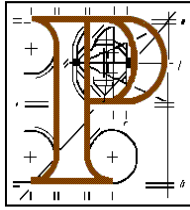


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL29S.246627

Development: Erection of a single storey conservatory extension to the rear of the existing house at no.3 Orwell Square, Rathgar, Dublin 6.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 2429/16
Applicant: Michael and Olivia Meagher
Planning Authority Decision: Grant subject to conditions

Planning Appeal

Appellant(s): Michael and Olivia Meagher
Type of Appeal: First Party against Condition
Observers: Conor Mitton
Date of Site Inspection: 9th of August 2016

Inspector: Angela Brereton

1.0 SITE LOCATION AND DESCRIPTION

The application site at no.3 Orwell Park Square contains a recently constructed two storey semi-detached property with attic accommodation. It adjoins no. 2 and forms part of a larger residential development that is currently under construction within the former Mill Hill Missionaries land. Access to the development is via the Orwell Park entrance to St. Joseph's House and the associated parking area for the latter is to the south west.

The application site has gated access and contains a vehicular parking space to the front. There is a c.1.8m boundary wall around the rear garden area. Internally there are high ceilings and there are currently two patio doors that open out onto the landscaped rear garden area.

2.0 PROPOSED DEVELOPMENT

This is for the erection of a single storey conservatory extension (floor area: 15.4sq.m) to the rear of the existing house.

A letter has been submitted on behalf of the applicants by ndba architects which provides details of the rationale for the proposed development.

The application form provides that the total site area is 255sq.m, the area of building to be retained (i.e. the existing house) is 210sq.m and of the extension is 15.4square metres i.e: 225.4sq.m in total. The proposed plot ratio is 1:0.48 and the proposed site coverage is 48%.

A Site Layout Plan, Floor Plans, Sections and Elevations have been submitted.

3.0 PLANNING HISTORY

While as noted in the Planner's Report there is no specific history relevant to the subject site, there is a considerable planning history relevant to the larger development site. This includes the following of note:

- Reg.Ref.2427/13 – Permission granted subject to conditions to change house types of approved housing development Reg.Reg.2744/12 at Nos. 47-53 Orwell Park and adjacent to Dartry House (a Protected Structure), Rathgar, Dublin 6.
- Reg.Ref.3012/14 – Permission granted subject to conditions by the Council for modifications to Reg.Ref.3614/13 comprising a reduction from 37no. units to 36no. units at a protected structure. An appeal to ABP was subsequently withdrawn.

Copies of these decisions are included in the Appendix to this Report.

4.0 PLANNING AUTHORITY APPLICATION

4.1 Planning and Technical Reports

The Engineering Department Drainage Division has no objections subject to compliance with standard drainage conditions.

Submissions have been received from the owner of the adjoining property concerned that the scale of the proposed extension has the potential to have an adverse impact and overwhelm the character of no.2 Orwell Park Square and be contrary to the spirit of the overall residential development for smaller town houses.

The Planner's Report has regard to submissions made and to planning policy in the DCDP 2011-2017 relative to residential extensions and to the design and scale of the proposed conservatory extension. They considered that if the height of the pitched roof was reduced that the impact on the neighbouring property will also be reduced. They provided that while the conservatory reduces the size of the rear garden it is considered to be acceptable given that the site has sufficient open space. They recommended that permission be granted subject to conditions.

5.0 PLANNING AUTHORITY DECISION

On the 25th of April 2016, Dublin City Council granted permission subject to conditions for the proposed development. These included Condition no.2 which is the subject of this appeal relative to a reduction in the height of the pitched roof of the conservatory.

6.0 GROUNDS OF APPEAL

A First Party Appeal has been submitted by ndba architects on behalf of the applicants Michael and Olivia Meagher against condition no.2 of the Council's permission. The grounds of appeal include the following:

- Reduction of the overall height of the proposed single storey conservatory extension would render it out of character with the existing house and effectively lead to a sub-standard development.
- The reduction of the eaves height by 400mm as conditioned would lead to a substandard form of development.
- They enclose drawings wherein they illustrate the proposed heights as applied for and consider that these show the detrimental effect of the application of Condition no.2.
- The proposed extension is to the north of the adjoining property and will not cause overshadowing and the height restriction should not be applied.
- Generally extensions of this type are considered 'exempted development' but a condition in Reg.Ref. 2427/13 restricts their client's property.

- Planning permission was granted - Reg.Ref.2232/14 (PL29S.243394) for a similarly sized extension with a higher eaves height on a neighbouring property.
- Therefore they wish to have Condition no.2 omitted.

7.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

Dublin City Council has not responded to the grounds of appeal.

An Observation has been made by Conor Mitton who is the owner of the adjoining property no.2 Orwell Park Square. This includes the following:

- These are town houses with small gardens and the proposed extension is not modest and has the potential to ruin the character of this semi-detached no.2 by overwhelming it.
- DCC were right to include condition no.2 to reduce the height by 400mm and protect the residential amenity of the neighbouring property.
- Concerns that the proposal will impact on their light and cause overshadowing.
- No attempt has been made to offer alternative drawings offering any compromise and reducing the scale of the proposed conservatory.
- The impact on no.2 has not been acknowledged in the drawings submitted.
- There is no acknowledgement that the point of Orwell Park Square was to provide smaller houses in Dartry.
- He is not opposed to the applicants building a conservatory in principle but is concerned about building a conservatory of this scale.
- The applicants are seeking to increase the value of their property.

8.0 PLANNING POLICY

Dublin City Council Development Plan 2011-2017

The site is zoned Z12 'Institutional Land (Future Development Potential)' which has an objective 'To ensure the existing environmental amenities are protected in any future use of these lands'.

The following are also relevant:

Section 17.9.8 Extensions and Alterations to Dwellings.

Appendix 25 provides Guidelines for Residential extensions.

9.0 ASSESSMENT

9.1 Principle of Development

Section 17.9 of the Dublin City Development Plan 2011-2017 provides 'Standards for Residential Accommodation' and S.17.9.1 refers to the 'Residential Quality Standards' and Section 17.9.8 to 'Extensions and Alterations' to dwellings. This provides that well designed extensions will normally be granted provided that they have regard to the amenities of adjoining properties and that the design integrates well with the existing building. Appendix 25 provides 'Guidelines for Residential Extensions' and the general principles include that the proposed extension should not have an adverse impact on the scale and character of the dwelling, or 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.

The First Party submits that this small scale conservatory to the rear of the property would normally be considered 'exempted development'. However it is of note that a condition restricting exempted development has been included in the previous permissions relating to the overall residential development Reg.Ref.2427/13 and Reg.Ref.3012/14 refer. Therefore the subject conservatory requires planning permission.

The impact on adjoining properties needs to be considered. The First Party contends that the proposed development is consistent with the character of the existing house and note that a precedent has been set relative to this type of extension. They provide that it is consistent with the Dublin CDP principles and guidelines for residential extensions. While there has not been a Third Party Appeal in this case, regard is had to the Observation made and to the impact of the proposed extension on the adjoining properties, in particular no. 2 Orwell Park Square, relative to issues such as height, design and visual impact. Whereas a well-designed extension is normally permissible in this residential land area in accordance with the criteria of Section 17.9.8, and Appendix 25 the issue in this case is whether the proposed conservatory would integrate well or have an adverse impact taking into account the locational context of the dwelling, the restricted nature of the site and the amenities of the adjoining dwellings and the character of the area. These issues are discussed further in the context of this assessment below.

9.2 Consideration under Section 139

The First Party appeal relates only to Condition no.2 of the Council's decision relative to Reg. Ref.2429/16. While there are no separate third party appeals note has been had of the Observation from the adjoining property no. 2 Orwell Park Square. However this supports the inclusion of the Council's condition no.2 and does not object to the principle of a conservatory on this site rather has concerns regarding the proposed scale and height. Therefore it is considered that this can be considered as a 'conditions only' appeal under Section 139 of the Planning and Development Act 2000-2012. As the appeal relates solely to this Condition, therefore in accordance with section 139(c), the Board, if it is satisfied, having regard to the nature of the conditions, that the determination of the application as if it had been made to it in the first place was not warranted, can deal specifically with the conditions. Where it decides not to use its discretionary powers, the Board may either grant or refuse permission for the development even where conditions only are appealed.

Having regard to the issues raised including those regarding the modifications imposed by Condition no.2, I would consider that the principle of residential development has been accepted on this site. The issue raised in this appeal relates to the height of the pitched roof on the conservatory and is pertinent solely to Condition no.2. The other conditions of the Council's permission Reg.Ref.2429/16 are noted and I consider that these deal appropriately with other issues relative to

the application. As the proposed development is acceptable in principle in this residential development in this land use zoning, it is considered that the proposal in this case does not warrant consideration 'de novo' and it is recommended that this appeal be dealt with under Section 139(c). The Assessment below considers the merits of the Council's Condition no.2 that is the subject of this appeal.

9.3 Regard to Condition no.2

This provides: *The height of the pitched roof of the conservatory shall be reduced by 400mm in all sections.*

Reason: To protect the residential amenity of the neighbouring property.

The drawings submitted with the application show that the proposed conservatory is 15.4sq.m with a pitched roof shown 3.65m to ridge height. Two high level roof lights are proposed on either side of the ridge. The Sections show that the floor to ceiling heights, in the adjoining ground floor rooms as c.3m in height. The proposed conservatory while it projects 1.8m further to the rear of the existing house, is to be located partly as infill between the kitchen projection of the existing house and the western site boundary with the semi-detached property no.2. There is a c.1.8m wall along the site boundaries of the rear garden area.

The First Party provide that to reduce the overall height of the conservatory as per this condition would render it out of character with the existing house and effectively lead to a substandard form of development. They provide that the houses designed at Orwell Park, including the applicant's house, have high ceilings i.e. c.3m, which adds to their attractiveness. Also that the proposed modest extension is designed with an eaves level of 2.4m and a pitched roof with a ridge height of 3.5m in order to compliment this and to achieve a reasonably proportionate extension to the existing house. They consider that a reduction of the overall height by 400mm as conditioned would bring the eaves down to 2m and would lead to windows and doors being installed at below the current standard heights which would lead to substandard development. They enclose copies of a drawing wherein they illustrate the proposed heights as applied for and the impact of the application of Condition no.2 which they consider detrimental. It is of note that the revisions to this drawing show that the ridge would correspond with the ground floor ceiling heights. However they also show the impact of the lowering of heights on windows and with the existing opening to the kitchen.

9.4 Impact on the Adjoining property

No. 2 Orwell Park Square is the adjoining semi-detached property. While their Observation does not object to the principle of a conservatory it is concerned about the scale and height of the proposed conservatory and potential negative impact on their property. They consider that in the interests of their residential amenity the Council's condition no.2 providing for a reduction in height should be retained. Also, that the scale and height of the proposed development is not in the spirit of the concept of this recent residential development which was to provide a number of smaller houses in this area of Dartry for people to downsize. The Planner's Report had regard to the submission made and recommended that the height of the

proposed conservatory be reduced as per Condition no.2. It is important to consider the impact of the removal of Condition no.2 on this property.

The First Party provide that overshadowing will not occur as the proposed extension is to the north of No. 2 Orwell Park Square. The Site Layout Plan shows that no. 3 is to the north east and that the proposed conservatory extension will adjoin the 1.8m boundary wall with no.2. As shown on the plans submitted with the application the eaves height would be c.2.6m in height and the ridge level 3.65m, which is greater than the dimensions specified in the First Party appeal (i.e. 2.4m with a ridge of 3.5m). If the Board decide to permit it is recommended that Condition no.2 be modified to include that the eaves height of the conservatory shall not exceed 2.4m and the ridge height shall not exceed 3.5m in height. Also in the interest of the adjoining property that section (b) be inserted i.e: *The roof and gutters of the conservatory shall not overhang the side boundary with no.2 Orwell Park Square.*

9.5 Regard to Precedent Cases

The First Party has regard to a nearby planning permission that was granted for a conservatory on appeal to the Board (Reg.Ref.2322/14 - PL29S.243394 refers). This referred to Site 13B of approved housing scheme Reg.Ref.2744/12 (as amended by Reg.Ref.2427/13) and is located further to the east of the subject site, also in Orwell Park Square. In that case the permitted conservatory is c.15sq.m and shown 3m to eaves level with a glazed higher level roof light. The Council, refused permission for the conservatory by reason of failing to comply with standards in the DCDP 20111-2017 i.e. leading to substandard private open space. However having regard to the merits of that case the Board decided to grant permission and a copy of their decision is included in the Appendix to this Report.

It is also of note that if the subject conservatory is constructed that c.67sq.m of private open space will remain for this 3 bed house, which is less than recommended relative to Private and Communal Open Space in Section 17.9 A3 (Houses) i.e. 15sq.m of private open space per bedspace. However in this respect, regard is had to the considerations of PL29S.243394.

While regard is had to precedent cases it is considered that each case is dealt with on its merits, and precedent is not necessarily a reason for it to become an established norm. It is of note that in this case the issue relative to private open space has not been raised and this appeal is being considered relative to Condition no.2 only.

9.6 Appropriate Assessment

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

10.0 CONCLUSION AND RECOMMENDATION

As discussed above the principle of a conservatory to the rear of the property is considered to be acceptable on this site and within the context of the recently

constructed housing development within this land use zoning and this appeal is being considered as an appeal against condition no.2 under the provisions of Section 139(c) of the Planning and Development Act 2000.

I would recommend that in the interests of residential amenity and the character of the area that Condition no.2 be retained but modified as discussed in the Assessment above.

11.0 REASONS AND CONSIDERATIONS

Having regard to the residential land use and the zoning objective for the area, it is considered that, subject to compliance with the conditions as per Register Reference:2429/16, including amendments to Condition no.2 below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of its impact on the existing building and on the character and amenity of this urban area.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITION 2

The proposed development shall be amended as follows:

- (a) The eaves height of the proposed conservatory shall not exceed 2.4m and the ridge height 3.5m.
- (b) The roof and gutters shall not overhang the side boundary with no.2 Orwell Park Square.

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.

Angela Brereton,
Inspector,
11th of August 2016