



An
Bord
Pleanála

Inspector's Report PL29N.248599



Development	1 st floor Extension to side and rear of existing dwellinghouse.
Location	19 Clare Road, Drumcondra, Dublin 9.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2501/17.
Applicants	James and Mary Murphy.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party v. Grant
Appellant	Patrick Cassidy.
Observers	None.
Date of Site Inspection	17 th August, 2017.
Inspector	Paul Caprani.

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1.0 Introduction

PL29N.248599 relates to a third party appeal against the decision of Dublin City Council to issue notification to grant planning permission for a second storey extension to the side of No. 19 Clare Road, Drumcondra, Dublin 9. The grounds of appeal express concerns in respect of the possibility of the applicant using the existing party wall of which to construct the first floor extension.

2.0 Site Location and Description

- 2.1. No. 19 Clare Road is located in the northern environs of Drumcondra and links Griffith Avenue to the north with Homefarm Road to the south. It appears that the dwellings along the street were constructed in the late 1920s/early 1930s. The dwellings comprise of relatively large two-storey semi-detached structures with single storey garages to the side many of which have been converted into living accommodation. The subject site is located mid-way along the western side of the street. No. 19, as in the case of other houses along the street comprises of a two-storey structure with a single-storey side garage along its northern side. No. 21. Clare Road which is the dwellinghouse to the immediate north incorporates a single-storey with part two-storey extension to the rear along the common boundary with No. 19.
- 2.2. The drawings submitted indicate that the ground floor accommodates the main living area and a garage, shower room and kitchen area. There is no development above the garage, shower and kitchen room at first floor level. Four bedrooms and a bathroom are located at first floor level, but are set back from the common boundary with No.21.

3.0 Proposed Development

Planning permission is sought for the construction of a first floor extension on the northern side of the dwelling above the kitchen, shower room and garage area. The extension is to accommodate two bedrooms, one to the front and one to the rear.

The drawings submitted with the application note that permission is to be sought from the adjoining property owner to build on the party line between the two dwellings.

4.0 **Planning Authority's Decision**

Dublin City Council granted planning permission for the proposed extension subject to 8 conditions.

Condition No. 2 required the following revisions.

- (a) The first floor side extension should be set back from the front building line of the existing house to be in line with the existing first floor side extension at No. 21 Clare Road. The internal layout should be amended accordingly.
- (b) The front window of the first floor side extension should be replaced with two windows similar to those in the existing house and side extension of No. 21 Clare Road.
- (c) The roof of the side extension should be set down approximately 0.5 metres from the ridge line of the existing house.

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

4.1. **Planning Authority Assessment**

A report from the Drainage Division states that there is no objection to the proposal subject to standard conditions.

The planner's report assesses the proposed development and considers that any extension should be subordinate to the existing house and for this reason the ridge line of the extension should be reduced by 0.5 metres. It is further noted that permission was previously approved for a first floor side extension at the adjoining house at No. 21 Clare Road (An Bord Pleanála Ref. PL29.126053). A condition attached to the grant of permission required a 4 metre setback so as to ensure the extension would not result in terracing. Likewise, it is argued that the proposed extension should be setback so it does not result in terracing. It is also noted that such a setback will require internal alterations. The large window in the front elevation should be replaced by two smaller windows to reflect the window

proportions of the adjoining house at No. 21 Clare Road. With the incorporation of these changes, it is recommended that planning permission be granted for the proposed development.

A letter of objection was submitted by the current appellant. The contents of this letter has been read and noted.

5.0 Planning History

- 5.1. As referred to above, under PL29N.126053 planning permission was granted for a first floor extension over the existing single-storey extension to the side and rear of No. 21 Clare Road (appellant's dwelling). In granting planning permission, An Bord Pleanála incorporated a condition requiring that the first floor extension shall be setback not less than 4 metres from the main front wall of the house and that the roof of the extension shall altered in accordance with drawings to be submitted to the Planning Authority for agreement prior to the commencement of development. This decision was dated 2001.
- 5.2. Also attached is PL29N.240062. This application relates to the demolition of an existing extension and the construction of a bedroom, family room, bathroom and utility room together with attic conversion to the rear and side of No. 32 Clare Road on the western side of the road to the north of the subject site. Dublin City Council granted planning permission for the proposed development. However, a first party appeal was lodged in respect of a number of conditions attached to the grant of planning permission. In its decision the Board amended the conditions which included reducing the ridge height of the extension and incorporating glazing on the window serving the first floor landing. This decision was dated 31st July, 2012.

6.0 Grounds of Appeal

- 6.1. A third party appeal was submitted by the occupant of No. 21 Clare Road, Drumcondra. Concern is expressed regarding the possibility of the applicant's using the existing party wall on which to construct the first floor extension. In the initial observation submitted to the Planning Authority Dublin City Council were requested to consider this issue. In the decision to grant planning permission, Dublin City Council did not address this issue or make reference to it in the conditions imposed.

In order to ease concerns regarding this issue and to assure that the party wall will not be used in any form. The appellant wishes to object to the grant of planning permission until such time as this matter is satisfactorily addressed by way of condition in any decision to grant permission.

- 6.2. While it is noted that the drawings in the application state that the building on which the party wall is subject to consent of the adjoining owner, for the avoidance of any doubt on the matter it is requested that An Bord Pleanála in addressing the application “de novo” include a condition stating that the applicants must construct any extension within their own curtilage.

7.0 Appeal Responses

7.1 Applicants Response to the Grounds of Appeal

A response on behalf of the applicant was received from Eamon Weber, Architect and Planning Consultant. The response requests that no such condition be inserted. The party wall is not a planning issue and the granting of planning permission does not relieve the applicants’ responsibility of complying with any requirements under other codes of legislation affecting the proposal, In this case property rights. The applicants intend to fully comply with all the statutory obligations with regard to the Building Regulations etc. It may be noted that part of the adjoining extension at No. 21 is built on the party wall between No. 19 and No. 21.

7.2 Planning Authority’s Response to Grounds of Appeal

The response states that the reasoning on which the Planning Authority’s decision on the application was based is set out in the planning report and this has already been forwarded to An Bord Pleanála. It is not proposed to respond in detail to the grounds of appeal as the Planning Authority considers that the planner’s report comprehensively deals with all the issues and justifies its decision.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan. The site is zoned Z1 – ‘to protect, provide and improve residential amenities’.
- 8.2. Section 16.10.12 and Appendix 17 of the Dublin City Development Plan specifically deals with extensions and alterations to dwellings and roof extensions.
- 8.3. 16.10.12 states that 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 shall be followed as closely as possible and the development should integrate with the existing building to the use of similar finishes and windows. Extensions should be subordinate in terms of scale to the main unit. Permission will only be granted when the Planning Authority is satisfied that the proposal will not have an adverse impact on the scale and character of the dwelling nor will it impact on the amenities of occupants of adjacent dwellings in terms of privacy and access to daylight and sunlight.
- 8.4. Appendix 17 specifically relates to roof extensions. It states that the roofline, if not treated sympathetically, can cause problems for immediate neighbours and can impact on the streetscape as a whole. When extending the roof, the following principles shall be observed.
- The design of the dormer should reflect the character of the area, the surrounding buildings and the age and appearance of the existing buildings.
 - The dormer window should be visually subordinate to the roofslope enabling a large proportion of the original roof to remain visible.
 - Any new windows should relate to the shape, size, position and design of existing doors and windows on lower floors.
 - Roof materials should be covered in materials that match or complement the main building.
 - Dormer windows should be setback from the eaves levels to minimise their visual impact and reduce the potential for overlooking of adjoining properties.

9.0 Planning Assessment

- 9.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. Having regard to the fact that the conditions attached by the Planning Authority as per Condition No. 2 which required revisions was not the subject of a first party appeal, and the fact the Board required similar type revisions in respect of the adjoining site at No. 21 Clare Road under Reg. Ref. PL29N.126053, I consider that the Board can restrict its deliberations to the issue raised in the grounds of appeal, namely whether or not it is appropriate to use the party wall between the two dwellinghouses for the purposes of the extension.
- 9.2. In relation to this matter I note that the drawings clearly indicate that permission be sought from the adjoining property owner to build on the party wall. From the point of view of visual amenity, it would be appropriate in my view that both extensions would be contiguous and that no gap would occur between the two first party extensions to the rear of the dwelling.
- 9.3. The matter as to whether or not the proposed extension can incorporate the party wall is, as the applicant points out in his response to the grounds of appeal, a civil matter between the parties involved rather than a planning matter. As already stated it would be appropriate in my view that the applicant utilise the common wall for the purposes of the extension. This may however require legal agreement between the parties. Any such legal agreement however should not in my view preclude the Board from granting planning permission in this instance. In this regard, I refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development. Therefore, in accordance with the provisions of 34(13) the Board if it deems it appropriate to grant planning permission in this instance does not confer any legal rights for the applicant to carry out the development in question. The granting of planning permission in this instance does not absolve the applicant from the responsibility of complying with any legal requirements or any requirements under other codes of practice pertaining to the development in question.

9.4. In conclusion therefore I would consider it appropriate to grant planning permission and in granting such a permission exclude a condition stating that the applicants must construct any extension within the curtilage of the site thereby excluding the use of the party wall.

10.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

11.0 Reasons and Considerations

It is considered that the proposed development, subject to conditions set out below would not seriously injure the amenities of the area or of property in the vicinity and would not be prejudicial to public health, the proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

12.0 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 the planning authority on the 16th day of March 2017, 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 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 development shall incorporate the following revisions:

(a) The first floor side extension shall be set back from the front building line of the existing house to be in line with the existing first floor side extension at No. 21 Clare Road. The internal layout shall be amended accordingly.

- (b) The front window of the first floor side extension shall be replaced with two windows of a similar size and proportion to those in the existing house and those of the side extension of No. 21 Clare Road.
- (c) The roof of the side extension should be reduced by approximately 0.5 metres below the ridge line of the existing dwellinghouse.

Details of the above amendments shall be submitted to and agreed in writing prior to the commencement of development.

Reason: In the interest of visual and residential amenity.

- 3. 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.

- 4. 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. Samples of the proposed materials shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

- 5. The building works required to implement the development shall only be carried out between the hours of:

- Mondays to Fridays 7 a.m. to 6 p.m.
- Saturday 8 a.m. to 2 p.m. and not at all on Sundays or Bank Holidays. Deviations from these times will only be allowed in exceptional circumstances where the prior written approval from Dublin City Council has been obtained. Such approval may be given subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

Reason: In the interest of residential amenity.

6. Site development works and construction works shall be carried out in such manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works such cleaning works shall be carried out at the developer's expense.

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

Paul Caprani,
Senior Planning Inspector.

11th September, 2017.