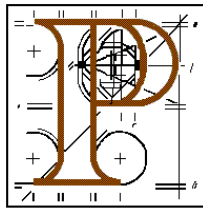


An Bord Pleanála



Inspector's Report

Development: Demolition of garage/shed single storey element to side, construction of new extension and associated site services.

Location: 37 Homefarm Road, Drumcondra, Dublin 9.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 2127/16
Applicant: Ronan O'Dulaing & Vanessa O'Mahony
Type of Application: Permission
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant: Rory Moran & Jennifer Bridgeman

Type of Appeals: 3rd v Grant
Date of Site Inspection: 23rd June 2016
Inspector: Dolores McCague

1 SITE LOCATION AND DESCRIPTION

- 1.1 The site is situated at 37 Homefarm Road, Drumcondra, Dublin 9 at the western, inner, end of a cul-de-sac residential road which has a mixture of terrace type two storey housing and semi-detached two storey housing. The road is laid out in a keehole geometry along a west/north-west by east /south-east axis, the houses at the inner end forming a curve. The subject site and the adjoining site at no. 38 are south facing. Gardens at the western end of the road are large and fan shaped. From the rear of the house the subject site runs in a north-westwards direction, to meet the rear gardens and a lane to the rear of dwellings on Ferguson Road, which is to the west. The site forms a point at its northern end, where it adjoins the rear of dwellings on Home Farm Road.
- 1.2 The site is occupied by an early 20th century semi-detached house, east facing, 91 sq m in floor area, with a single storey extension to the rear. It has a detached garage to the side: part of a pair with the adjoining dwelling to the south.
- 1.3 The site area is given as 620m².

2 PROPOSED DEVELOPMENT

- 2.1 The proposed development comprises demolition of garage/shed single storey element to side, construction of new extension and associated site services. The proposal consists of a two storey extension to the side (6.42m height) and part two storey part single storey extension to the rear of the existing house; with a chimney against the northern wall. At the front a proposed canopy incorporates a relocated entrance door. A new chimney flue is proposed on the front of the main roof, near the ridge, to serve a proposed stove in the front room. A covered patio area is proposed at the end of the single storey rear extension (roof height above ground level 2.95m). Roof windows are shown on the proposed flat roof and two south west facing clerestory

windows are shown lighting the ground floor sitting/dining area and the first floor (northern) bedroom of the extension (which raises the height over this area to 7.095m). Alterations to the existing dwelling include skylights to the existing pitched roof and various internal alterations. Near the (north-eastern) boundary with no. 38 the extension is single storey, with a mono-pitch roof sloping downwards towards the boundary. It's height at the boundary is shown as 3.160m. The extension is separated from the main house by a courtyard at this boundary. The building along the boundary starts beyond where the boundary wall between the properties cranks away from the rear façade of no. 38. The extension has a finished floor level 300mm lower than the existing floor level of no. 37 and 38. Along the boundary with No. 36, a ramped side access to the rear is shown.

- 2.2 The floor area of the development is given as 128.5m²; total floor area 220.4m².

3 PLANNING AUTHORITY DECISION

- 3.1 The planning application was lodged on the 28th January 2016.
- 3.2 **Technical Reports**
- 3.3 Engineering Department Drainage Division – 23/02/16 – conditions.
- 3.4 Transport Infrastructure Ireland – 23/02/16 – no observations.
- 3.5 Planning Report 23/3/16 – zoning Z1 ‘to protect, provide and improve residential amenities’. Sec 17.9.8 and Appendix 25 of the City Development Plan – design of residential extensions.

The extensions comprise two elements: the first is a two storey structure which is to be located on and incorporates the north western corner of the house. This will re-orientate the rear aspect of the house in a north westerly direction as opposed to current north facing aspect, This rear and side extension will provide for a new canopied entrance to the house, an extended kitchen, utility, WC, etc on the ground floor and 3 extra bedrooms upstairs with various other rooms. The main rooms of the original house at ground floor will be used as a sitting room and children's room. The extension fans out to the side by 6.7m at its furthest point. It sits off the western boundary by 1.2m for the full length

of that boundary except at the new entrance to the house which has a canopy over. The two storey extension then projects out from the rear wall of the house in a fan shape – over 5m at its furthest point. The flat roof extension sits some 3m off the eastern boundary of the site.

The two storey extension has a flat roof on its western side and a monopitch roof on its eastern side. It is circa 6.5m in overall height (flat roof) rising to 7m at monopitch. In addition a single storey extension is proposed to the rear. This sits away from the rear wall of the house by between 1.5m and 3m to create an internal courtyard to the rear of rooms in the main house. This extension then runs along the eastern boundary of the site, just sitting off it, for a length of some 8.5m at a height of just over 3m on the site boundary. This extension has a monopitch roof (c 4.8m at its highest) with the lowest part of this roof located adjacent the eastern boundary. To the rear of the extension the applicant is proposing a canopy over the outdoor seating area, running some 3.5m along the eastern boundary.

Overshadowing – the applicant has submitted a shadow analysis. It is noted that the two storey extension will overshadow the neighbouring property to the west in the mornings but that shadows will be cast only over the existing side detached garage and towards the side of the house. It is not considered that the proposed extension will unduly overshadow the rear garden of no. 38 adjacent, and in particular the rear of that house, due to the separation distance between the two storey extension and the eastern boundary, and due to the scale and overall height of the single storey extension adjacent the eastern boundary.

Design and scale of the extension – the application proposes a very modern large scale extension, in terms of floor plan. It is considered that by reason of its careful design, its scale and the location of higher elements of the proposal, off sensitive boundaries and having regard to the extent of garden area remaining to serve the house, the proposed extension largely is acceptable in terms of its design and scale. In addition it is noted that the extension would not form part of the terminating view of the keyhole cul-de-sac from the east.

It is a concern however that the application proposes locating the entrance to the side of the house as it is considered in the interests of maintaining the character of the house, that the existing entrance arrangements to the house be maintained.

It is also a concern that the flat roof of the entrance could be used as a roof terrace.

It is considered that the proposed flue on the front plane of the roof is acceptable.

It is understood that the fan print embossed on the house is to remain but that the render is to be smoothed; this is considered acceptable.

A grant of permission is recommended.

3.6 The planning authority decided - 23/3/2016 – to grant planning permission subject to 12 conditions, including:

3) The development shall be revised as follows:

The existing front entrance door and entrance arrangement to No. 37 Home Farm Park shall be maintained and the proposed front door/ arrangement with canopy over shall be omitted from the scheme. The internal layout of the development shall be amended accordingly. A window shall be provided in place of the new front door as proposed under this application.

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.

4) The first floor bathroom / ensuite windows and skylight to existing roof and clerestory window in the monopitch roof shall be permanently glazed with obscure glass.

6) The flat roof directly to the south of the master bedroom as identified on submitted plans shall not be used as an outdoor terrace/roof patio/ terrace.

3.7 Observations on the file have been read and noted.

4 PLANNING HISTORY

None stated

5 GROUNDS OF APPEAL

5.1 The House Architects, have appealed to decision to grant permission on behalf of Rory Moran and Jennifer Bridgeman, 38 Homefarm Road, Drumcondra.

5.2 The grounds can be summarised as follows:

It is important to note that the orientation of the rear elevations of no.s 37 and 38 is almost due north therefore the rear gardens of these houses are largely overshadowed in the winter months, when the sun has a narrow arc. However it is notable that sunlight does penetrate the rear of these houses in the summer months from the east in the morning and the west in the evenings. This limited sunlight is crucial to the amenity enjoyed by these two houses.

Overshadowing – the shadow studies submitted by the applicant are misleading with respect to the negative impact of the proposed development since they bury the relevant information in a series of studies which are not relevant to the issue. Shadow studies are provided for early morning and winter months which have no bearing on this matter since the rear of the block is north facing. Therefore the only shadow studies which are pertinent to the negative impact are between 3.00pm and sundown in the spring summer months. The rear of no.s 37 and 38 currently enjoys evening sun from the west from mid-spring to mid-autumn. This is a particular amenity enjoyed by these houses. The applicant's house extension has been designed in an L-shape to capture the benefit of this western evening sun. The proposal to build a 16m extension on the western boundary will completely obliterate this amenity for no. 38. Two studies have been prepared to demonstrate the impact: an on-site shadow study and a computer 3D study.

An on-site shadow study using 3 metre posts on the boundary with no. 37, marking the corner points of the extension, including the 3m canopy, was carried out between 11 April and 12 April, and represents late-spring. The shadows cast were marked at 1 hour intervals, between 3pm and 7pm. The exact position of the markers was surveyed by 'Techsol technical solutions', a

registered surveyor, and recorded on drawing THA6820. The shadow of the single storey element is shown without reference to the two storey element. It casts a very significant shadow in the late afternoon/early evening, from the western sun.

A computer 3D shadow study was carried out to verify the applicant's submission and to highlight crucial omissions which bias the results; mid-spring to mid-autumn is the pertinent period. From these studies there would be a very significant adverse impact on the sunlight reaching the garden of no. 38 from 3pm to sundown during the equinox (March/September), and this negative impact would continue into the summer months above ground level and on vertical surfaces, including penetration into buildings. Existing late afternoon early evening sunlight penetrates the rear windows of both no. 37 and no. 38 during spring /summer. It can be seen that the proposed development, due to its height, will cause sunlight to be blocked from entering the rear windows of the house at both first and ground floor and, due to its length, across a broad swathe of the back garden.

Precedent – there is no precedent in Dublin 9 for development of similar scale, height and length on the adjoining boundary. The precedents cited by the applicant are smaller, without such negative impact.

Overbearing impact – the two aspects of the proposed development that would cause the most overbearing impact are the length of the single storey element, 16m including the canopy, and the depth of the two-storey element.

Conditions are regularly imposed by Dublin City Council (DCC) limiting the height of single storey extensions to 3.2m and the depth of single storey extensions to 5.5m, and the depth of two storey extensions to 3m. These benchmark standards have been disregarded.

If the proposed development is granted, without further conditions which limit its negative impact, this will set a negative precedent.

5.3 Proposed mitigation –

- Reduce the length of the single storey extension on the boundary by at least 4m.
- Reduce the roof height of the single storey extension to 3.2m. It is 3.15m at the eaves but rises sharply to 5m which creates an overbearing impact.
- Omit the cantilevered canopy at the end of the single storey extension.
- Set back the single storey extension from the garden boundary wall by at least 1m. The garden wall is currently less than 1.5m high so it would be doubled in height for over 16m of its length.
- Reduce the depth of the first floor extension to 3m max. It is an excessive 5m depth, which is unnecessary. At 3m it would reduce the overbearing/overshadowing impact.
- Reduce the height of the first floor extension to eaves height. It extends over 1.5m above eaves height. At eaves height it would reduce the overbearing/overshadowing impact.

6 RESPONSES

6.1 Planning Authority

6.2 The Planning Authority has responded to the grounds of appeal, referring to the planning report and stating that it has no further comment to make.

6.3 First Party

6.4 Brennan Furlong Architects & Urban Planners have responded on behalf of the First Party to the grounds of appeal.

- 6.5 The response includes:
- 6.6 The house enjoys a very large wedge shaped rear garden, 426m², which fans out from the rear elevation of the house. The houses either side also have very large rear gardens.
- 6.7 Following initial pre-planning, the proposals were developed and refined over a period of several months, which involved repeated consultation via e-mail and phone with the area planner. The proposals as submitted represent the culmination of this process.
- 6.8 A considerable number of the houses have been altered / extended to a considerable and comparable degree. A list of planning histories is referenced. A precedent is established for altering and extending these dwellings to form substantial family homes, which is the intention here.
- 6.9 The unusual form of the site, in particular the angle of the rear boundary wall between no's 37 and 38, dictated much of the form of the proposed works.
- 6.10 Design justifications for the proposal are detailed, including:

The proposed extension is largely obscured from the public road by the existing house.

The proposed extension continues into the back garden, with its geometry set out by the boundary walls, essentially to allow the house crank towards the views of the back garden it is served by, and also to benefit from the westerly elevations this cranking creates.

Where the proposed extension approaches the boundary with no. 38 it is single storey and designed with an internal ceiling height of 2.5m which will keep the parapet level adjacent to the boundary at a minimum height. The overall height is kept to a minimum and pitches downwards towards the shared boundary.

The internal FFL is 300mm lower than the existing floor level allowing the extension to sit as lowly as possible into its context.

The extension is separated from the rear of the existing dwelling by a courtyard. This also has the effect of ensuring that there are no built volumes adjacent to the section of shared boundary wall closest to the rear of no. 38, ensuring that this area does not appear over-borne. No building fabric starts until the boundary wall cranks away from the rear of no. 38, meaning the visual impact of the extension is diminished substantially.

- 6.11 The submission responds to the comments regarding the scale of the proposed development in comparison with other developments in the area, referencing the scale in proportion to the garden area.
- 6.12 DCC's S 17.9.1 residential development - 'development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A Good Practice Guide (BRE Report 1991); the Development Plan also cites 'Site Layout Planning for Sunlight & Daylight; when assessing impacts on access to sunlight and daylight. Given this document is established by the Development Plan as the manner by which development will be assessed, the proposed works to no. 37 were informed by and tested against the relevant sections of the document.
- 6.13 Winter overshadowing – the BRE document section 3.3.15 states if winter shadows (eg 31 December) are plotted even low buildings will cast long shadows. In a built-up area, it is common for large areas of the ground to be in shadow in December.
- 6.14 However it is notable that sunlight does penetrate – access to sunlight is described in S 3 of the BRE doc. Section 3.2 deals specifically with loss of sunlight to existing buildings. 3.2.2. *'obstruction to sunlight may become an issue if some part of a new development is situated within 90⁰ of due south of a main window wall of an existing building'. 'In analysing the impact on an existing window, no check need be made for proposed extensions which lie within 90⁰ of due north of a window'. Any loss of sunlight to windows on the rear elevation of no. 38 is not required to be assessed as they do not lie within 90⁰ of due*

south. Instead any loss of light from the sky should be assessed for those windows, as described in Section 2 of the BRE guidance. The front windows of no. 38 could be assessed; there will be no obstruction to sunlight to the front windows.

- 6.15 The first party responds to the comments regarding the extent of the extension, referred to by the third party as 16m. The extension extends by 10m when calculating it perpendicularly to the building and 8.5m along the boundary wall. Additionally, by virtue of the courtyard, the single storey part of the extension starts 3.3m from the rear façade, which reduces the overbearing impact. The canopy runs for 2m along the boundary wall, 13m from the rear façade of no. 38. The reduced floor level and single storey part of the extension are designed to minimise any loss of sunlight to the amenity area of no. 38. The height above the external ground is 3.160, the finished floor level (ffl) is 430mm below the finished floor level of both no. 37 and no. 38, therefore the effective height of this section of the extension is 2.730. The highest point of the roof is 4.885m but this, related to the ffl of the dwelling at no. 38, is 4.455m above that level. The highest point is located over 6m from the boundary wall which mitigates against overbearing impact.
- 6.16 The response refers to the comments regarding the extension extending over 5m from the rear elevation. It extends 5.1235m from the rear elevation. A planners report on a recent application, which states that there emerges a consensus that first floor extensions are considered reasonable up to 5 m, and the subsequent Board decision on appeal, which upheld the 7.2m extension, are referred to. The first floor extension is over 3m from the boundary and 4m from the closest point of no. 38.
- 6.17 The response refers to the principle of subordination – Section 8 of appendix 25 refers to subordination – in general extensions should not be larger than the original dwelling. ‘In general’ is emphasised. The design fragments the new works into smaller volumes so that the completed house is seen as a series of connected volumes, the highest and largest being the original dwelling.
- 6.18 The response refers to the comments that the shadow studies are misleading. A shadow impact assessment was requested

during pre-planning correspondence, to cover 4 specific days each year: equinoxes and solstices. The study presented was in response to a specific request.

- 6.19 Section 3.3.13 of the BRE document states that before and after shadow plots would be helpful; *'nearly all structures will create areas of new shadow and some degree of transient overshadowing is to be expected'*.
- 6.20 Regarding the loss of evening sun, currently enjoyed mid-spring to mid-autumn, and the ground floor extension, the first party refers to the previous explanation regarding the length of the building and in addition attaches a detailed shadow study, per section 3.3 of the BRE document for: 21st March 7 am, 8 am; 21st March 9 am, 10am; 21st March 11 am, 12 am; 21st March 1 pm, 2 pm; 21st March 3 pm, 4 pm; and 21st March 5 pm, 6 pm.
- 6.21 The response references BRE section 3.3.17 which states that to appear adequately sunlit throughout the year at least half the garden should receive at least 2 hours of sunlight of 21st March; if as a result of the development the garden does not meet this standard and the area which can receive 2 hours of sun is less than 0.8 of its former value, the loss of sunlight is likely to be noticeable. A table is included in the response, which sets out the amount of the rear garden of no. 38 which currently receives sunlight at each hour on the 21st March compared to the extent of garden which will receive sunlight, post development, at each hour on the 21st March. The columns detail areas and percentages of total garden with the area receiving sunlight with the proposed development as a proportion of that existing, in the final column. No difference between existing and proposed will arise until mid-day, and the difference post mid-day will initially be small. At 4 pm the area of garden receiving sunlight will be 0.723 of that existing. At 5 pm the area of garden receiving sunlight will be 0.491 of that existing. The submission comments that between the hours of 8 am and 2 pm more than half the garden receives sunlight; the guidance requires that half the garden receives sunlight for at least 2 hours. Between 7am and 3 pm the area still receiving sunlight is greater than 0.8 of the pre development area.

- 6.22 A comparison is made between the computer generated shadows and those measured on site; the top of the canopy above ground level is 2.8m compared to 3.160m for the wall of the extension. The underside is 2.6m. It will not cast the same shadow as the building. The on-site measurements do not take account of the timber lattice-work fence which increases the height of the boundary wall from 1.5m to 2m. This substantially increases overshadowing of the rear garden. The graphic does not accurately reflect the design of the extension and cannot be considered accurate.
- 6.23 Regarding loss of sunlight and penetration into buildings, the BRE document states that this should not be assessed unless the new development lies within 90⁰ of due north of the window. Instead loss of light from the sky should be assessed: section 2 of the BRE document. The results are shown on drawings provided with the response. In both the existing (38%) and proposed (36.5%) situations the windows vertical sky component is substantially above the recommended 27%.
- 6.24 The building is not excessively sized and the bedrooms are not excessively large.
- 6.25 Further examples of house extensions in the area are cited.
- 6.26 The existing boundary wall is effectively 2m high not 1.2m and the effective length of the extension is 8.5m not 16m.
- 6.27 The response raises an objection to condition 3 of the decision. A revision to the condition is proposed. This would not constitute a material change to the decision of the local authority. The application drawings showed a window in place of an existing door. The intention with re-locating the entrance was to ensure that a coherence of scale would be maintained between the rooms in the original dwelling and the spaces forming the open-plan extension. The original hall would be incorporated into the sitting room. The new access is directly to the proposed hall, which is more functional and allows continuity of scale through the extended house.

- 6.28 The glazed section of window is larger than in the original door and this has been done in many replacement doors in the cul-de-sac. It aligns with the cill height of the bay window. Below the glazed section there is a panel, finished in the same colour as the window. From the public realm it will be read as a door.
- 6.29 The proposed door will be finished to compliment the rest of the glazing. The angle of the front of the extension will mean that the the front door is face-on as you approach from the driveway and will be the natural location for an entrance.
- 6.30 They now propose to omit the canopy above the new door. Their proposal largely aligns with condition 3 but allows for the internal layout required by their client.
- 6.31 Examples of dummy doors are cited.
- 6.32 Examples of where the original symmetry of the majority of semi-detached houses has been diminished are cited.
- 6.33 The proposed amendment to the development is on all fours with development in the vicinity.
- 6.34 **Third Party**
- 6.35 The House Architects, have responded on behalf of the third party to first party response to the grounds of appeal.
- 6.36 The response includes:
- 6.37 The BRE document and in particular the sections cited, are not an appropriate evaluation tool in this instance. However the essence of the relevant sections is that a reduction of existing sunlight gain of greater than 20% is unacceptable and in this case the impact would exceed this criteria. The shadow analysis is only up to 6pm on 21st March. This does not address the

appeal submission. This particular site requires a more nuanced analysis.

- 6.38 The argument that the existing boundary is a 2m high solid boundary is incorrect. The solid wall is 1500 to 1575 high, with a transparent trellis above: a significant difference for evaluation of shadow casting and amenity impact.
- 6.39 Overbearing impact – the plot ratio arguments are inappropriate.
- 6.40 Responding to the first party's counter argument, to the third party's assertion that the proposed extension is 16m long, the third party states that the courtyard is 1999mm in length, the length of boundary with parapet wall is 8499mm in length and the canopy is 3500mm, in total 15926mm. The canopy is 3.5m deep and 6m long solid roofing, would dominate the adjoining property as much as if it was a building including equivalent overshadowing and overbearing. Regarding the lower level of the extension, to reference the floor level of the original house makes no sense since the relevant negative impact is experienced primarily in the garden of no. 38. The parapet of the main section of the extension along the boundary is almost 3.2m rising to almost 5m at its apex. This is an excessive bulk.
- 6.41 The response takes issue with the precedents cited.
- 6.42 In relation to the response that the design was a culmination of discussions with both the Area Planner and their neighbours and included no areas which had been noted as a cause for concern; this is incorrect. None of the concerns expressed by the third party about the length, the height or proximity to the boundary, were taken into account.

7 POLICY CONTEXT

- 7.1 **The Dublin City Development Plan 2011 – 2017** is the operative plan.

7.2 Relevant provisions include:

7.3 Zoned Z1 to protect, provide and improve residential amenities.

7.4 17.9.8 -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

7.5 Appendix 25 - Guidelines for Residential Extensions

Proposals should: not have an adverse impact on the scale and character of the dwelling; have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight; and achieve a high quality of design.

Residential Amenity issues - it is important to make sure that any extension does not unacceptably affect the amenities of neighbouring properties. This includes privacy, outlook, daylight and sunlight.

Daylight and Sunlight - large single or two storey rear extensions to semi-detached or terraced dwellings can, if they project too far from the main rear elevation, result in a loss of daylight to neighbouring houses. Furthermore, depending on orientation, such extensions can have a serious impact on the amount of sunlight received by adjoining properties. Consideration should

be given to the proportion of extensions, height and design of roofs as well as taking account of the position of windows including rooms they serve, to adjacent or adjoining dwellings.

Development shall be guided by the principles of Site Planning for Daylight and Sunlight, A Good Practice Guide (Building Research Establishment Report, 1991).

Subordinate approach - the subordinate approach means that the extension plays more of a 'supporting role' to the original dwelling. In general the extension should be no larger or higher than the existing.

Contemporary extensions - although the general advice is to match the existing building and to fit in with the neighbourhood, Dublin City Council also supports good contemporary designs. A contemporary or modern approach, providing unique designs can offer a more imaginative solution to an unusual dwelling type or a contrast to a traditional building and are still required to take account of the design issues outlined in this document. Contemporary solutions should not detract from the character of an area and undeniably, if well designed, can make a positive contribution to the streetscape and the character of the area.

- 7.6 **Site Planning for Daylight and Sunlight, A Good Practice Guide** (Building Research Establishment Report, 1991).
- 7.7 Daylight – Any reduction in the total amount of skylight can be calculated by finding the vertical sky component at the centre of each main window. If this vertical sky component is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum. If the vertical sky component, with the new development in place, is both less than 27% and less than 0.8 times its former value, then occupants of the existing building will notice the reduction in the amount of skylight.
- 7.8 Sunlight – obstructions within 90⁰ of due north of the reference point need not count.

- 7.9 Gardens and open spaces – no more than two fifths, and preferably no more than a quarter, of any of the amenity areas should be prevented by buildings from receiving any sunlight at all on the 21st March. Sunlight at an altitude of 10° or less does not count. Where the plan calls for walls or opaque fences greater than 1.5m high, the shadows they cast should be included in the calculation.
- 7.10 In poorly lit areas, if as a result of new development the area which can receive direct sunlight on 21 March is reduced to less than 0.8 times its former size, then this further loss of sunlight is significant.
- 7.11 For it to appear adequately sunlit throughout the year, no more than no more than two fifths, and preferably no more than a quarter, of any garden or amenity area should be prevented by buildings from receiving any sun at all on the 21st March. If as a result of new development an existing garden or amenity area does not meet these guidelines, and the area which can receive some sun on 21st March is reduced to less than 0.8 times its former size, then the loss of sunlight is likely to be noticeable.

8 ASSESSMENT

- 8.1 The main issues which arise in relation to this development are overshadowing, visual impact, first parties' observation and appropriate assessment and the following assessment is addressed under these headings.

8.2 Overshadowing

- 8.3 The grounds of appeal refers to loss of sunlight. A shadow analysis was submitted to the planning authority in support of the application. The planning authority's evaluation was that the two storey extension will overshadow the neighbouring property to the west in the mornings but that shadows will be cast only over the existing side detached garage and towards the side of the house. It was not considered that the proposed extension would unduly overshadow the rear garden of no. 38 adjacent, and in particular the rear of that house, due to the separation distance between the

two storey extension and the eastern boundary, and due to the scale and overall height of the single storey extension adjacent the eastern boundary.

- 8.4 The third party's case is that the only shadow studies which are pertinent to the negative impact are between 3.00pm and sundown in the spring summer months, because the area to the rear of no.s 37 and 38 currently enjoys evening sun from the west from mid-spring to mid-autumn. The third party carried out on-site shadow study using 3 metre posts on the boundary with no. 37, marking the corner points of the extension, including the 3m canopy, between 11 April and 12 April, which they state demonstrates that the proposed development casts a very significant shadow in the late afternoon/early evening from the western sun. The third party also carried a computer 3D shadow study to verify the applicant's submission and to highlight crucial omissions which bias the results, mid-spring to mid-autumn being the pertinent period. They state that from these studies there would be a very significant adverse impact on the sunlight reaching the garden of no. 38 from 3pm to sundown during the equinox (March/September), and this negative impact would continue into the summer months above ground level and on vertical surfaces, including penetration into buildings. They state that existing late afternoon early evening sunlight penetrates the rear windows of both no. 37 and no. 38 during spring /summer. They state that the proposed development, due to its height, will cause sunlight to be blocked from entering the rear windows of the house at both first and ground floor and, due to its length, across a broad swathe of the back garden.
- 8.5 The first party has responded referencing the BRE document Site Planning for Daylight and Sunlight, A Good Practice Guide; rebutting statements with regard to the extent of the extension; and citing further examples of large extensions permitted in the area. The first party justifies the dates selected for the shadow analysis, those being the dates requested by the planning authority.
- 8.6 A table is included in the response, which sets out the amount of the rear garden of no. 38 which currently receives sunlight at each hour on the 21st March compared to the extent of garden which will receive sunlight, post development, at each hour on the 21st March. The columns detail areas and percentages of total garden receiving sunlight currently and post development, with the

proposed development as a proportion of that existing, in the final column. The submission comments that between the hours of 8 am and 2 pm more than half the garden receives sunlight; the guidance requires that half the garden receives sunlight for at least 2 hours. Between 7am and 3 pm the area still receiving sunlight is greater than 0.8 of the pre development area.

8.7 A more recent (2011) version of the BRE document is available and this appears to be the version referred to in the first party's submission. The version which I have consulted is the original version and this is the version cited in the Dublin City Development Plan. This document accepts that the loss of sunlight/daylight is a likely consequence of development but focuses on those situations in which it would be of particular concern. In relation to loss of sunlight it would only be of particular concern in development occurring within 90⁰ of due south of existing main windows. Following this guidance, sunlight falling on the dwelling is not a particular concern in relation to the third party dwelling. In relation to the garden of the adjoining property, it would be a concern if the extent of loss or duration of loss exceeded the limits referred to in the guidance.

8.8 These limits are:

no more than 2/5 and preferably no more than 1/4 of the amenity area/garden should be prevented by buildings from receiving any sun at all on the 21st March. The shadow analysis submitted by the first party as part of the planning application and the table in the documentation accompanying the response to the grounds of appeal show the extent of the rear garden of No. 38 receiving sunlight before and after development, it is clear that in both situations there are substantial areas of garden receiving sunlight for large parts of the day. Loss of sunlight arising as a result of the proposed development will occur in the afternoon but in terms of the overall garden and over the entire day the limits which would cause concern are not reached.

in poorly lit areas, if as a result of new development the area which can receive direct sunlight on 21 March is reduced to less than 0.8 times its former size, then this further loss of sunlight is significant. This is not a poorly lit area. The shadow analysis submitted by the first party and the documentation accompanying

the response to the grounds of appeal show that there will be no reduction in area receiving sunlight until the afternoon. At 3pm the reduction will be 0.85 of the area which currently receives direct sunlight. At 4pm it falls below the 0.8 referred to in the guidance. At 6pm the altitude of the sun is less than 10^0 which, according to the BRE document, does not count.

- 8.9 The guidance document states *'for it to appear adequately sunlit throughout the year, no more than no more than two fifths, and preferably no more than a quarter, of any garden or amenity area should be prevented by buildings from receiving any sun at all on the 21st March. If as a result of new development an existing garden or amenity area does not meet these guidelines, and the area which can receive some sun on 21st March is reduced to less than 0.8 times its former size, then the loss of sunlight is likely to be noticeable'*, based on the information provided, I am satisfied that this situation would not arise in the present case.
- 8.10 In addition I note that the most important amenity area is that immediately to the rear of the house and this area is overshadowed by the existing houses. I note that there is disagreement between the parties in relation to whether or not the shadows cast by the fence on the top of the boundary wall should be taken into the calculations or not. The guidance refers to opaque fences, the fence in question is not a solid barrier but allows dappled light through. This point is not crucial; the minimum limits in the guidance document are not breached in either case.
- 8.11 Loss of daylight is a consideration in relation to the rear windows of the adjoining dwelling and the first party' response to the grounds of appeal includes a Vertical Sky Component analysis for the centre of the ground floor window, being the worst case. The analysis demonstrates that in both the existing (VSC 38%) and proposed (VSC 36.5%) situations the window's vertical sky component is substantially above the recommended minimum level of 27%. Loss of daylight, according to the guidance in the BRE document, is not therefore of particular concern.

8.12 Visual Impact

8.13 The third party is concerned at the overbearing impact of the proposed development.

8.14 The shape of the plot in which the proposed extension will be located, cranks away from the dwelling on the adjoining site and this reduces the impact on the adjoining dwelling. Nevertheless from the area to the rear of the adjoining dwelling, in place of a low boundary wall with an open fence above, the proposed extension will run along the boundary, comprising a courtyard, followed by a parapet wall (3.160m high) followed by a cantilevered canopy. The roof of the single storey extension, rising to 4.885m height, will be visible at a distance from the boundary. The two storey element is further set back from the common boundary.

8.15 The gardens to the rear of these houses are large and each is experienced as if the other gardens were a continuation of the open space. Where currently there is a sense of spaciousness in the third party's rear garden, there will be containment. However the third party garden is large, both wide and long and the containment will not be such as to greatly diminish its amenity value.

8.16 The third party rejects plot ratio arguments made by the first party in relation to overbearing impact.

8.17 The third party proposes as mitigation –

- Reducing the length of the single storey extension on the boundary by at least 4m.
- Reducing the roof height of the single storey extension to 3.2m. (from 5m).
- Omitting the cantilevered canopy
- Setting back the extension from the boundary wall by at least 1m.

- Reducing the depth of the first floor extension to 3m max. (from 5m).
- Reducing the height of the first floor extension to eaves height (i.e. by 1.5m).

8.18 In my opinion, the impact of the proposed development on the adjoining garden/ house, is not so overbearing as to warrant refusal or to merit the mitigation proposed by the third party, or other mitigation.

8.19 **First Party Observation**

8.20 The first party has not appealed the planning authority decision, but in the response to the third party appeal, include a request that the Board remove condition 3 of the decision.

8.21 The planning assessment considered, in the interests of maintaining the character of the house, that the existing entrance arrangements to the house be retained, and Condition 3 was attached, which states:

The development shall be revised as follows:

The existing front entrance door and entrance arrangement to No. 37 Home Farm Park shall be maintained and the proposed front door/ arrangement with canopy over shall be omitted from the scheme. The internal layout of the development shall be amended accordingly. A window shall be provided in place of the new front door as proposed under this application.

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.

8.22 The first party states that this would not constitute a material change to the decision of the local authority. The application drawings showed a window in place of an existing door. The intention with re-locating the entrance was to ensure that a

coherence of scale would be maintained between the rooms in the original dwelling and the spaces forming the open-plan extension. The original hall would be incorporated into the sitting room. The new access is directly to the proposed hall, which is more functional and allows continuity of scale through the extended house.

8.23 In support of the request the first party has submitted revised drawings showing the omission of the canopy and detailing the treatment of the existing entrance. There is also reference to examples of the use of dummy doors and to examples of where the original symmetry of semi-detached houses has been diminished; the argument being that the proposed alteration to the front door access, as proposed, is a similar situation.

8.24 These proposals were submitted along with the first party response to the third party appeal. The condition was not the subject of a first party appeal, therefore I consider that the Board should confine its assessment to the documentation before the planning authority when it made its decision and the decision arrived at by the planning authority.

8.25 **Appropriate Assessment**

8.26 The proposed development is the demolition of garage/shed single storey element to side, construction of new extension and associated site services. The site is in a built up area with public piped water services.

8.27 The nearest Natura sites are South Dublin Bay and River Tolka SPA (004024) and South Dublin Bay SAC (00210) which are in excess of 2.5km distance away and separated from the subject site by large areas of Dublin City.

8.28 In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed

development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

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

9 RECOMMENDATION

In accordance with the foregoing assessment, I recommend that planning permission be granted for the following reasons and considerations and subject to the following conditions.

REASONS AND CONSIDERATIONS

It is considered that subject to the following conditions, the proposed dwelling extension would not impact on the amenities of the area or conflict with the County Development Plan; and would accordingly 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 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 development shall be revised as follows:

The existing front entrance door and entrance arrangement to No. 37 Home Farm Park shall be maintained and the proposed front door/ arrangement with canopy over shall be omitted from the scheme. The internal layout of the development shall be amended accordingly. A window shall be provided in place of the new front door as proposed under this application.

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.

Reason: In the interest of orderly development and visual amenity.

- 3 The front garden boundary wall and fencing shall be retained.

Reason: In the interest of orderly development and visual amenity.

- 4 The first floor bathroom / ensuite windows and skylight to existing roof and clerestory window in the monopitch roof shall be permanently glazed with obscure glass.

Reason: In the interest of residential amenity.

- 5 The flat roof directly to the south of the master bedroom as identified on submitted plans shall not be used as an outdoor terrace/roof patio/ terrace.

Reason: In the interest of residential amenity.

6 External finishes shall generally match the existing house.

Reason: In the interests of visual amenity.

7 Site development and building works shall be carried only out between the hours of 07.00 to 18.00 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.

8 During the demolition and construction, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control'.

Reason: In order to ensure a satisfactory standard of development in the interests of residential amenity.

9 The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street is kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the works shall be carried out at the expense of the developer.

Reason: In the interest of clarity.

10 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.

- 11 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Dolores McCague
Inspectorate

Date

Appendix 1 Map and Photographs
Appendix 2 Extracts from the Dublin City Development Plan
2011 -2017