



An
Bord
Pleanála

Inspector's Report 246932

Development	Construction of an extension to the rear, change of use of shed to playroom and all ancillary site works at No. 6 Torlogh Gardens, Fairview, Dublin 3.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2773/16
Applicant(s)	Stephen & Lisa O'Reilly
Type of Application	Permission
Planning Authority Decision	Grant permission
Appellant(s)	Stephen & Lisa O'Reilly
Observer(s)	None
Date of Site Inspection	7 th October 2016
Inspector	Donal Donnelly

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
4.0 Planning History.....	5
5.0 Development Plan	6
6.0 The Appeal	6
7.0 Assessment.....	8

1.0 Site Location and Description

- 1.1. The appeal site is located on Torlogh Gardens in Fairview approximately 2km north-east of Dublin City Centre. Torlogh Gardens is accessed off Philipsburgh Avenue, which extends from south to north from Fairview Strand. There is a varied mix of architectural styles along this road from different periods. The southern end of the road has a number of short residential culs de sac on both sides.
- 1.2. Torlogh Gardens in one such cul de sac located on the western side of Philipsburgh Avenue. The cul de sac comprises two terraces of equal proportion facing one another, each containing 9 no. dwellings. A tenth dwelling has been added at the western end of each terrace. The dwellings are unusual for the period they were constructed in that they are of terraced format rather than semi-detached. Dwellings have front gardens and parking is on-street. There are service laneways to the rear commencing at the side of the eastern-most dwellings.
- 1.3. No. 6 Torlogh Gardens is situated on the northern side of the cul de sac. The stated area of the site is 176.4 sq.m. and the dwelling measures 106.3 sq.m. The depth of the site from front boundary to rear is 23m. At the back of the rear garden is a shed structure measuring 24 sq.m. The existing rear garden has an area of c. 34 sq.m. The dwelling has previously been extended to the rear to include a ground floor kitchen across the width of the site and a first floor en-suite set back from side boundaries.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
 - Construction of a single storey extension (9.5 sq.m.) to rear connecting dwelling to existing shed located at back of garden;
 - Change of use of existing shed to playroom (24 sq.m);

- The remaining rear garden area will be approximately 25 sq.m.;
- All other ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued notification of decision to grant permission for the proposed development subject to eight conditions. Condition 2 the subject of this appeal states as follows:

“The development shall be amended as follows:

- a) The proposed 6m long link corridor shall be permanently omitted.*
- b) Following the omission of the proposed link corridor, the southern elevation of the converted garage shall be amended accordingly.*

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 occupation of the buildings:-

Reason: In the interests of orderly development and visual amenity.”

3.2. Planning Authority Reports

- 3.2.1. Under the assessment of the application, it is noted that the 3.1m high extension will adjoin the western boundary and having regard to the orientation of the sun, it is considered that the proposed link corridor is likely to have an adverse impact on the availability of daylight and sunlight to the neighbouring property.

- 3.2.2. It is also considered that the proposed extension is likely to have a detrimental impact on the established character of the area given that the site is located in a residential conservation area with predominately red brick 2-storey terraced dwellings.
- 3.2.3. The Case Planner states that the proposed extension will result in an excessive scale of development on site and is not designed in such a way to complement existing buildings/ structures in terms of design, external finishes and other details. The proposal is therefore considered to be contrary to the provisions of Para. 17.10.8.1 of the Development Plan.
- 3.2.4. It is considered that the principle of converting the garage into habitable space is acceptable and unlikely to have a detrimental impact on the existing dwelling or the amenities of adjacent dwellings.

4.0 **Planning History**

Dublin City Council Reg. Ref: 1703/08

- 4.1. Permission refused on the appeal site for the following:
- Alteration of the existing front garden railings;
 - Creation of an off-street car parking space.
- 4.2. It was stated under the reason for refusal that the proposal within a street with intact gardens would form a visually discordant element in a long established uniform pattern of development in Torlogh Gardens. It was also stated that the proposal would be contrary to Appendix 16 of the Development Plan and the Z1 zoning objective.

5.0 Development Plan

- 5.1. Within the Dublin City Council Development Plan, 2011-2017, the appeal site is zoned Z1, where the objective is *“to protect, provide and improve residential amenity.”*
- 5.2. It is stated under Section 17.9.8 that permission to extend dwellings will be granted provided the proposal:
- Has no adverse impact of the scale and character of the dwelling;
 - Has no unacceptable effect on the amenities of adjoining properties.
- 5.3. Guidelines for residential extensions are included in Appendix 25.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal has been lodged on behalf of the applicant against Condition 2 attached to the Council's decision only. The grounds of appeal and main points raised in this submission can be summarised as follows:
- Board is asked to consider this appeal under Section 139 of the Planning and Development Act, 2000 (as amended).
 - Incorrect interpretation of the zoning objective must call into question the robustness of the Planning Authority's decision – site is zoned Z1 and not Z2.
 - Proposal, as redesigned, will not impinge on the enjoyment of and the residential amenity of No. 4 Torlogh Gardens.
 - No. 4 & 8 Torlogh Gardens have larger scale rear sheds than the subject site and many other rear gardens have structures that abound the side garden boundaries

and extend above it. Property at south-western end of street has been developed to a far higher degree of intensity.

- Proposed link corridor was designed to be 3.1m in height beside a 1.9m high boundary wall – revised design submitted with appeal reduces the overall height to 2.6m. Side boundary could be raised to 2m without planning permission.
- Length and revised height of extension is totally appropriate and compares favourably with the exempted development rights of the applicant. Revised height also addresses any misplaced concerns of the Planning Authority.
- Removal of extension reduces the viability of the playroom and the quality of living space of the property. Conversion of the shed will facilitate this family to continue living in their home for a more prolonged period of time.
- Revised design would have a mono-pitched roof that extends down from its highest point and thus avoids the need for a parapet at the boundary wall.
- There is potential to extend the existing house by 12-13 sq.m. without seeking planning permission and this is circa the floor area of the proposed extension.
- Proposed development will not overshadow or overbear neighbouring properties.
- Proposal converts an existing building into an integral part of the house and creates a covered link between it and the main dwelling.
- Design of the original link corridor and as revised under appeal is a simple design that will not conflict with the original house irrespective of the fact that it is not a residential conservation area.
- There are no grounds to claim that the proposal will result in adverse impact of availability of sunlight and daylight due to the siting and orientation of the site. Any overshadowing will occur in the early morning when the value of the space is at its least usefulness.

6.2. Planning Authority Response

- 6.2.1. In response, the City Council states that it has no further comment to make and considers that the Planner's Report on file adequately deals with the proposal.

7.0 Assessment

- 7.1. This is a first party appeal against Condition 2 only attached to Dublin City Council's decision to grant permission for the change of use of an existing shed to a playroom and construction of a single storey extension connecting the dwelling to the new playroom.
- 7.2. The main requirements of Condition 2 are that the proposed 6m long link corridor (extension) be omitted, with the southern elevation of the converted garage to be amended accordingly.
- 7.3. Having regard to the fact that the change use of the shed to use as a playroom is unlikely to have any impact on the residential or visual amenities of the area, I would be satisfied that an assessment of the case *de novo* would not be warranted, and therefore the Board should determine the matters raised in the appeal only in accordance with Section 139 of the Planning and Development Act, 2000 (as amended). It should also be noted that there were no objections to the proposal or observations on the appeal.
- 7.4. It was considered by the Planning Authority that the proposed extension along the western boundary of the site at a height of 3.1m above ground level is likely to give rise to overshadowing and will create an overbearing impact on neighbouring properties. It was also noted that the site is within an area zoned "Z2 – residential conservation areas" and the link corridor is likely to have a detrimental impact on the established character of the area. The Planning Authority considers that the proposed link would be excessive in scale and would not complement the existing building/ structures in terms of design, external finishes and other details.

- 7.5. From the outset, it should be emphasised that the appeal site is actually zoned Z1 where the objective is *“to protect, provide and improve residential amenity.”* The proposal to extend the dwelling would be acceptable in principle provided there are no adverse impacts on the scale and character of the dwelling and no unacceptable effects on the amenities of adjoining properties. It should also be noted that the site is included within the Z1 zone within the new Development Plan which was adopted on 23rd September 2016 and comes into force on 21st October 2016.
- 7.6. The appeal submission includes an amended proposal which reduces the height of the extension along the side wall to 2.6m above ground level. I measured on site that the existing side boundary wall is 1.86m above ground level on the appeal site side of the wall. I am satisfied that the reduced height of the extension will mitigate any adverse overbearing impacts within the rear amenity space of No. 8 Torlogh Gardens to the west.
- 7.7. In my opinion it is of more significance that the proposed reduction in height will reduce the overshadowing impacts on the remaining rear amenity space of the subject dwelling. Some overshadowing of this space will occur in evening times but I consider that the proposed extension will improve the overall amenity levels for residents of the subject dwelling. The dwelling will essentially wrap around the garden and this will improve the usefulness of the outdoor space. At approximately 25 sq.m., this space would be equal to the condition/ limitation for residual private open space when building an exempted house extension under Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- 7.8. The applicant’s planning consultant also refers to the Regulations to justify the proposed extension. It is noted that the dwelling has already been extended by 27.2 sq.m., meaning that there is potential to extend further by approximately 12-13 sq.m. and still be in compliance with Class 1 of Part 1 of Schedule 2. It appears that the area of the proposed extension taken together with the existing extension would be less than the total of 40 sq.m. allowed under exempted development Regulations. In

these circumstances, I see no reason for omitting the proposed extension (as amended).

Appropriate Assessment

- 7.9. 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.

RECOMMENDATION

Having regard to the nature of condition no. 2 the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 (as amended) to AMEND said condition for the reasons and considers hereunder.

REASONS AND CONSIDERATIONS

Having regard to the established pattern of development in the area, and to the location, scale and design of the proposed extension, it is considered that it is appropriate to amend Condition no. 2 to protect the residential amenities of the area and in the interests of the proper planning and sustainable development of the area.

CONDITION

2. The proposed extension shall be no more than 2.6m in height.

Reason: In the interests of residential amenity.

Donal Donnelly
Planning Inspector

7th October 2016