear which extends 12.6m beyond the rear facade of the existing dwelling. These will be directly adjacent to the rear patio of the appellants private open space which is frequently and heavily used. Figures submitted show the extent of the proposed development. The proposed single storey extension has an overall height of 4.78m above ground level which is excessive considering the 5.3m setback from the appellants boundary. It is submitted that the ground floor extension should be reduced in height to mitigate against the unreasonable visual bulk impacts.
- The proposed rear extension at first and second floor levels, extend 6m beyond the existing rear façade and have an overall height of 10.64m. It is submitted that the north-east elevation of a sheer double storey wall with second floor level within a pitched roof, will dominate the appellants habitable room windows and patio. It is submitted that this elevation which lacks both articulation and an appropriate setback, will appear as an excessively bulky three storey elevation. Figure and photos submitted. The recently constructed extension of no. 9 with a maximum ridge height of 7.9m is clearly visible and clearly dominant from the rear of the appellants home. The proposed extension of no. 7 with a maximum ridge height of 10.6m will have a negative impact on no. 5. It is submitted that the highly articulated roof profile of no. 9 is in stark contrast to the blank elevation of no. 7.
- If the Board decides to grant permission, it is requested that the overall height of the additions be reduced, the first floor north-east façade be further set back and provide greater articulation. A detailed landscape plan should be requested to protect the residential amenity of no. 5
- The proposed development will significantly reduce the quantum of daylight and sunlight enjoyed by the rear of the appellants dwelling. A shadow analysis of the proposed development is considered critical.

- Directly adjoining the patio of no. 5 a proposed library with an overall height of 3.4m above ground level contrasts with the existing 1.6m high wall, and 3.4m high roof that is set back from the boundary by 1.2m. It is submitted that the increased boundary wall height will increase overshadowing of the appellants patio.
- The proposed development includes the construction of a blank double storey wall of 6.5m high and 10.9m wide. A third storey is contained within the roof profile with a maximum ridge height of 10.65m above natural ground level and is set back 5.34m from the appellants boundary. It is submitted that this will completely overshadow the appellants amenity area. The Board is requested to set back the additions or reduce the overall height to ameliorate the impact on the appellants dwelling.
- The scale, height and form of the proposed additions will significantly reduce the amount of solar access to the ground floor rooms of no. 5.
- The proposed development will result in the unreasonable overlooking of the appellants property and severely impact the amenity and privacy of their private open space. Figure submitted showing overlooking opportunities at first floor level. Sightlines with a horizontal distance of 15m at ground level measured within a 45 degree angle is considered unacceptable. Overlooking opportunities also exist at second floor level (figure submitted) from the proposed bedrooms and storage area. It is submitted that the storage area could be used as a habitable space. Screening mechanisms such as upward angled fixed louvered screening to a height of 1.7m above FFL should be conditioned if permission is granted.

#### 7.3.4 Contravention of DCC Development Plan

- The proposed development materially contravenes the Z2 zoning objective of the site. Any development of the site must be balanced and carefully considered to preserve the amenity of neighbouring properties and the character of the wider area. The Z2 zoning objective requires an assessment of the wider area. The proposed development with adverse amenity impacts on adjoining dwellings is incompatible with the residential conservation objectives of Shrewsbury Road. The proposed development will set an inappropriate precedent and negate the value of the zoning objective.
- The designation of Shrewsbury Road as a residential conservation area is a reflection of the unique character of the

area. It is submitted that DCC should have assessed the proposed development with reference to policies FC26, FC27 and FC41 which have been designed to preserve the unique urban fabric, character and distinctive streetscape of areas such as Shrewsbury Road. Alterations or additions to the heritage fabric of such areas should be treated sensitively and respectfully.

- It is submitted that the proposed development does not complement the existing dwelling or the heritage streetscape and that it is at odds with the policies of the development plan. It is submitted that the side addition could be acceptable if further set back to ensure it reads as a secondary element.
- It is submitted that the proposed development is contrary to the objective of the development plan, as set out in the guidelines in appendix 25, as it creates direct overlooking. Any proposed use of the flat roof above the proposed kitchen as a balcony would lead to overlooking and so should be prohibited by way of condition. The proposed development results in significant visual bulk impacts and will totally dominate the south-easterly outlook from the rear of the appellants dwelling. The proposed development which results in an unreasonable impact on the appellants amenity area is contrary to the provisions of the guidelines in relation to two storey rear extensions. It is submitted that the proposed extensions will be visually jarring and not in compliance with the subordinate approach advocated by the guidelines.

#### 7.3.5 Impact of Basement Construction

- It is submitted that the engineering report submitted with the application does not adequately deal with the issue of subsidence. As part of the 2009 planning application the architect noted the subsidence of the kitchen following heavy rain.
- The engineering report submitted with the subject application referred to dense black boulder clay underground. The engineering report following a full geotechnical investigation for the development at no. 9 refers to soft material and gravels. A full geotechnical investigation report should be requested for the proposed development.
- A minimum construction zone of 1.7m clear of existing structures was proposed around the basement perimeters at no. 9. The basement at no. 5 is proposed set back 1.5m from the line of piling to the proportion of façade to be retained and the property

at no. 5. To ensure the structural integrity of no. 5 appropriate measures must be put in place.

7.3.6 The appeal concludes with a request that account be taken of the adjoining sensitive interfaces. The proposed development is stated to be in contravention of the policies of the development plan, to negatively impact on the streetscape, to be excessively bulky and to be disruptive to the rhythm of the existing streetscape. The proposed development would have an unacceptable impact on the residential amenity of no. 5 in terms of overlooking and overshadowing. The Board is requested to refuse permission.

7.3.7 Appendix 2 of the appeal is a copy of some of the documents from the application to extend no. 7 Shrewsbury Road in 2009. (Reg. ref 2020/09 refers).

7.3.8 Appendix 3 is a copy of the engineering report submitted with the application to develop no. 9 Shrewsbury Road (reg. ref. 2079/14 refers).

#### **7.4.0 Shrewsbury Road Residential & Environmental Protection Association**

7.4.1 The reference by both DCC and An Bord Pleanála to the unique character of Shrewsbury Road and its exalted position as the premier residential roadway in Dublin is noted. The grounds of the third party appeal can be summarised as follows:

- Given the history of flooding and subsidence of no. 7 due to the high water table, the concerns of the residents of no. 5 are supported.
- The bulk and height of the proposed three storey extension would give rise to serious overlooking and overshadowing of the adjoining property.
- The altered front elevation in 2009 was acceptable but the proposed elevation is incompatible and out of sympathy with the adjoining semi-detached house.
- Should permission be granted, a condition requiring the property be retained as a single family home should be attached.
- The proposed development would create an unacceptable precedent leading to the dismantling and destruction of this residential conservation area.



## **7.5.0 Third Party (Kathy Smurfit of 24 Ailesbury Road) Appeal against Decision**

7.5.1 The grounds of the third party appeal can be summarised as follows:

- The potential effects of the proposed development on the neighbouring dwelling at no. 5 Shrewsbury Road have not been appreciated.
- The proposed development would cause considerable overshadowing. Photos showing the existing overshadowing of the rear garden of no. 5 by no. 7 in its current form are submitted. It is submitted that any increase of no. 7 would cause bigger shadows for longer periods of time. These shadows will over the dining room and kitchen / family room which receive their natural light from that angle. Photo of patio and photo of kitchen / family room submitted.
- The increased bulk of the full height extension and single storey extension to full parapet height will be visible from the rear of no. 5.
- The proposed development would be contrary to section 17.9.8 of the development plan as it would have an unacceptable effect on the amenities enjoyed by occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.
- The proposed development replaces the existing three windows overlooking no. 5 with six windows including a bay window on the second floor.
- The proposed basement will be very close to no. 5. The very general in nature engineering report on the proposed basement does not provide reassurance about the potential effect on no. 5. It is submitted that the report shows that the engineers are not fully certain of what will be required for the construction of the basement, so close to a semi-detached house. The construction of basements on Ailesbury Road has been a source of much concern with requests for in-depth site specific analysis.
- References to two developments in proximity of the site relate to detached dwellings that are at least twice the size of no. 7 and of a different architectural style.
- The Board is requested to refuse permission on grounds of unacceptable adverse impact on no. 5 Shrewsbury Road.

## **8.0.0 OBSERVATIONS**

8.1.0 None on file.

## **9.0.0 RESPONSES**

### **9.1.0 Planning Authority Response**

9.1.1 The City Council has no further comment to make and submits that the planners report on file adequately deals with the proposal.

### **9.2.0 Third Party Comments on other Third Party Appeals**

9.2.1 Agent on behalf of no. 10 Shrewsbury Road:

- The comments of the Shrewsbury Road Residential and Environmental Protection Association are supported. The overriding concern of the Association is the perceived danger to the conservation area and the wider destruction of heritage.
- The Board is requested to find that DCC did not adequately assess the wider urban character of the area.
- The proposed set back of the side gable as requested by Future Analytics is considered to be a material change that would be outside the scope of conditions.
- The Board is requested to refuse permission.

### **9.3.0 First Party Response to Third Party Appeal**

9.3.1 The First Party response to the three third party appeals takes the form of the following:

9.3.2 Planning Report

- Minor inaccuracies inadvertently included on the drawings are brought to the Boards attention. Submitted drawings clarify the errors
  1. No window opening on southern elevation (stairwell)
  2. Ground floor library entirely within the boundary wall.
  3. Window at first floor level on front elevation
- The report states that in response to some of the issues raised in the appeals, a number of design changes are proposed;
  1. Altered roof profile to side extension, changed from gable to hip, reducing the visual bulk
  2. Altered roof profile to the rear, changed from a gable to a hip and providing dormer windows at attic level
  3. Revised and reduced in size window at second floor level, low pitch metal roof in place of previous half-timbered gable
  4. Omission of dome to proposed library, replaced with low profile roof light.
- The principal of extending and altering the existing house has been established by the previous permission 2020/09. It is stated that the proposed development will reinstate the architectural intention of the original house so that it is more

closely aligned with no. 5 Shrewsbury Road. The proposals to restore the front elevation to its original form, in conjunction with the redevelopment of no.s 1 and 3 Shrewsbury Road, will contribute more to the streetscape and will be in keeping with the character of the Road.

- In assessing the proposal the Planning Authority stated that the *'proposed development will not negatively impact on the streetscape, environmental and residential amenity of the Z2 area'*.
- The proposed extension is not excessive given the size of the plot. The layout has been designed taking chapter 7 and sections 17.9.8 and 17.10.8.1 of the development plan into account. The proposed development meets all current development plan standards for residential development in relation to floor area, orientation, sunlight / daylight, provision of open space and off street parking.
- Under reg. ref.s WEB1216/14 DCC and WEB1304/14 granted permission for a development at no. 2 Shrewsbury. The permission for a three storey extension to the side and rear, modifications to the front elevation and basement was considered by the Council to have no negative impacts on the streetscape, environmental and residential amenity of the area.
- Under reg. ref.s 2364/13, 3381/14, 2079/14 and 2700/14 DCC granted permission for substantial alterations, large two storey extension and substantial basement to no. 9 Shrewsbury Road, a dwelling to the immediate south of the subject site. The Council stated the proposed basement was satisfactory as the applicant had indicated that effective measures can and will be taken during demolition and construction works to ensure that the structural stability of the existing and adjoining properties is maintained. In relation to streetscape, the Council noted the variety of house types on the road and the mature planting and stated that the amenities of adjoining properties would not be affected. It is submitted that the precedent set by no. 9 is evidence that significant redevelopment works with basements can be carried out without negatively affecting the character of the area.
- In response to the third party claims it is submitted that the proposed development is not contrary to the Z2 zoning objective. Residential development is permitted in principal in such zones. A number of significant residential developments have been permitted on the road, including modern extensions and modern houses:

1. 14 Shrewsbury Road 2512/13
2. 15 Shrewsbury Road
3. 21 Shrewsbury Road 3197/15 and 3715/11
4. Lissardagh and Ouragh 323899
5. 28 Shrewsbury Road 1306/14 and WEB1279/15

- In cognisance of the residential conservation status of the area careful consideration has been given to the design, scale, height and location of the proposed development to ensure it will complement the existing and adjoining houses. It is the opinion of the Applicant and the Planning Authority that the proposed development will have no significant adverse impact upon the established residential amenity of the area. The proposed development is in accordance with chapter 7 of the plan and sections 17.9.8 and 17.10.8.1 of the plan.
- It is stated that the Architect was fully aware of the significance of the character of Shrewsbury Road and the design approach was derived from an analysis of existing dwellings on the Road. The proposed works have been designed to complement no. 5 and other residences.
- The appellants claim that the Planning Authority's consideration was misdirected is rejected. It is submitted that Walford is not a suitable or appropriate comparable for the proposed development as the proposal was refused on the ground of backland development. It is noted that the Inspector found the extension to the main dwelling to be acceptable in principle subject to some reservations. It is stated that the subject house is not a protected structure and in the opinion of the Planning Authority it is a 'dwelling of no particular architectural merit in a Conservation Area'. Notwithstanding this the proposed development seeks to reinstate much of the original fabric of the subject dwelling.
- Regarding the appellants use of no.s 1 and 3 Shrewsbury Road as a comparable, it is noted that the proposal sought the demolition of the houses and their replacement with a three storey apartment block. It is submitted that this decision is not relevant.
- Regarding development at no.s 2 and 9, the appellants rejection of this precedent is not accepted. It is submitted that the developments comprised extensive alterations to the existing dwellings and significant extensions to the side and rear of the dwellings which are visible from the street. It is submitted that these are directly comparable to the subject development.

- The proposed development complies with development plan standards for plot ratio (0.61), site coverage (22%) and guidance on extensions and alterations. It is submitted that the proposed development will positively enhance the character of the area and will be appropriate in terms of design, scale, mass, height, proportions, density, layout, materials, plot ration and building lines.
- The appellants claim that there are no contemporary residential dwelling interventions is not accepted. It is stated that residential properties on the road have been subject to extensive redevelopment works and extensions with some evidence of modern infill development.
- The appellants claim that the road is quasi-rural is rejected in favour of a suburban residential classification.
- It is submitted that the Planning Authority had due regard to the established character of the area and considered the proposal to not negatively impact on the streetscape, environmental and residential amenity of the Z2 area.
- The proposed development is for a family and is not a speculative development. No precedent for same will arise.
- The contention that the design of the proposed development is inappropriate and would be harmful to the historic character of the property is not accepted. The proposed extension is not excessive and was subject to a design evolution. It is submitted that replacing the 2009 side extension with an entrance wing reinstates the architectural intention of the 1930's design.
- Regarding the claim that the side extension would be visually jarring and that the subordinate approach has been ignored, it is submitted that these allegations are unfounded and based on a lack of understanding of the original character of the dwelling. The decision to restore the entrance to the side is to allow the front block to be recognisable as a pair with no. 5. In order to restore the Arts & Crafts character it is important to undo the symmetry of the 2009 interventions. The proposed extension is set back and separated from the rest of the house and is legible as a separate block with a commonality of detail. The design process was influenced by a photographic survey of Shrewsbury Road.
- In response to concerns, the proposed front elevation has been amended to allow for a hipped rather than a gable roof which matches the main roof profile. The applicant has indicated that they would be happy to accept such an amendment by way of condition.

- Regarding the potential for overshadowing of no. 5 raised by two of the appellants, these allegations are rejected. The sunlight and daylight analysis carried out shows that the impact will be imperceptible during the winter months and that there will be no impact during the summer months. The analysis found that there will be a slight to moderate increase in overshadowing during the afternoon and evenings of the spring and autumn months. Using the BRE guidance test of two hours of sun on March 21, the proposed development will not result in any undue adverse impacts on sunlight access to the rear garden of no. 5.
- Regarding the potential loss of daylight / sunlight to the habitable rooms to the rear of no. 5, the analysis finds that the windows will continue to receive a level of sunlight very considerably in excess of that recommended by the BRE.
- Regarding the claim of overlooking, it is stated that the existing house has windows which overlook the rear garden of no. 5. It is submitted that by extending the rear return, the windows in the rear façade will be moved further down the garden which will reduce overlooking of the patio at no. 5. It is submitted that the proposed development will not result in an increase in overlooking, with no new windows directly overlooking no. 5. The proposed new window at the second floor replaces an existing very large velux. The suggestion of screening mechanisms to preclude overlooking is not welcomed.
- Responding to the claim of negative visual impact, it is acknowledged that the rear extension will be visible from the rear of no.s 5 and 9 Shrewsbury however this is not reflective of its obtrusiveness. It is submitted that the proposed development has been designed to retain a sense of privacy for the residents of the existing and adjoining dwellings. The applicants are happy to accept a condition requiring a landscaping plan.
- Regarding the claim that the rear extension is a blank elevation with little articulation and visual bulk, it is stated that the proposed rear extension is two storeys in height and is set back from the boundary with no. 5 by 5.3m. The northern elevation has been designed to read as two storeys with a pitched roof where the pitch maintains the same pitch and height as the existing rear return roof. No windows are proposed on the northern elevation and the facade will be relieved by use of materials and details. It is submitted that the exposed rafter ends and overhanging eaves further soften the elevation. Regarding the length of the return, it is stated that the increase is 12.95m at ground floor level and 6m at first floor level.

- Notwithstanding the above and in response to the third parties concerns, the roof profile and proposed windows of the proposal are amended as discussed. It is submitted that the proposed changes add visual interest and reduce the impact. The Board is requested to accept these changes by way of condition.
- In response to concerns about the proposed basement, it is stated that the footprint of the proposed basement (280sq.m.) is located entirely under the proposed extension. The engineering report submitted with the application confirms that the basement is in accordance with section 17.9.11 of the development plan. The Planning Authority had no objection to the proposed basement subject to conditions. The Engineers responsible for the proposed basement were chosen based on their experience with constructing a basement at no. 2 Shrewsbury Road.
- The Board is requested to dismiss the grounds of appeal.

#### 9.3.3 Design Statement and Proposed Design Changes

- The alterations in 2009 centred the entrance to the dwelling. This rejected the notion of three dimensional architecture of the Arts & Crafts Movement. The proposed development re-locates the entrance to the side, reinstating the clarity of form. The proposed extension is set back and separated from the rest of the house, recognisable as a separate block but with a commonality of materials.
- Four revisions are proposed to address the concerns raised by the third party appellants.
- Photographic survey of Shrewsbury Road

#### 9.3.4 Sunlight and Daylight Impact Analysis

- The worst case scenario analysis finds that the impact of the proposed development on no. 5 Shrewsbury Road is little or no change in daylight access to rooms to the rear of no. 5 – the impact can be classified as none to imperceptible.
- Using the BRE guidance test of a window receiving 25% of annual probable sunlight being adequately sunlit throughout the year against the proposed development, the analysis found that the rooms to the rear of no. 5 currently receive in excess of the 25%. The proposed development will reduce the probable sunlight hours by 1-3% in a worst case scenario. The analysis concludes that the proposed development will not result in a noticeable impact.
- A second BRE test is that “at least half a garden should receive at least two hours of sunlight on 21 March”. The proposed

development was found to have no undue adverse impacts on the garden of no. 5. The percentage of the garden of no. 5 in sunlight currently ranges from 86% at 10.00 to 31% at 17.00 on March 21<sup>st</sup>. The impact of the proposed development takes effect from 14.00 when the proportion of garden in sunlight falls from the current 83% to 79% onwards to a fall of 11% at 17.00.

#### 9.3.5 CORA Engineering Letter

- In order to complete the final design for the basement, a full geotechnical site investigation is required which cannot be carried out in advance of a grant of planning permission. This can be achieved by way of conditions.
- Site investigation works are restricted by the existing and adjoining buildings and as such can only be carried out after partial demolition. Site investigations undertaken for nos 2 and 9 Shrewsbury Road formed the basis of the current basement design. This will be reviewed and updated as necessary.
- The construction methodology is set out in the engineering report and drawings. A secant pile wall which will be offset from the boundary by 1.5m, will facilitate the digging out of the basement. The interlocking piles are in excess of 3.5m from the boundary with no. 5 Shrewsbury Road. This offset will minimise vibrations on adjoining structures.
- The proposed construction is similar to recent work undertaken at no. 2 Shrewsbury and takes full account of the existing semi-detached property. The proposed construction is also similar to that adopted at no. 9 Shrewsbury.
- The design of the proposed basement takes account of the soft clay and silt below ground level to a depth of 2.4m. The proposed basement will be below this level and will not affect foundation design.
- The proposed basement works fall outside the zone of influence of the foundations of no. 5 Shrewsbury. Notwithstanding this the proposed offset secant pile wall will minimise any risks to no. 5 and will form an impenetrable retaining wall.
- A 1.5m distance from the front facade of no. 7 is acceptable given that the front façade will not be subject to any loadings.
- The site is not subject to fluvial flooding or coastal risk and is outside the 10%, 1% and 0.1% AEP weather events. Flooding can safely be declared not to be an issue.



#### **9.4.0 Third Party Response to First Party Response**

9.4.1 Agent on behalf of no. 10 Shrewsbury Road. Additional / new issues raised can be summarised as follows:

- It is submitted that the substantial changes proposed by the applicant represent a materially different proposal to that described in the public notices. The Board is requested to declare the proposed changes to be a change of house type requiring further public notices. That a number of errors were corrected by the applicant reiterates the claim that the public notices are inadequate.
- The applicant has acknowledged the character of Shrewsbury Road and the strong influence of the Arts & Crafts movement on house design. Shrewsbury Road was laid out to permit each house to be generously proportioned in relation to neighbouring houses. Views of flanks of the buildings are inherent in this style.
- It is submitted that the applicant's response fails to engage with the planning parameters of the generous lateral separation. There has been no material change in circumstances that warrant a decision different to that in PL29S.243272 (Walford).
- Shrewsbury Road is notable for a move away from the Georgian and Victorian eras, putting individual expression at the heart of the concept. During the oral hearing for Walford, the relationship of house and plot size was advanced as being a characteristic amenity of Shrewsbury Road. It is submitted that it is essential that the best examples of Arts & Crafts be carefully retained, in accordance with policies FC26, FC27 and FC41.
- The case for substantial demolition has not been established. The board is requested to find that the proposed development is too intrusive, would have a negative impact on no.s 5 and 9 and would provide inadequate lateral spacing.

9.4.2 Kathy Smurfit of 24 Ailesbury Road

- Regarding the Applicants clarification that the proposed library will be 'wholly inside the boundary wall', it is stated that it is not clear how far inside of the wall the proposed library building will be. The effect of the proposed library is still to increase the direct height of the boundary wall from the current 1.6m to 3.4m or 3.75 depending on which drawing is read.
- No overlooking from the second floor rooflights currently exists. The proposed development involves three full height windows on the second floor, which cannot be mitigated with screening.
- The proposed change to dormer windows at second floor and a hipped roof to the rear should be a condition of any permission.

- No measurements have been provided for the proposed reduced size window at second floor level. It is submitted that it appears to be the same as that originally proposed.
- The proposed removal of the dome of the library is a minor improvement but one which should be conditioned if permission is granted.
- The relevance of no.s 2 and 9 Shrewsbury Road as comparables is that they are detached dwellings on sites at least twice the size of no. 7. Neither development had to deal with semi-detached neighbours in close proximity.
- The development plan guidelines for extensions specifically refer to semi-detached dwellings, acknowledging that they require specific attention.
- The proposed amendments do not address the fundamental concerns regarding the impact on the residential amenity of no. 5.

#### 9.4.3 Agent on behalf of no. 5 Shrewsbury Road.

- The proposed amendments to the design will mitigate some of the impacts of the proposed development but the potential to compromise the residential amenity of the appellants home remains.
- Notwithstanding the proposed alteration of the roof profile to the rear, the visual impact arising from the bulk of the proposed extension will be significant. The built form will extend by a further 6m to the rear and will dominate this sensitive interface. A 3D perspective sketch of the proposed development is submitted.
- The proposed library room involves a wall of 3.4m which will increase the garden party wall by almost 2m for a length of 5m. Should the Board decide to grant permission, a condition requiring a raked wall to match the existing or a bulk head along the boundary should be conditioned.
- There are discrepancies in the drawings: the proposed side / north elevation shows the library being 3.46m above ground level however the eastern elevation drawing shows it as 3.75m. No dimensions of the proposed setback of the library to contain it entirely within the boundary wall are given.
- The submission is accompanied by an engineering report on the proposed basement to no. 7. The report raises the following concerns:

- The proposed basement with a ceiling height of 2.7m will require an excavation in excess of 3m adjacent to the party wall of no. 5 Shrewsbury Road.
- There is an existing structural connectivity between no.s 5 and 7. The proposed basement may undermine the foundations of the existing party wall with a risk of differential settlement of the existing foundations of no. 7.
- Foundation movement may cause significant cracking and movement in the structural fabric of no. 5
- The proposed piling method to support the basement may cause significant vibrations. The engineering report submitted with the application identified dense black boulder clay which is very stiff and difficult to dig and pile.
- At a minimum the construction works will require extensive vibration monitoring during the works.

9.4.4 Shrewsbury Road Residential & Environmental Protection Association.

- The CORA engineering report must be the basis for any conditions attached to the permission.
- Noting the proposed alterations, the sheer size of the extension to a semi-detached property is a concern.
- The proposed front elevation amendments are welcome.
- The house must be retained as a single family dwelling.

**10.0.0 ASSESSMENT**

10.0.1 On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the proposed development
- Design
- Proposed Amendments
- Impact on Residential Amenity – Overshadowing
- Impact on Residential Amenity – Overlooking
- Impact on Visual Amenity
- Proposed Basement
- Appropriate Assessment

**10.1.0 Principle of the Proposed Development**

10.1.1 The subject site is located within a residential conservation area, zoned Z2 in the DCC development plan. Within such areas, residential development is permitted in principle. I note the previous alteration and extension of the dwelling and the pattern of

extensive alteration and extension in the wider Shrewsbury Road area. I am satisfied that subject to compliance with other policies and objectives of the development plan, the proposed development is acceptable in principle.

10.1.2 Three of the appellants raised the issue of protection of the architectural heritage and unique characteristics of Shrewsbury Road. Some of the appellants query the appropriateness of the design of the proposed development in the context of the streetscape and the special protection afforded by the designation as a residential conservation area.

10.1.3 In order to assess the proposed development and its harmonisation or not with the wider streetscape, one must assess the proposed development against the existing dwelling and the degree to which it was altered in 2009. The merits of the proposed development and its compliance with the Arts & Crafts movement could be debated ad infinitum but it cannot be denied that the dwelling in its 2009 form has removed much of the unique features that record its architectural history. Much of what made no. 7 a mirror image of no. 5 has been removed or altered. From that baseline, it is considered that any attempt to restore the architectural integrity of the dwelling is to be welcomed.

## **10.2.0 Design**

10.2.1 One of the appellants refers to the characteristics of Shrewsbury Road as being the lateral separation between dwellings. They state that the extension of the proposed development across the full width of the site is a disruption of this separation. I note that this disruption occurred with the development in 2009 and that the proposed development does not exacerbate this. The set back and separation of the proposed entrance wing whilst still extending the width of the site, nonetheless, allows the main dwelling to read as the dominant feature. Further, the set back does much to restore the legibility of the dwelling as one of a pair of similar dwellings. I note the request to set the proposed entrance wing back by a minimum of 6m to match that of no. 5 Shrewsbury. I am satisfied that this is not warranted. The dwelling is not a mirror image of no. 5 nor is it proposed to be. It is sufficient that a nod to their similarities is proposed.

10.2.2 In response to some of the concerns raised by the third party appellant, the applicants have submitted a number of revisions to the Board. One of the revisions involves an amendment of the roof

profile of the side extension / entrance wing. As can be seen on drawing no. PA-004rev1, the proposed side extension had a gable ended roof behind a half timber gable front projection. The gable end reflects the gable end to the side of no. 5 Shrewsbury. In the amended plans, drawing no. ABP-004rev1, the roof profile has been amended to be hipped, matching the roof profile of the main roof of no. 7. As noted above, the removal of the 2009 interventions is largely a welcome development. The creation of a separate entrance block with a commonality of materials allows the Arts & Crafts asymmetry to be restored and allows the symmetry with no. 5 to be re-created. On that point, I consider the proposed amendments shown in ABP-004rev1 to be a regressive step. Whilst the hipped roof matches the roof profile of the main roof of no. 5, it ignores the truncated gable end which is a hugely distinctive feature of no. 5. Notwithstanding that the gable end of no. 5 is set back approx. 4m more than is proposed for no. 7, the proposed mirror of the sharp gable at no. 7 is a welcome nod to the symmetry of the pair of dwellings. It is considered that the gable end is a striking and unique feature of the pair of dwellings and one which should not be ignored. Should the Board decide to grant permission, it is recommended that a condition be added permitting the roof profile as shown on drawing no. PA-004rev1ber attached.

- 10.2.3 I do not accept the argument that the proposed development would negatively affect the streetscape of Shrewsbury Road. I note that the Board have previously recognised the attractive and coherent architectural character of the area stating that it is worthy of protection. They have also identified Shrewsbury Road as being a largely intact example of an ‘Arts and Crafts’ designed historic residential area and a road of unique character within Dublin City. As noted above, the proposed development does much to restore the original glory of no. 7 within the context of its similar neighbours. The changes to the front elevation of the dwelling improve the architectural quality of the dwelling and its standing on Shrewsbury Road. I find no evidence that the proposed development would have a detrimental impact on the streetscape, on its immediate neighbours or on the relationship between buildings and the associated open space. Given the pattern of significant and extensive redevelopment of dwellings in the immediate vicinity of the subject dwelling, I am satisfied that the proposed development does not adversely affect the streetscape, nor does it adversely affect the architectural heritage of the road. I am satisfied that the proposed development is not contrary to the residential conservation status of the area.

### **10.3.0 Impact on Residential Amenity – Overshadowing**

10.3.1 The impact of the proposed development on the residential amenity of no. 5 Shrewsbury Road was raised by two of the third party appellants. They state that the bulk, scale and height of the proposed extension to the rear is such that the rooms, garden and patio to the rear of no. 5 will be significantly overshadowed and will have a reduction of sunlight to the extent that their residential amenity will be severely affected.

10.3.2 In response to the appeal, the applicant submitted a sunlight /daylight study to the Board. The findings of the analysis are clear: the impact of the proposed development on the rear of no. 5 varies from none to imperceptible. The proposed development comfortably passes the two tests of the BRE guidance, in that change in probable sunlight hours to the rear rooms of no. 5 will be a 1-3% reduction after the proposed development. Sunlight available to the rear windows of no. 5 will remain significantly in excess of the 25% threshold. Likewise, the proportion of the garden in sunlight on March 21<sup>st</sup> varies from no change to a reduction of 11% at 17.00. More than half of the rear garden of no. 5 is in sunlight for six of the seven hours studied.

10.3.3 The south-east facing rear gardens of both the subject and the appellant property are substantial by most suburban standards. Notwithstanding that, most recreational amenity typically occurs in the first 20% of a garden. The Appellants state that they use the patio immediately to the rear of the building line frequently and heavily. They state that the overshadowing impact of the proposed development on their patio is significant and will seriously detract from their residential amenity. It is noted that the shadow study undertaken as part of the sunlight analysis shows that on March 21<sup>st</sup> at 15.00 the shadow of the proposed extension on the rear garden of no. 5 is considerably greater than the shadow created by the existing dwelling. The garden of no. 5 is substantial and so considerably in excess of half of the garden will receive at least hours of sunshine. This does not take away from the fact that at 15.00 on March 21<sup>st</sup>, a greater area of the immediate rear garden will be in shadow than occurs currently.

10.3.4 It must be noted at this juncture, that the BRE guidance is just that, guidance, and not standards that a development must achieve in order to receive development consent. Both the BRE document and the DCC development plan provide that development shall be guided by the principle of the document rather than be bound by

them (section 17.9.1 of the development plan refers). The guidelines of the BRE are a starting point. They are not a benchmark upon which a consent can hang. The results of a sunlight analysis must feed into the wider assessment of the impacts of a proposed development on surrounding properties.

#### **10.4.0 Impact on Residential Amenity – Overlooking**

10.4.1 The Appellants at no. 5 Shrewsbury raise a concern that the proposed development will overlook their private open space and reduce their enjoyment of same by virtue of an invasion of privacy.

10.4.2. In a suburban location such as Shrewsbury Road, a degree of overlooking of rear gardens is to be expected. As noted by both parties, the existing windows to the rear of the dwelling currently overlook no. 5. I note that the proposed northern elevation does not contain any windows, so direct overlooking of no. 5 will not occur.

10.4.3 One of the appellants notes that while the Applicant indicated that the second floor window was amended to be smaller in size and with a revised roof profile, no dimensions were provided. I am minded to agree with the appellant that, without evidence to the contrary, on a purely visual perspective, the two windows appear the same size. The proposed window is replacing an existing velux window and is to illuminate an area identified as a den / storage. If the room is not for habitable use, the use of a velux roof light only in order to minimise overlooking of the garden of no. 5 is considered reasonable. Should the Board decide to grant permission, the developer should be requested to insert a velux roof light only.

10.4.4 Notwithstanding this, I am satisfied that no significant additional overlooking of no. 5 will occur. The use of fixed louvered screening mechanisms is not considered necessary.

#### **10.5.0 Impact on Visual Amenity**

10.5.1 The scale of the proposed rear extension is raised as a concern by the residents of no. 5 Shrewsbury. I note the proposed amendment of the roof profile from a gable end to a pitched roof. The applicant states that this will soften the visual impact of the proposed rear extension when viewed from no. 5.

10.5.2 The appellant states that the overall height of the proposed rear extension of approx. 10.4m above natural ground level is excessive

and represents an excessively bulky form when viewed from no. 5. In response, the applicant states that the two storey with pitched roof extension is set back 5.3m from the boundary with no. 5. I note that the return to the rear of no. 5m also has an overall height of 10.4 above ground level, granted it extends by only 5m the rear building line. I am satisfied that the stepped approach of the rear return, in terms of the step up in height as the building moves south away from no. 5 and south-eastwards into the garden of no. 7, is such that the built form of the proposed rear extension will not appear as a large dominant mass. I am satisfied that the separation distance between no.s 5 and 7 is sufficient to avoid any undue adverse visual impacts.

10.5.3 Regarding the submission that there is a discrepancy in the height of the proposed library between the side / north elevational drawing (overall height shown as 3.46m) and the eastern elevation drawing which shows it as 3.75m, I note that the side / north elevation is a sectional drawing at the point marked C-C. The rear / east elevation appears to be from the end of the terrace to the rear of the library, at which point the ground level has stepped down.

#### **10.6.0 Proposed Basement**

10.6.1 Section 17.9.11 of the development plan acknowledges the growth in new basement development in recent years stating that they can provide additional accommodation for leisure or storage purposes. It notes that flooding can be an issue and significant excavations close to residential properties in Conservation Areas is actively discouraged. It sets out various criteria to be addressed (see 6.1.5 above).

10.6.2 Regarding the first of the criteria, the applicants state that the proposed basement will be constructed entirely under the footprint of the proposed extension. I draw the Boards attention to drawing no. ABP-002rev1 which shows the basement plan. Comparing the plan to the footprint of the existing dwelling, it would appear that at least a portion of the proposed plant room and the wine store lie underneath the footprint of the original dwelling. In addition, the engineering drawing no. C002 shows the concrete retaining wall and secant pile wall underneath the existing entrance and living rooms. This is not considered material however.

10.6.2 In response to allegations of lack of detail and / or inconsistency of detail regarding the construction of the proposed basement, the



applicant submitted an engineering report with the application and a follow up letter in response to the appeals. I note that the follow up letter did not respond to the claim that site investigations at no. 9 showed soft clay below ground, whilst the engineering report for no. 7 indicated dense boulder clay below ground level. The report noted that full site investigation had not been undertaken and could not be undertaken until some demolition had occurred.

10.6.3 I note that the engineering / water services department of DCC did not object to the proposed basement. I further note that the detail provided in the engineering letter of response appears to have offered some assurances to at least one of the appellants.

10.4.4 According to the engineering report, the proposed basement construction method of the secant pile wall, with interlocking concrete piles offset 1.5m from the boundary of no. 5 will offer a buffer from the vibrations and will prevent any ground water leaks into the basement. I note that the report states that this method was used in the construction of the basement at no. 2 Shrewsbury Road.

10.6.5 Should the Board decide to grant permission, it is considered reasonable to request that for the period of basement construction, vibration monitoring at the nearest sensitive boundary – most likely the boundary with no. 5 – is undertaken. This can be undertaken within the remit of the construction management plan.

**10.7.0 Other**

10.7.1 Regarding the appellants claim that the planning report is dated 03.12.2015 and the Council decision is dated 30.11.2015, I draw the Boards attention to the Planning Report on file with the Board, which is dated 30.11.2015.

**10.8.0 Appropriate Assessment**

10.8.1 Having regard to the nature and scale of the proposed development and / or the nature of the receiving environment, and / or proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

## **11.0.0 RECOMMENDATION**

11.0.1 I have read the submissions on file, visited the site, and have had due regard to the provisions of the Dublin City Development Plan 2011 – 2017 and the planning history of the site and the surrounding area and all other matters arising. It is considered that, subject to compliance with the conditions set out below, the proposed development would not injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area. I recommend permission be GRANTED subject to the following conditions:

### **REASONS AND CONSIDERATIONS**

11.1.0 Having regard to the zoning objectives for the area and pattern of development in area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be acceptable in terms of public safety. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

### **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 to An Bord Pleanála on the 3<sup>rd</sup> day of February 2016, 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 roof profile of the entrance block/ side wing extension shall be a gable end as shown on drawing no. PA-004rev1 as submitted to the Planning Authority in October 2015 and not the proposed hipped roof amendment as submitted to the Board on the 3<sup>rd</sup> of February 2016,

(b) the omission of the attic floor window on the rear / south-eastern elevation, illumination the den / storage room and its replacement with a velux window of identical proportions to or smaller than that currently existing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

3. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:

(a) details of all proposed hard surface finishes within the development;

(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme. Any trees which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development, in the interest of visual amenity.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

(b) location of areas for construction site offices and staff facilities;

(c) details of site security fencing and hoardings;

(d) details of on-site car parking facilities for site workers during the course of construction;

(e) measures to prevent the spillage or deposit of clay, rubble or other debris on the public and estate road network;

- (f) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
  - (g) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
  - (h) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- and

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

- 5 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.

- 6 Site development and building works shall be carried out only between the hours of 08.00 to 19.00 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.

- 7 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

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**Gillian Kane**  
**Planning Inspector**  
**18/04/16**