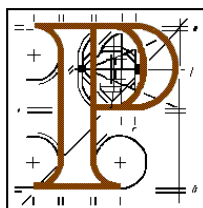


# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** PL29N.246896

**Development:** Construction of part two storey part single extension to rear and roof terrace all to rear of house 11 James's Street North, North Wall, Dublin 3.

### Planning Application

**Planning Authority:** Dublin City Council

**Planning Authority Reg. Ref.:** 2746/16

**Applicant:** Rebecca Kehoe and Brian Tyrrell

**Planning Authority Decision:** Grant permission with conditions

### Planning Appeal

**Appellant(s):** Rebecca Kehoe and Brian Tyrrell

**Type of Appeal:** 1<sup>st</sup> v Condition

**Observers:** None

**Date of Site Inspection:** 10<sup>th</sup> September 2016

**Inspector:** Dolores McCague

# 1 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is located at 11 James's Street North, North Wall, Dublin 3.
- 1.2 The site is occupied by a two storey red brick terraced house, which occupies a corner site at the junction of James's Street North and Stoney Road fronting onto James's Street North; with a single storey portion to the rear. The site is L shaped with the two storey portion of the existing building being wider than the remainder of the site. Part of the rear of the two storey building abuts the side of an adjoining two storey terraced house on Stoney Road No. 14 to the north-east. The remainder of the site runs along the rear of No. 14 and a first floor window of No. 14 is located on the common boundary, overlooking the rear of the subject site. A laneway, accessed via a doorway at the end of No. 14 Stoney Road, runs along the rear of the subject site and separates the site from a garden to the rear of No. 14A Stoney Road. No. 12 James's Street North adjoins the site to the west. There is a two storey extension to the rear of No. 12.
- 1.3 The existing dwelling comprises a hall and large living room to the front and, at a slightly lower level, a kitchen and bathroom in a single storey area to the rear. At first floor there are two bedrooms.
- 1.4 The area is characterised by densely developed terraced dwellings of a similar style and age.
- 1.5 Stoney Road is a narrow road which runs for a considerable distance from Strandville Ave to East Wall Road. Along its western side are the flanks of dwellings which front onto various streets including James's Street North and at a number of locations there are dwellings facing the road.. Along its eastern side there is a stone wall and an embankment which carries rail lines running north from Connolly Station.

- 1.6 James's Street North is a short street running between Stoney Road & Spenser Street North, along which there is mainly 2 storey terraced housing, some of which have been modified.
- 1.7 Although the rear of properties on James's Street North face towards the rear of properties on Leinster Street East, the rear of the subject property is separated from the rear of Nos 12 and 13 Leinster Street East by a large builders shed and yard which is adjoining and to the north of No 14 A Stoney Road.
- 1.8 The site is given as 74m<sup>2</sup>.

## **2 PROPOSED DEVELOPMENT**

- 2.1 The proposed development comprises of the following main elements:
- A rear extension which is part single storey and part two storey.
  - The ground floor element extends to the end/rear of the site, leaving only a yard area at the north western corner. The extended area comprises: a corridor with a bathroom on one side and storage presses on the other; a kitchen dining area, with glazing to the yard, also lit by a roof light; and off the kitchen there is a study with a window to the yard.
  - The first floor element extends from the rear of the existing building by c. 6.5m, cut back where it runs to the rear of No 14 Stoney Road to avoid the first floor window. This area is also at a slightly lower level than the corresponding area at the front of the building and comprises a bathroom with rooflight, and a bedroom, which has a large window to the rear (2.4m wide x 1.9 high).
  - The existing stairwell is to be extended to a second floor level where it is proposed to provide a roof terrace above the new first floor area, extending from the existing building by 4m.
  - The enclosure for the extended stairwell will finish just short of the existing ridge level.

2.2 The stated area is 46.5 m<sup>2</sup>.

### **3 PLANNING HISTORY**

There is no planning history associated with the site.

History in the vicinity - 127155 refusal of permission for a house adjoining no 12 Stoney Road

3070/07 12 James's Street North, permission for erection of two storey extension to the rear accommodating kitchen and bathroom at ground and 2 bedrooms at first floor.

### **4 PLANNING AUTHORITY DECISION**

4.1 Application received 25 April 2016. The application was accompanied by a letter from Studio D Architects which outlined the rationale for the proposed development and the design. It states that they have set back the extension at the upper level in relation to the window to No 14 which does not serve a habitable room and is at a high level. They have been in contact with the owners and they have no objections. The extension is set back a minimum of 900mm from the face of the window. A blockwork wall of 3m and a lane separates the rear of the site from private amenity space to the rear of No 14A, if additional screening is required they would invite a condition to include for obscure glass in the new first floor bedroom to a height of 1.6m as suggested in the pre-planning response. The roof terrace will have screen walls of 1.7m to ensure there is no loss of amenity to the adjoining rear gardens/yards. It is invisible from all sides. The existing yard receives very little sunlight. The overall floor area of the house will be increased by 46.5 sq m to a total of 110 sq m and the remaining open space will be reduced to 10 sq m, with the addition of the 10 sq m roof terrace will be 20 sq m. A copy of the pre planning response, from the planning authority, is attached to the letter.

4.2 Planning and technical reports

4.3 Engineering Department – Drainage Division:  
Conditions

4.4 Planning report:

#### History

3070/07 12 James's Street North, permission for erection of two storey extension to the rear accommodating kitchen and bathroom at ground and 2 bedrooms at first floor.

The site is located in a Z2 residential conservation area. Under the Z2 zoning, the 'general objective for such areas is to protect them from unsuitable new development or works that have a negative impact on the amenity or architectural quality of the area. 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.

A yard of approx. 10 sqm would remain which would provide an area for bin storage etc; having regard to the site configuration and the pattern of development in this inner city location this is considered acceptable. The first floor element would extend beyond the line of the neighbouring extension at No 12 by 1.5m and also extends beyond the landing window at No 14 Stoney Road. However the applicant has set the extension back 873mm from this window to allow some degree of light into this area. The planning authority has concerns regarding the depth of the extension in terms of its impact of overlooking to the amenity space of No. 14A Stoney Road and the impact on the available light to the landing window of No 14 Stoney Road, notwithstanding it being a non-habitable room. In the event that permission is granted it is considered appropriate to reduce the depth of the first floor extension to not extend beyond the line of the neighbouring extension to the western boundary and to not extend beyond the high level window on the eastern boundary (rear wall of No 14 Stoney Road). The third floor element of the proposal is the proposed roof terrace at second floor level. The terrace itself would be set behind the existing ridge of the main roof and provide additional amenity space for the occupants. The form of the extension with an extensive pitch roof would read as a second floor addition which would be out of character with the scale of the

dwelling and also with the established pattern of development along the terrace of houses along the street. The addition of a second floor terrace would set an undesirable precedent for similar proposals within this residential conservation area and therefore should be omitted by way of condition.

#### 4.5 **Planning Authority Decision**

4.6 The planning authority issued notification of decision to grant permission subject to conditions including:

Condition no 3

The development shall be revised as follows:

- a) The depth of the first floor extension shall not project beyond the depth of the adjoining first floor extension at No. 12 James's Street North along the western boundary and shall not extend beyond the high level window to No. 14 Stoney Road along the eastern boundary.
- b) The roof terrace at second floor level shall be omitted.
- c) The roof profile of the first floor extension shall be amended from a pitched roof profile to a flat roof profile.

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 interests of orderly development and visual amenity.

4.7 The decision was in accordance with the planning recommendation.

4.8 There are no observations on the file.

## 5 GROUNDS OF APPEAL

5.1 A first party appeal has been lodged by the applicant against condition no. 3.

5.2 The grounds of appeal and main points raised in this submission can be summarised as follows:

- The existing dwelling is too small for their needs. They engaged the architects to look at the options and come up with a solution. The design seeks to improve the quality of their lives and allow them to remain here for the long term. The high level window to No. 14 Stoney road is problematical. It overlooks their amenity space. Permission was granted for No 14 A on what would have been amenity space associated with No 14; ref 4410/02. Condition No. 3 effectively renders their proposal unworkable and it will not give them sufficient space for 3 bedrooms. The stated policy of the City Council is to encourage and support sustainable development within the inner city and that extensions and improvements in the existing housing stock are to be supported particularly to allow for young families to provide accommodation to retain a good mix in the community. They were advised at pre planning that it would be necessary to demonstrate that the window to No. 14 does not serve a habitable room and/or that the neighbour does not have an objection. They have shown this and no objections or observations were submitted. The planner had concerns about the setback in relation to the adjoining extension at No. 12 James's St North. They thought that this could be relaxed as the extension at No. 13 James's St North extends 2m beyond the extension at No. 12 James's St North; and also considering the complications with their site; and they discussed this with their neighbours and they had no issue with it. The issue of overlooking of the rear of No. 14A Stoney Road was raised and is dealt with in the application and they invited the planning authority to consider the use of obscure glass in the bedroom window. The issues with the roof terrace were of a constructional nature and there was no objection in principle. Constructional issues were resolved in the application.
- Re. the depth of the extension – the extent as conditioned is shown on an extract from the first floor layout drawing and a photograph of the rear of No's 12 and 13 is submitted to

show the extent of the extensions to those properties. They feel that to cut back the extension to that of No. 12 is inconsistent. They refer to other recent permissions for rear extensions. The high level window to No. 14 Stoney Road complicates issues on the site and to hold the extension behind this line is too restrictive. This window is an irregularity and when considered with the site configuration is unfortunate. To seek to provide full unobstructed daylight is harsh. The proposal as submitted is a compromise. They urge the Board to grant permission as originally sought or to increase the size of the light well to 1m. They note the permission granted to No. 14 James's Street North to build 1m out from and alongside windows to habitable rooms – bedrooms in No. 13, 2095/13.

- They refer to the pre planning correspondence which advised that it would be necessary to demonstrate that the window to No. 14 Stoney Road does not serve a habitable room and/or that the neighbour does not have an objection. The window is a high level window above a stairwell. No objections to the proposed development have been received.
- Regarding the roof terrace – it will provide needed private open space. The extension will reduce the private open space to 10 sqm. The area is north facing and has suffered reduced sunlight since the erection of the two storey extension to No. 12 James's St North. They have seen many examples of similar roof gardens granted in Dublin. There will be no loss of amenity to their neighbours. It will not be visible from front or rear. The mass and scale is adequately screened by the pitched roof detail. They refer to various examples of roof gardens permitted in the vicinity and to this year's RIAI Architecture Award Winners home designs for complex city sites using setbacks, upper level balconies and planted roofs. The condition is not consistent with permissions granted and a precedent has not been set. They refer to section 11.2 of the City Development Plan. The proposal is a high quality design and they request the Board to grant permission to enable them to continue living in the area rather than relocating out of the site.



## **6 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

- 6.1 In response to the first party appeal, the Planning Authority refers the Board to the planning report on the file.

## **7 POLICY CONTEXT**

- 7.1 **The Dublin City Development Plan, 2011-2017** is the operative plan. Relevant provisions include:

Zoning – the site is zoned Z2 to protect and improve the amenities of residential conservation areas.

Development in Conservation Areas - 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,

Residential Extensions - 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.

## 8 ASSESSMENT

- 8.1 This is an appeal against a condition. In accordance with Section 139 of the Planning and Development Act, having regard to the nature of the condition, notwithstanding that the condition would involve very significant changes to the development proposed, I am satisfied that a determination by the Board of the application as if it had been made to it in the first instance would not be warranted.
- 8.2 The issues which arise in relation to condition no. 2 are residential amenity and visual amenity and the following assessment is addressed under those headings.

### Residential amenity

- 4.1 Light - The issue of light arises as a concern in relation to the high level window to No. 14 Stoney Road. The proposed development would be 873mm from the wall of the house, c900mm from the face of the window. This window lights a stairwell and is at a high level. Its position in relation to the proposed development can be seen in drawing No. 1501409 Rev P and also drawing No. 1501412 Rev P. Condition 3 of the planning authority's decision would require that the proposed extension would end at a line joining the rear extension of No. 12 with the window of No. 14. This would provide a smaller extension at first floor level than proposed and would require the layout of the extended area to be reconfigured in order to provide a small bedroom.
- 4.2 Drawing No. 1501412 Rev P shows that, because of the height of the window of No. 14, the proposed bedroom would not unduly impact on light to the window.
- 4.3 Impact on light from the new pitched roof would occur, this pitched roof is proposed as a design feature. In my opinion the impact on light to the window can be addressed by omitting the pitched roof, which, while an interesting design feature is not a necessary part of the development. In relation to the omission of this feature, I would not be unduly concerned at the presentation of a rendered wall to view at the rear of the building. Alternatively, vertical tiles could be used on this elevation. I consider that the detailed design of this elevation should be agreed with the planning authority.

- 4.4 Privacy - The proposed extension would have a large bedroom window facing towards the amenity space, rear door and window of the recently constructed dwelling at No. 14a Stoney Road. Currently there is a landing window facing in the same direction, overlooking the adjoining property but at a further remove (c6.5m). The Board may consider that the proposed development would involve a loss of privacy to No. 14A Stoney Road and that to protect the privacy of the adjoining property the use of obscured glazing in the bedroom window is necessary. In my opinion since the overlooking is from a bedroom window, any increase in overlooking is not of particular concern.

Visual Amenity

- 4.5 The proposed extension is to the rear of a dwelling in a residential conservation area where it is not visible from the public street, therefore there is no objection in principle to the proposal.
- 4.6 Condition 3c of the decision requires the omission of the second floor terrace. The planner's report states that the form of the extension, with an extensive pitched roof, would read as a second floor addition which would be out of scale with the dwelling and also the established pattern of development along the terrace of houses to the south. The proposed development can be seen only from the rear of the dwellings and largely only from dwellings which face Leinster Street East. Because of the proximity of houses and the presence of extensions to the rear of properties the proposed development will not be widely visible.
- 4.7 The proposed terrace will provide necessary outdoor accommodation which does not otherwise impinge on residential amenities of adjoining properties. In my opinion the proposed terrace is acceptable.
- 4.8 The ground floor extension is not referred to in the conditions or in the appeal. I assume, although it is not clear from the drawings, that the glazed feature between the dining area and the yard is a pair of doors or a door. This glazing as shown on plan does not correspond with the rear elevation but this can be corrected by condition.

## 9 RECOMMENDATION

9.1 On the basis of my assessment, I recommend that the Board should determine as follows:

### REASONS AND CONSIDERATIONS

The Board considered that the extended areas referred to in the condition, subject to the revised condition, would not unduly impact on the residential amenities of adjoining properties or on the visual amenities of the area and would provide accommodation necessary to achieve recommended residential standards. The Board accordingly directs the planning authority to amend condition number 3 as follows

#### Condition 3

Prior to the commencement of development revised drawings shall be submitted for the written agreement of the planning authority showing:

- a) The omission of the 'lean to pitched roof to extension' as indicated on drawing no. 1501410 Rev P and showing the revised treatment of the rear wall to the roof terrace.
- b) Details of the glazed feature between the dining area and the yard, such that the plans and elevations correspond.

Development shall not commence until these revisions have been agreed.

Reason: In the interests of residential and visual amenity.

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Dolores McCague  
Inspectorate

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Date

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