



An
Bord
Pleanála

Inspector's Report PL29S.248328

Development Rear and side extensions at ground and second floor level, new garden building, widened vehicular entrance and associated works and alterations to the protected structure.

Location 11 Herbert Park, Donnybrook, Dublin 4.

Planning Authority Dublin City Council

Planning Authority Reg. Ref. 4199/16

Applicant(s) Declan and Aisling Buckley

Type of Application Permission

Planning Authority Decision Grant subject to 9no. conditions

Type of Appeal Third Party

Appellant(s) Peter & Anne Dunne

Richard Farrell

Observer(s) None

Date of Site Inspection 13/07/17

Inspector John Desmond

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Dublin City Development Plan 2016-2022	7
5.2. Other Reference Documents.....	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Planning Authority Response	9
6.3. First Party Response.....	9
6.4. Observations	11
6.5. Further Responses.....	11
7.0 Assessment	13
7.1. Policy	13
7.2. Impact on neighbouring residential amenities	13
7.3. Impact on a protected structure.....	14
7.4. Roads issues.....	14
7.5. Appropriate Assessment	15
8.0 Conclusion and Recommendation	16

9.0 Reasons and Considerations..... 16

10.0 Conditions 16

1.0 Site Location and Description

- 1.1. The application relates to a substantial semi-detached dwelling. The period dwelling, which dates from 1905, is two-storey plus attic level accommodation and extends to a stated 356.2-sq.m. The dwelling has a modern single-storey extension to the rear of c.30-sq.m. There is a small single storey garage to the western side, attached to the dwelling and a neighbouring garage structure. There are similar dwellings to either side and to the rear.
- 1.2. The site has a stated area of 570-sq.m. The rear garden area is c.235-sq.m in area, with depth and width indicated as 20.1m and 11.7m, respectively. The planting to the rear is mature, with mature trees located close to the rear boundary, largely screening the neighbouring dwelling to the northwest from view.
- 1.3. The dwelling is setback c.7.8m in depth, behind a landscaped front garden. The front boundary appears to be original, with iron railings atop a granite plinth. The existing vehicular entrance gate is situated at the southwestern side of the boundary, measuring c.2.5m between gate posts. A separate pedestrian entrance is situated centrally on the boundary.
- 1.4. Herbert Park road is a wide boulevard type road in this location. It is lined with mature trees, with a substantial mature tree located in front of the application site, very close to the vehicular access to the site.

2.0 Proposed Development

- 2.1. The initial proposed was for:
 - i) rear and side ground floor single storey, flat-roofed extensions (47.1-sq.m);
 - ii) rear second floor extension (5.3-sq.m) with raised pitched roof;
 - iii) detached garden room (18-sq.m) to rear;
 - iv) refurbishment and re-roofing of single-storey side garage;
 - v) widening of vehicular entrance by 1m; and

- vi) associated internal and external alterations and refurbishment, elevational improvements, demolitions, drainage, landscaping and boundary treatment.

2.2. The application was amended by way of **FURTHER INFORMATION**:

- i) The proposed second floor level extension has been omitted, with existing roof line and wall envelope retained, but with existing internal layout revised.

2.3. Support documentation includes:

- Cover report by Keller Architects
- Drainage Report by ONCE Civil & Structural Ltd
- Conservation Statement by Keller Architects

3.0 **Planning Authority Decision**

3.1. **Decision**

GRANT permission subject to a condition (no.7) omitting the proposed widening of the existing vehicular entrance, plus 8no. standard type conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of 27/01/17 recommended that further information be sought concerning the proposed second floor extension and its impact on the character and setting of the protected structure.

The report of 16/03/17 recommended that permission be granted for the proposed development as revised by further information, subject to the omission of the proposed widening of the existing vehicular entrance and 8no. standard type conditions.

3.2.2. Other Technical Reports

The report of the Roads and Traffic Planning Division (24/01/17) recommended that permission not be granted for the proposed widening of the vehicular entrance

having regard to planning refusal reg.ref.3148/16, the impact on existing on-street parking and the roadside tree, with the remaining development subject to standard conditions.

The report of the Conservation Officer (18/01/17) raised concern about the proposed second floor extension which, it was considered, alters the character of the protected structure and recommended that it be omitted by way of further information request or by condition.

The report of the Drainage Division (20/12/16) raised no objection subject to standard conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

Observations were received from two third parties, Peter and Ann Dunne of no.9 Herbert Park and Richard Farrell of no.11 Herbert Park. The main issue raised related as follows:

4.0 **Planning History**

Reg.ref.3147/16 – Permission **REFUSED** by Dublin City Council for a proposed development at no.11 Herbert Park on grounds of being detrimental to the character and setting of the existing pair Edwardian buildings, being protected structures.

The main elements of the proposed development comprised: (a) demolition of existing single-storey rear extension, upper floors and roof of rear return, garage to side of existing dwelling; (b) construction of a rear and side extension at ground floor level, and rear extension at first and second floor levels (total 72.4-sq.m); (c) 18-sq.m single-storey detached flat roof garden room structure to the rear; (d) 10.6-sq.m single storey garage extension to the side of the house to

replace the existing garage; (e) widening of existing vehicular access to 3.5m and moving the existing pedestrian entrance on front boundary and associated works.

Reg.Ref.4056/09 – Permission **GRANTED** by Dublin City Council for the demolition of the existing extension and the construction of a new rear extension (62-sq.m) at no.13 Herbert Park.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

Z2 'to protect and / or improve the amenities of residential conservation areas'

S.11.1.5 Policies and Objective (built heritage); s.11.1.5.3 Protected Structures – Policy Application

S.16.10.18 Parking in the Curtilage of Protected Structures and in Conservation Areas

Appendix 24 – protected structures and Buildings in Conservation; s.24.4 Residential Parking in the Curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas

Appendix 17 Guidelines for Residential Extensions

Appendix 24 protected structures and Buildings in Conservation Areas

5.2. Other Reference Documents

Architectural Heritage Protection Guidelines (DoAHG, 2011)

6.0 The Appeal

6.1. Grounds of Appeal

Appeal no.1 - The grounds of the appeal submitted by **Peter and Anne Dunne of no.9 Herbert Park** (adjacent to southwest of application site) may be summarised as follows:

- Excessive height and width of single storey extension and proximity to boundary wall to no.9.
- Impact on loss of aspect and sunlight, and visual overbearing on north-facing windows and external terrace to appellant's property.
- Overshadowing of terrace in morning.
- Increased nuisance and noise due to narrowing of side passageway, with door and two windows.
- Impact of windows to dining room on neighbouring external terrace.
- Visual overbearing on protected structure.
- Garden room is too high and too close and would visually dominate and overshadow no.9 and no.22 Pembroke Road.
- There is no need for a garden room.
- The height of the ground floor extension and garden room could be reduced substantially (c.900m) by lowering room heights and providing eaves instead of parapet walls.
- Impact on sylvan nature of garden.
- The high plot ratio and site coverage should not be significantly increased by new development.
- Should the Board decide to grant permission, conditions should be attached to deal with excessive height and width of single-storey extension, excessive openings facing no.9 and excessive height of garden room.

Appeal no.2 - The grounds of the appeal submitted by **Richard Farrell of no.13 Herbert Park** (adjacent to northeast of application site) may be summarised as follows:

- Serious injury to amenity of no.11 through loss of daylight and visual overbearing from proposed ground floor.
- Requests the Board to either omit the proposed single-storey extension or increase the separation distance of same from no. 13 and reduce its height through omission of parapet feature.

- Height, scale and design of single storey extension out of character.
- Negligible and uncertain setback from no.13 – 0mm, 130mm or 285mm.
- Overshadowing of side windows to rear extension no.13. The angle subtended to the horizontal by the proposed development at the lowest wind is 67 degrees (compared to 25 degrees in s.2.2 Site and Layout Planning for Daylight and Sunlight (BSE, 2011). If setback to match that at no.13 and the parapet omitted, the angle would be reduced to 44 degrees which would be consistent with that permitted at no.13.
- Visual overbearing on side windows to extension at no.13.
- Contrary to guidelines for residential extensions under Appendix 17 of the Dublin CDP 2016-2022. The House Extension Guide (SDCC) is relevant, recommending a setback of c.1m from the side boundary for every 3m height – i.e. 1.3m for the proposed extension.
- The conclusion of the Planner's Report that, given the orientation of the site and existing pattern of development, the proposal would not result in any undue loss of residential amenity to neighbouring properties in terms of overlooking or overshadowing is incorrect. The planner had no regard to the side elevation windows to no.13, or to the pattern of development at no.13 which provided for a setback to avoid potential residential impact, and orientation of the site is such that the proposal will inevitably overshadow no.13, affecting windows purposely provided to maximise daylight.

6.2. Planning Authority Response

Directs the Board to the Council's Planner's Report (20/06/17).

6.3. First Party Response

The main points of the applicant's response (08/05/17) may be summarised as follows:

- The overall height of the proposed extension is less than that at no.13.

- The site windows to no.13 are intrusive and overlooking, necessitating the trellis fencing and screening to maintain privacy.
- The side windows to no.13 serve a subsidiary function to the primary fenestration to the rear and extensive roof lights.
- The principle of the development is permitted in the Z2 zone and the development acceptable to the Council subsequent to further information amendment.
- The applicant is will to replace the 1m high flue vent chimney with a wall vent if necessary.
- The garden room is unlikely to result in any overlooking, or overshadowing.
- There is robust boundary treatment and screen planting between properties.
- The reduction in garden size is similar to that achieved at no.13 and no.15.
- No.22 Pembroke Park, to the rear, has a 2-storey rear return, apparently of recent construction, with oriel window substantially overbearing and overlooking the applicant's garden.
- The proposal is consistent with Appendix 25 of the Dublin CDP 2016 provides that extensions shall not result in significant loss of privacy of neighbouring properties and notes that there is no right to a view.
- Significant reductions in fenestration were provided for in further information and the first floor windows will be largely concealed from the rear gardens of nos.9 and 13, effectively ruling out overlooking.
- The effect on no.13 would be worse if screen planting was carried out on the party boundary similar to that at the boundary between the application site and no.9.
- A setback similar to no.13 would create a wasteful corridor serving no purpose and that would not benefit no.13 due to the screening that the applicant would carry out along the boundary.
- The proposals planning for no.11 are consistent with the South Dublin County Council guidelines for extension, referred to by the appellant, but the

increased setback are primarily concerned with extensions above a single-storey.

- Any intrusion on no.13 has been prevented in the proposed plans. No setback is required as no windows are proposed.
- The garden area to be retained closely resembles that at no.13 and 15 and afford ample scope for passive / active recreation.
- The proposal has careful regard to the AHP Guidelines (s.7.7.2) and are consistent with the provisions of the Development Plan (s.11.1.5.3) and was acceptable to the Planning Authority subsequent to amendments by way of further information.

6.4. **Observations**

None received.

6.5. **Further Responses**

6.5.1. The main points of the response from (third party appellant) Richard Farrell c/o Kieran O'Malley and Co. Ltd Planning Consultants, received 22/06/17, may be summarised as follows:

- Overdevelopment of this comparative small plot.
- Ground floor extension has not been reduced in size and is this basis of the appeal.
- Applicant's reference to floor area is misleading, noting net increase not the gross floor area of the proposed extension (on application site no.11) and noting the gross floor area of the neighbouring (no.13) ground floor extension not the net increase.
- The Planning Authority did not adequately assess the detrimental impact of the ground floor extension on the amenity of the adjoining properties.
- Eaves and ridge height would be higher than those at neighbouring no.13, located hard on the boundary with no.13 and will materially impinge on the amenities of no.13.

- Welcomes the applicant's agreement on omitting the proposed chimney.
- The Board should ignore the planning status of development at no.22 Pembroke Park as irrelevant.
- Stepping back from the party boundary is not wasteful, providing access to light and storage space.
- The proposed parapet appears redundant, decorative and provides no extra space to the building but reduces light to no.13.
- The extension to the rear of no.13 was setback from the party boundary, cognisant of not impinging on the amenity of no.11 and maintaining the historic ground floor bathroom window and to provide for external storage space.
- There was no engagement between the appellant and the applicant.

6.5.2. The main points of the response from (third party appellant) Peter and Anne Dunne c/o Dixon McGaver Nolan Architects, received 22/06/17, may be summarised as follows:

- Disagrees with the applicants' response to the appeal.
- The Planning Authority's refusal of the 2-storey extension (reg.ref.3148/16) related to impact on a protected structure and did not mention the possible impact on the amenity of neighbouring property.
- A less than rigorous approach to consideration of impacts on amenity was taken by the Council Planner.
- Residential amenity is '*the benefit enjoyed from physical external space which is part of the private home...depending on quality of space.....location, size, orientation, sounds, noise, accessibility and enclosure.... [and] private amenity space is often considered as space that is outside or partly outside, where one can relax.*'
- Permission should be refused, but if granted it should be subject to conditions relating to excessive height and width of single-storey extension, excessive height of garden room and excessive openings in wall of extension facing no.9.

7.0 Assessment

- 7.1 Policy
- 7.2 Impact on neighbouring residential amenities
- 7.3 Impact on a protected structure
- 7.4 Roads Issues
- 7.5 Appropriate Assessment
- 7.6 Conclusion and Recommendation

7.1. Policy

7.1.1 The principle of the proposed development is acceptable within lands zoned Objective Z2.

7.2. Impact on neighbouring residential amenities

7.2.1 The proposed development would not result in excessive overlooking of any neighbouring properties.

7.2.2 The proposed rear extension would be erected with minimal setback from no.13 Herbert Park (to the northeast) and would be clearly visible from the neighbouring property, including from the rear garden and from the side windows to the existing rear extension at no.13 within c.1.4m. I do not regard the visual impact on no.13 to be excessive within the suburban context and the pattern of development in the area. There would be no appreciable visual impact on no.9. I do not consider it necessary to setback the proposed development from the boundaries, to replace the parapet with eaves or to omit the small chimney accommodating gas flue.

7.2.3 The proposed development will result in noticeable loss of daylight and possibly sunlight to the side windows to the rear extension to no.13. As these are secondary windows, the primary fenestrations being to the northeast in addition to extensive roof lights, I do not regard the impact to seriously injure the amenities of no.13 by way of overshadowing or loss of light in the geographical context. There would be no appreciable shadow impact on no.9.

7.2.4 The proposed garden room would not unduly visual intrude, overlook or overshadow neighbouring properties. The construction of same would necessitate the removal of a number of mature trees which would increase access of light to neighbouring properties. The said trees are not of conservation significance, although they may have moderate local visual amenity value.

7.3. Impact on a protected structure

7.3.1 The proposed extension, as amended by the further information submission would not adversely impact on the character of a protected structure and would be compliant with s.11.1.5.3 protected structures – Policy Application under the County Development Plan 2016-2022 and would be generally consistent with the character and form of developments on similar properties in the vicinity. The Council's Conservation Officer raised no objection subject to the omission of the second floor extension. I am satisfied that the proposed development, as amended by further information, would not unduly affect the character of a protected structure. The internal works and other alterations would also not unduly affect the character of the protected structure.

7.3.2 The proposed widened vehicular entrance gates (non-original) are designed to accord with the character of the existing entrance. I note the numerous examples of precedent included in the report by Keller Architects and applicants Conservation Report which considers the proposal to be consistent with the general pattern of development in the area. However, the proposed widening would conflict with the policy of Dublin City Council (s.16.10.18) that vehicular entrances to protected structures be limited to 2.6m in width, which I do not consider unreasonable. Furthermore, the widening of the entrance would bring vehicular traffic to the site into conflict with the existing mature tree located to the front of the site, risking the loss of same, contrary to the provisions of s.24.4 of the Development Plan.

7.4. Roads issues

7.4.1 The Council's Roads Department recommended that permission be refused for the proposed widening of the vehicular entrance having regard to planning refusal

reg.ref.3148/16 and the potential the impact on existing on-street parking and the roadside tree.

7.5. Appropriate Assessment

7.5.1 Having regard to the small scale nature of the proposed development, comprising extensions and alterations to an existing dwelling in a built up area, and to the distance from the nearest European sites (South Dublin Bay and River Tolka SPA site no.004024 and South Dublin Bay SAC site no.000210 c.2km to the east), 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.

8.0 Conclusion and Recommendation

- 8.1. I recommend that permission be **GRANTED** subject to the conditions attached under section 10.0

9.0 Reasons and Considerations

Having regard to the scale and nature of the development proposed, the zoning objective, Z2 '*to protect and / or improve the amenities of residential conservation areas*', the nature and scale of development on site and the character of the surrounding area, it is considered that the proposed development would not seriously injure the amenities of property in the vicinity, would not be out of character and would be consistent with the provisions of the Dublin City Development Plan 2016-2022 and with the proper planning and sustainable development of the area.

10.0 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 proposed widening of the vehicular entrance shall be permanently omitted from the proposed development.

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

3. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and

texture.

Reason: In the interest of visual amenity

4. Prior to commencement of development, the developer shall provide for the following: -

- (a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

- (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.

- (c) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

John Desmond
Senior Planning Inspector

4th September 2017