



An
Bord
Pleanála

Inspector's Report PL29N.248471

Development	Retain part single/part two-storey extension to rear of dwelling. Permission for modification to dwelling to consist of ground floor extension to rear, modification of roof profiles and incorporation of window to the rear and 1 st floor level.
Location	147 Clonliffe Avenue, Ballybough.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2247/17.
Applicant	Patrick Moore.
Type of Application	Retention of Permission and Planning Permission.
Planning Authority Decision	Split Decision.
Type of Appeal	First Party -v- Refusal Part of Decision
Appellant	Patrick Moore.
Observers	None.

Date of Site Inspection

21st July, 2017.

Inspector

Paul Caprani.

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1.0 Introduction

PL29N.248471 relates to a first party appeal against the decision of Dublin City Council to issue notification to grant retention of planning permission for existing modifications to ground floor extension together with an attic conversion and to refuse planning permission for modifications to the existing dwelling including the incorporation of a ground floor extension and modification to roof profiles, the provision of rooflights and associated internal site development works at an existing dwelling at 147 Clonliffe Avenue Ballybough Dublin 3. Planning permission was refused for the latter alterations on the grounds that the increase in ridge height to the rear of the property would have an adverse impact on the scale and character of the dwelling and would be contrary to the provisions of Section 16.10.2 and Appendix 17 of the County Development Plan.

2.0 Site Location and Description

No. 147 Clonliffe Avenue is located on the northern side of Clonliffe Avenue and the west side of Ballybough Road in the North Dublin Inner City. The site accommodates a single-storey terraced cottage with a small two-storey extension to the rear. The site is narrow and long, approximately 4.5 metres in width and approximately 37 metres in length. The front door of the dwellinghouse opens directly into a living room and a narrow passage leads past bedroom no. 1 before entering into a galley kitchen area and on towards a bathroom and ground floor bedroom. A small spiral staircase leads to a small bedroom at first floor level above the ground floor bedroom to the rear of the dwelling. A small open yard area and shed is located to the rear of the dwelling. A narrow enclosed passageway is located along the western boundary of the site adjacent to the kitchen area. It provides natural light to bedroom no. 1 and the kitchen area at ground floor level. The passageway is enclosed to the rear of the building with the two bedrooms located on ground and first floor level blocking direct access to the rear yard.

3.0 Proposed Development

- 3.1. Retention of planning permission is sought for the part single-storey extension to the rear of the dwellinghouse amounting to approximately 32 square metres together with the two-storey element accommodating bedroom no. 3 which is located within the pitched roof space at first floor level. A planning report contained on file notes that the applicant originally obtained planning permission for an extension to the rear of the house in 1974. However, modifications to this extension was carried out in 2006 without the benefit of planning permission and this resulted in the provision of a substandard bedroom space at first floor level with the floor to ceiling height of the space and the spiral stair leading to the bedroom at first floor level. These works do not meet the requirements of the Building Regulations. The current application seeks to regularise the planning status of the property and further modify the two-storey element to the rear in order to meet Building Regulation requirements. The modification involves changing the roof profile to the first floor bedroom and placing a window in the rear elevation together with the incorporation of an internal staircase to meet the Building Regulation requirements.
- 3.2. In addition to these retention works, it is proposed to provide an additional 8 square meter extension at ground floor level which would involve infilling the middle yard area along the western elevation in order to accommodate a wider kitchen and a new en-suite bathroom to serve bedroom no. 1. Modification of roof profile in order to accommodate and facilitate the development and provision of additional rooflights and replace existing roof-lights are also proposed.

4.0 Planning Authority's Decision

Dublin City Council issued a split decision and granted retention of planning permission for the existing modifications to the ground floor extension and attic conversion and refused planning permission for the proposed modifications to the existing dwelling to consist of the ground floor extension to the rear (8 square metres), modification of roof profiles to the single and two-storey elements and provision of rooflights and all associated internal site and development works.

4.1. **Documentation Submitted with Application**

A planning report design statement was submitted with the application which details the subject site and the site context, together with the modifications and extensions sought under the current application. The report argues that the modifications are minor in nature and seek to ensure that the family home is suitable for the needs of a growing family and is compliant with the Building Regulation requirements. It is also stated that the proposal will not in any way diminish the residential or visual amenities of the area or of neighbouring properties.

4.2. **Internal Reports**

- 4.2.1. A report from the Drainage Division states that there is no objection to the proposed development subject to standard conditions.
- 4.2.2. The planner's report states that the proposed ground floor area for retention both internally and externally is considered to be for the most part acceptable. It is noted that the ridge height of the two-storey elements exceeds the ridge height of the main house and it is noted that the internal area is referred to as a bedroom with insufficient floor to ceiling heights which is served by rooflights to provide light and ventilation. It is considered that the existing bedroom at first floor level is closer to an attic conversion than a second floor habitable bedroom. It is noted that these modifications are in place for over 7 years and therefore enforcement action is not currently recommended. Permission for the amendments is recommended with the stipulation that the attic conversion be utilised as storage only.
- 4.2.3. With regard to the proposed new development it is stated that the loss of sufficient window space to serve bedroom no. 1 and the proposed kitchen/dining area creates an undesirable and substandard habitable space.
- 4.2.4. Furthermore, the increase in ridge height to the rear of the property creates issues including the adverse impact on the scale and character of the dwellinghouse and the loss of amenity to adjoining properties.

4.2.5. It is considered that the proposed new portion of the overall development would set an undesirable precedent for such extensions and alterations in this area. It is therefore considered that the proposed new development would contravene Section 16.10.2 and 16.10.12 as well as Appendix 17 of the current City Development Plan. It is therefore recommended that a split decision be issued, granting retention of existing modifications to ground floor extension and attic conversion subject to five conditions, and refusing planning permission for proposed modifications to existing dwelling to consist of ground floor extension to rear, modification of roof profiles to single and two-storey elements, provision of rooflights and all associated internal site and development works.

4.2.6. Permission was refused for two reasons which are set out in full below.

1. The proposed creation of a second floor habitable room with a higher half flat/half lean-to roof profile and the increase in ridge height to the rear of the property would result in an adverse impact on the scale and character of the dwelling, would be visually obtrusive, incongruous and out of character with the dwelling and precipitate a loss of amenity (in the form of privacy and light) to adjoining properties. It would therefore be contrary to the provisions of paragraph 16.10.12 and Appendix 17 of the Dublin City Development Plan 2016 – 2022, would result in an undesirable precedent for further such development, would depreciate the value of property in the vicinity, and as such would be contrary to the proper planning and sustainable development of the area.
2. The proposed expansion of the ground floor footprint, reducing or removing window space would increase the number of non-habitable rooms within the housing unit. The proposed development would therefore be contrary to the provisions of Section 16.10.2 and Appendix 17 of the Dublin City Development Plan 2016 – 2022, would result in an undesirable precedent for further such development, and as such would be contrary to the proper planning and sustainable development of the area.

5.0 Planning History

There are no details contained on file in respect of planning history associated with the site. The planner's report states that under Plan Ref. 962/74 (Reg. Ref. 763/74) planning permission was granted with amending conditions for the erection of two bedrooms and a bathroom within a single-storey extension to the rear of the house.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council to issue a split decision was the subject of a first party appeal specifically addressing the elements which were the subject of refusal by Dublin City Council.
- 6.2. Specifically, the grounds of appeal relate to the proposal to modify the rear of the building at first floor level to provide a habitable space for the bedroom within the existing roofspace in order to meet the requirements of the Building Regulations, and to incorporate a window at first floor level in the rear elevation. Permission is also sought for the modification and improvement of the stairway leading from ground floor to the first floor bedrooms in order to comply with the Building Regulations.
- 6.3. The grounds of appeal also seek to overturn the Planning Authority's decision with regard to the widening of the existing ground floor kitchen together with internal modifications to provide an en-suite bathroom. This aspect of the development incorporates modified proposal as indicated in drawings submitted with the appeal in order to address some of the concerns raised by the Planning Authority.
- 6.4. In relation to the existing bedroom at first floor level it is stated that this room is currently used by the applicant's teenage son. It is stated that the applicant seeks to accommodate the needs of his growing family within the limitations of space and resources available to him. The applicant seeks to modify the space in question so as it would be compliant with the Building Regulation requirements for habitable space. The existing space would, with the modifications sought, meet the Building Regulation requirements. It is proposed to increase the ceiling height from 2.234m at the highest point internally, to 2.4m and change the roof profile to incorporate a part pitched/part flat roof as indicated on the drawings. It is also stated that the room is currently lit by a velux type rooflight which do not meet the Building Regulations for

access or escape in the case of fire. To this end it is proposed to incorporate a new window opening in the rear elevation.

- 6.5. The roof is currently accessed via a spiral staircase and it is proposed to replace this staircase with a staircase that complies with the Building Regulations.
- 6.6. It is argued that the new proposed roof profile to the rear of the dwelling would not seriously injure the visual amenities of the area. Reference is made to the adjoining property to the east (No. 148) which has been extensively extended with a single-storey extension abutting the application site. The western side of the roof which will incorporate a pitched profile will result in an increase in the parapet height of 0.59 metres. It is noted that the adjoining dwelling to the west No. 146 also has a long single-storey extension and a side passage. The proposal will have no significant negative impacts on the residential amenity of the adjoining dwelling.
- 6.7. The proposed window in the gable of the rear elevation would be 11.8 metres from the rear boundary of the subject site which provides ample separation distance from any dwelling to the rear which will allay any fears of loss of privacy or amenity.
- 6.8. With regard to the widening of the kitchen area in the central portion of the dwelling, it is accepted that the development as originally submitted would result in a habitable room (bedroom no. 1) being solely reliant on a rooflight as a sort of natural light and ventilation. And this would be contrary to the provisions of the development plan. It is therefore proposed to reduce the size of the proposed extension from 8 square metres to 4 square metres and incorporating a modified window on the existing rear elevation to provide a good source of light and ventilation to the existing room. The revisions are indicated in drawings submitted by the appellant on 8th May, 2017.
- 6.9. It is recognised that the proposed development does not represent an ideal design solution however, the applicant is faced with making the best of an existing situation and trying to achieve an appropriate balance between the requirement of an additional bedroom space for a growing family which would be safe, usable and compliant with Building Control requirements while respecting the residential amenities of the dwelling and of adjoining properties. It is argued that the changes in the roof profiles proposed would not be significant or have serious or significant impacts on surrounding residential or visual amenity.

7.0 Appeal Responses

Appeal Responses

A response from Dublin City Council received by the Board on 23rd May, 2017 states that it is considered that the planner's report adequately sets out the position of the Planning Authority in relation to this application and to the reasons behind the decision. Therefore, there is no further comment to make in respect of the application.

8.0 Observations

There are no observations contained on file.

9.0 Development Plan Provision

- 9.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. Section 16.10.2 sets out details in relation to residential quality standards in respect of aspect natural light and ventilation. It is stated that living rooms and bedrooms shall not be lit solely by rooflights and all habitable rooms must be naturally ventilated and lit. Apart from rooms primarily served by windows and dormer extensions, glazing to all habitable rooms shall not be less than 20% of the floor area of the room. Development shall be guided by the principles of Site Layout, Planning for Daylight and Sunlight, A Guide to Good Practice (BRE Report 2011).
- 9.2. Section 16.10.12 specifically relates to extensions and alterations to dwellings. It states that the design of residential extensions should have regard to the amenity 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. Extensions should be subordinate in terms of scale to the main unit. Applications for planning permissions to extend dwellings will only be granted where the Planning Authority is satisfied that the proposal will:
- Not have an adverse impact on the scale and character of the dwelling.

- Not adversely affect the amenity enjoyed by occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

9.3. Appendix 17 also sets out guidelines for residential extensions. These guidelines reiterate the general principles in terms of not having an adverse impact on the scale and character of the dwelling and should have no unacceptable effect on the amenities enjoyed by occupants of adjacent buildings. The guidelines go on to detail residential amenity issues, the importance of maintaining privacy and the need to incorporate a certain degree of separation in order to avoid any overbearing effect on adjoining dwellings. It is stated that with the emphasis on increased residential densities, and the consequent incorporation of a variety of unit types and sizes in schemes, the requirement for a 22 metre separation in such cases may no longer be applicable in these instances. The acceptable reduction in such distances however requires a high standard of building design and layout particularly having regard to the height and internal relationship between the buildings, the use and aspect of rooms and relative floor levels. Exact distances applicable will be determined on a case by case basis. The extension shall be no larger or higher than the existing dwelling.

9.4. In terms of roof extensions, it is stated that the roofline of a building is its most important dominant feature and it is important that any proposal to change the shape, pitch, cladding or ornament of a roof is carefully considered.

9.5. When extending the roof, the following principles should be observed:

- The design of the dormer should reflect the character of the area.
- Roof materials should be covered in materials that match or complement the main building.
- Dormer windows should be set back from the eaves level to minimise the visual impact and reduce the potential for overlooking of adjoining properties.

10.0 Planning Assessment

- 10.1. Dublin City Council granted retention of planning permission of the extension carried out without the benefit of planning permission in 2006. Crucially however in respect of granting retention of permission for the works already undertaken, planning permission was refused for alterations which would result in changes to the roof profile in order to attain appropriate floor to ceiling heights and fenestration arrangements to ensure compliance with the Building Regulations.
- 10.2. The reasons for not permitting the alterations sought to the rear of the dwelling was on the grounds that the City Council considered that the works undertaken would result in:
- An adverse impact on the scale and character of the dwelling.
 - Would be visually obtrusive, incongruous and out of character with the dwelling.
 - Would precipitate a loss of amenity for adjoining dwellings.
- 10.3. In relation to the impact of the proposed alterations on the scale and character of the dwelling, it is acknowledged that a substantial part of the existing structure is single-storey in height. It could therefore be reasonably argued that appending a two-storey structure to the rear of an existing single-storey structure would materially alter the scale and character of the building. However, it should be noted that a two-storey structure which is substantially larger than the main dwelling on site already exists. Furthermore, Dublin City Council consider it appropriate under the current application to grant retention for this structure for attic storage purposes only. The presence of a two-storey structure to the rear was therefore deemed to be acceptable in principle. The Planning Authority however deemed it inappropriate to permit the alterations of the roof profile to allow for an increase in height from 5.33 metres to 5.653 metres in order to comply with Building Regulations for use as a habitable room. While the proposal will significantly alter the roof profile, transforming it from a narrow pitched roof into a part flat/part monopitched roof, I cannot agree that this will significant or profoundly impact on the scale and character of the building having regard to the existing two-storey element to the rear. Despite its age, the dwelling or indeed adjoining dwellings, have little inherent character particularly when viewed from the rear. The rear of the dwellings along this section of Clonliffe

Avenue comprise of a confused mixture of rear extensions in different styles which incorporate no uniformity. There is no defined or recognised character to the back of the existing dwellings along Clonliffe Avenue.

- 10.4. With regard to the alterations to the scale of the building, I reiterate that the Council have accepted that the two-storey element can be retained but as storage use only. The Council therefore deemed the structure to be acceptable in principle. I consider that the proposed alterations will not unduly impact on the overall size and scale of the building. It should be noted that the two-storey element will not be visible from public thoroughfares in the vicinity including Clonliffe Avenue. The proposed alterations to the rear will only be visible from the rear gardens of dwellings in the vicinity. Having regard to the modest increase in size and dimensions resulting from the proposal, I consider the impact in terms of scale and dimension to be acceptable. As the proposed two-storey element will not be visible from public vantage points in the vicinity I do not agree that the alterations sought would result in a structure that would be visually obtrusive, incongruous or out of character with the dwelling.
- 10.5. In terms of impact on amenity, the subject site is bounded on either side by dwellings which incorporate single-storey rear extensions. The proposal will not give rise to any additional overlooking or overshadowing of adjoining dwellings as the single-storey extensions are adjacent to or contiguous to the structure for which retention of planning permission is sought. The velux windows incorporated in the two-storey element (bedroom no. 3) look onto the roof of the extension of the adjacent dwelling to the east.
- 10.6. Under the current application it is proposed to incorporate a window on the rear elevation in order to comply with the Building Regulations and Development Plan standards in terms of natural light and ventilation. The separation distance between the proposed window and the rear boundary of the site is 11.8 metres and the adjoining rear garden to the north is approximately 8 metres in length. Thus the overall separation distance between opposing windows is calculated at 19.8 metres. This is acceptable in my view having regard to the figuration of the existing dwellings and the fact that the gardens to the north are modest in length. It is clear from Appendix 17 of the development plan that separation distances of less than 22 metres are acceptable in some instances and I consider that such an instance to be applicable in the case of the current application and appeal before the Board.

- 10.7. In conclusion therefore I consider that the Board should overturn the decision of the Planning Authority in respect of refusing planning permission for an additional bedroom at first floor level to the rear of the site. I consider it reasonable that the applicant would be facilitated to accommodate the needs of a growing family and to provide an additional bedroom for one of his children which is in compliance with the Building Regulations. I consider this to be acceptable on the grounds that the alterations proposed would not result in a development which would impact on the scale and character of the building or would adversely affect residential amenities of the area to any material extent.
- 10.8. With regard to the proposed extension of the ground floor footprint which seeks to substantially infill the narrow passageway contiguous to the western boundary of the site, I would agree with the Planning Authority's reasoning that planning permission should be refused on the grounds that removing the window opening serving bedroom no. 1 would be unacceptable as it would result in a bedroom being served by velux rooflights only which is contrary to explicit statements contained in the Dublin City Development Plan. However, the applicant as part of the grounds of appeal has incorporated revised drawings which has resulted in the stepping back of the extension in order to accommodate a window on the northern elevation of bedroom no. 1. While I accept that this window facing northwards onto a narrow passageway will only permit modest amounts of natural daylight, the window as proposed replicates the existing scenario on the ground and therefore will not result in a diminution of daylight penetration over and above that currently experienced by bedroom no. 1 under the present arrangements.
- 10.9. Again, as in the case of the reconfiguration of bedroom no. 3, it is reasonable and appropriate in my view that the applicant be permitted to incorporate an extension onto the dwelling in order to serve the needs of his growing family and to provide a larger and more usable kitchen area.
- 10.10. The site is narrow, modest in size and confined. The proposal in this instance seeks to balance the reasonable expectation of providing improved living accommodation for a growing family with alterations that, while not fully complying with all the standards and statements in the contained development plan, with regard to separation distances, design etc., do not impact to any material extent on the visual or residential amenities of the area. The revised arrangements as indicated in the

drawings submitted to the Board as part of the planning appeal are therefore acceptable in my view.

11.0 Conclusions and Recommendation

Arising from my assessment above I consider that the Board should overturn the split decision issued by Dublin City Council and grant retention of planning permission and planning permission for the proposal in its entirety based on the revised drawings submitted by the applicant as part of the grounds of appeal.

12.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site no appropriate assessment issues arise and it is considered that the proposed development will not be likely to have a significant effect individually or in combination with other plans and projects on a European site.

13.0 Reasons and Considerations

It is considered that the development for which retention of planning permission and planning permission is sought involving modifications to an existing dwelling would, subject to conditions set out below would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be generally acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 8th day of May 2017, except as may otherwise to 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 the 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 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.

- 3 The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed to save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

- 4 Water supply and drainage arrangements, including the 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.

- 5 The developer shall pay to the planning authority a financial contribution of €1,036.80 (one thousand and thirty-six euro and eighty cent) 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. The application of any indexation required by this condition 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.

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.

Paul Caprani,
Senior Planning Inspector.

27th July, 2017.