



An
Bord
Pleanála

Inspector's Report PL06S.249032

Development	Extension, detached family flat, new vehicular driveway and 2 car parking spaces.
Location	99 St. Peter's Road, Walkinstown, Dublin 12
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD17B/0195
Applicant(s)	Meimei Lin
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Meimei Lin
Observer(s)	No observers
Date of Site Inspection	22.11.2017
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site is located on St. Peter's Road within an established suburban housing estate. It currently accommodates an end of terrace 2 storey dwelling. The house has a front garden which is accessed via a pedestrian gate. There is no vehicular access at present.
- 1.2. The general character of development in the vicinity comprises similar low density housing. There is on street car parking and a cycle lane along St. Peter's Road. There is an existing pedestrian crossing located in front of the house, and the junction with St. James's Road is located to the immediate west of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the following elements:
 - Construction of a single storey extension to the rear of the existing dwelling house with an area of c. 35 sq. metres.
 - The construction of an independent single storey family flat at the rear of the garden with an area of 30 sq. metres.
 - Construction of a new vehicular driveway with off street car parking for 2 no cars.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 To Refuse Permission for the following reasons:

1. *The proposed detached family flat, if permitted, would materially contravene the provisions of the South Dublin County Development Plan which seeks to ensure that family flats are linked directly to the main dwelling house and are temporary in nature. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development would result in additional traffic movements detrimentally impacting on safety for road users and vulnerable road users at*

the signalised junction of St. Peter's Road and St. James's Road. It would create unacceptable additional hazards and inconvenience to vulnerable road users including pedestrians and cyclists due to the necessity of vehicles crossing the footpath and cycle path, both in forward gear and reverse. The proposed development would be contrary to the proper planning and sustainable development of the area. The proposed development would result in the loss of an on-street parking space, in contravention of stated Development Plan policy and DMURS guidance.

3. *The proposed extension would be contrary to Council policy as set out in the House Extension Design Guide (2010) which states that extensions should be located away from neighbouring property boundaries. As such, the proposed development would materially contravene the Development Plan as it would be contrary to the provisions of Policy H18 and Section 11.3.3 (i) of the South Dublin County Council Development Plan, 2016-2022.*
4. *The proposed development would have an overbearing effect on the property to the north, due to the length of the flank elevation immediately proximate to that boundary, and as such fail to protect and/or improve residential amenity of neighbouring property in the area, and therefore would not be compliant with the Land Use Objective RES. This would be a material contravention of the Development Plan, and would not be in accordance with the proper planning and sustainable development of the area.”*

3.2. Planning Authority Reports

3.2.1. Planning Report (14.07.2017):

- The extension is not set back from the property boundary to the north and would not comply with the guideline which states that an extension should not be located within the 45° angle of the centre point at 2m above ground level of the nearest main window.
- It is accepted that the applicant has a valid need for additional accommodation. However, the flat is separate from the house and by reason of its design and location, would function as a separate residential unit.

- The provision of an additional driveway and the loss of the boundary enclosure on this site would have the dual effect of further encroachment on the visual amenity and character of the street, and precedent for future negative impacts.
- The new driveway would create additional inconvenience and hazard for people using the footpath and cycle path and would result in the loss of an on street parking space.
- The length of the side elevations would have an overbearing effect on neighbouring properties, particularly that to the north and would have impacts on both daylight and sunlight received by the property. The extension is over 8 metres in length and 1 metre from the south boundary.
- A letter of support from the adjacent property has been submitted and is noted. However, the amenity of the surrounding properties must be protected, notwithstanding the acquiescence of their residents.
- The development of a separate dwelling unit at the bottom of the garden would comprise ad hoc and piecemeal backlands development.

3.2.2. Other Technical Reports

Roads Department (23.05.2016):

- Proposed entrance is in close proximity to the signalised junction of St. Peter's Road and St. James's Road. Vehicles accessing and egressing the proposed driveway would result in conflicting traffic movements at a location where multiple vehicle movements occur at present.
- The proposed driveway is adjacent to a pedestrian crossing facility and this would result in the potential for vehicles exiting the site to conflict with pedestrians or other vulnerable road users.

Water Services (28.06.2017): No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water (01.07.2017): No objection.

3.4. Third Party Observations

- No third party observations.

4.0 Planning History

- No recent relevant planning history.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative development plan is the South Dublin County Development Plan 2016-2022. The subject site is zoned RES '*To protect and/or improve residential amenity*'.

5.1.2 Chapter 2 refers to Housing and Chapter 11 refers to Implementation. The Council has also produced guidance in the form of a 'House Extension Design Guide'.

Sections 2.4.1 of Chapter 2 consider residential extensions.

Policy H18 Objective 1 states: *To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 11 Implementation and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).*

Policy H19 Objective 1 states: *"To favourably consider family flat development where the council is satisfied that there is a valid need for semi-independent accommodation for an immediate family member (such as an older parent or other dependent), subject to the design criteria outlined in Chapter 11 Implementation.*

Section 11.3.3 (i) Extensions states: *The design of residential extensions should accord with the South Dublin County Council House Extension Guide (2010) or any superseding standards.*

Section 11.3.3 (ii) Family Flat states: *A family flat is to provide semi-independent accommodation for an immediate family member (dependent of the main occupants of a dwelling). A family flat is not considered to represent an independent dwelling*

unit and as such open space and car parking standards are not independently assessed. Proposals for family flat extensions should meet the following criteria:

- *The applicant shall be required to demonstrate that there is a genuine need for the family flat.*
- *The overall area of the family flat should not exceed 50% of the floor area of the main dwelling house.*
- *The family flat should be directly accessible from the main dwelling via an internal access door and*
- *The design criteria for dwelling extensions will be applied.*

The House Extension Design Guide produced by the Council provides advice on different types of extensions. Chapter 4 is entitled *Elements of Good Extension Design*. Of relevance to the subject application is the advice provided for rear extensions. It states that rear extensions should match or complement the style, material and details of the main house unless there are good architectural reasons for doing otherwise.

There is also general advice provided with respect to overlooking, overshadowing and overbearing impact.

The Guide recommends:

“Locate extensions, particularly if higher than one storey, away from neighbouring property boundaries. As a rule of thumb, a separation distance of approximately 1m from a side boundary per 3m of height should be achieved.”

With regard to overshadowing of adjacent properties it states:

“Prevent significant loss of daylight to the window of the closest habitable room in a neighbouring property, by not locating an extension within the 45° angle of the centre point at 2m above ground level of the nearest main window or glazed door to a habitable room, measured on both plan and elevation. If the extension has a pitched roof, then the top of the extension can be taken as the height of its roof halfway along the slope.”

5.2. Natural Heritage Designations

- None applicable.

6.0 The Appeal

6.1. Grounds of Appeal

- Notes that applicant has experienced difficulty utilising the available on street parking and that a number of adjacent properties (up to 70%) have formed car parking spaces within their front gardens. A considerable number of these entrances are located close to junctions and pedestrian traffic lights. A number of examples of such entrances are detailed. It is stated that the precedent for this type of development already exists.
- A survey was undertaken of the users of the pedestrian crossing. This determined that its maximum peak use was 6 times per hour. The expected traffic movements associated with the proposed vehicular entrance are 8-10 times per day. The possibility of a conflict between pedestrians and vehicles is therefore low.
- With regard to the Planning Authority assessment that the maintenance of the enclosure to the front garden is desirable, it notes that the proposal will provide a greater connection with the street. States that an active frontage is achieved with frequent openings and entrances. The proposed entrance will ensure that the street is overlooked and will generate pedestrian activity. It is thus not contrary to DMURS.
- It is proposed to provide a single storey pitched roof extension to the rear of the dwelling with a floor area of c. 35 sq. metres. The height of the northern external wall has been limited as far as possible to minimise impacts to the adjacent property. The roof design was configured to reduce its impact and massing. A letter of support from the adjoining neighbour has been provided.
- States that the existing extension does not comply with the 45° rule on plan or elevation. However, the proposed extension is in full compliance with the rule on elevation and impacts on only 18% of the total window area of the

neighbouring property. Light levels will therefore be improved over the existing situation. Notes that whilst the proposed extension does not comply with the 45° rule on plan, that this rule is aspirational and cannot be achieved in most house extensions.

- With regard to boundary offset, the guidance is only applicable to extensions higher than 1 storey. The imposition of an offset of 1.8 metres would be onerous in this instance.
- The design guide stipulates that the guidance does not override the criteria for exempted development. The proposed extension to the rear would comply with the relevant provisions for exempted development within the curtilage of a dwelling house.
- The proposed family flat is to provide accommodation for the applicant's elderly parents. It will allow the applicants parents to emigrate from China for their retirement. It will remain subordinate to the main dwelling.
- Alternative design proposals were considered for the site and were discounted due to their negative impact on adjoining properties. Whilst it is acknowledged that family flat extensions should be interconnected with the main residence, it was not possible to achieve this due to the particular site orientation and constraints that exist. Due to the pattern and massing of adjoining structures to the rear of the site, the location of the flat to the rear of the garden with a centrally located private garden provides the optimal layout.
- Notwithstanding this, to address the issue of a physical connection, the applicant proposes a structure that would link the family flat to the main dwelling. Notes that the applicant is happy to accept a condition that the family flat if permitted shall be occupied by immediate family members as a single residential unit and shall not be sold let or otherwise transferred or conveyed, save as part of the overall dwelling and that it shall be used for private domestic use only and shall be reintegrated into the main dwelling house when no longer required.

6.2. **Planning Authority Response**

- The Planning Authority confirms its decision. The issues raised in the appeal have been covered in the planner's report.

6.3. **Observations**

- No observations.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Family Flat Development.
- Impact on Residential Amenities.
- Access.
- Appropriate Assessment.

7.2 **Principle of Family Flat Development**

7.2.1 The proposed development provides for the construction of a separate detached family flat to the rear of the site. It is outlined in detail in the application and appeal documentation that it is intended that the flat will accommodate the applicant's elderly parents from China and that the development will enable the re-unification of the family. It is considered that the applicant has provided sufficient evidence that there is a genuine need for the family flat.

7.2.2 It is outlined by the applicant that the proposed flat has been designed as a detached unit due to the particular constraints of the site. It is noted that there are two large shed structures to rear of each adjacent garden. In this context, the siting of the family flat is the optimal location as it ensures better usage of the remaining rear garden area.

7.2.3 Notwithstanding this, the South Dublin County Development Plan provides clear guidance that such family flats should be directly accessible from the main dwelling

via an internal access door. It is understood that the intent of this policy requirement is to prevent such flats being utilised as a separate independent accommodation unit, and to ensure that they can be readily incorporated into the main dwelling house when no longer required.

7.2.4 I would concur with the view of the Planning Authority, that the provision of a standalone family flat to the rear of the site would not comply with the current policy provisions regarding family flats. Notwithstanding the contentions of the applicant, there is a risk that the flat could be used as a separate dwelling unit at some time in the future. The detached flat as a unit in its own right would not comply with relevant provisions and standards regarding private open space, access and parking. Whilst a condition could be imposed restricting its use, the long term enforceability of such is questionable. Due to its design, the unit could not be reintegrated with the main dwelling house when no longer required. In this regard, I am of the view that the family flat is an inappropriate form of backland development and does not comply with the Development Plan Policy.

7.2.5 The applicant has suggested that the family flat could be physically connected to the main dwelling by a new link structure and has provided a plan drawing to indicate this. I would have concerns regarding such a proposal. The proposed single storey extension to the rear, coupled with a link structure and the family flat at the end of the garden would provide for a built structure long the entire length of the rear southern boundary, with consequent impacts on the amenities of the adjacent dwelling.

7.3 Impact on Residential Amenities

7.3.1 The proposed development provides for a single storey extension to the rear of the existing dwelling with an area of c. 35 sq. metres. The maximum height of the extension is 3.9 metres. It has a pitched roof with roof lights on the side elevation.

7.3.2 Concerns have been raised by the Planning Authority regarding the lack of an offset from the northern boundary and that the extent and length of the flank elevation would have an overbearing effect on the dwelling to the north.

7.3.3 Specific reference is made in the Planning Authority Planner's Report regarding the House Extension Design Guide prepared by South Dublin County Council. It is noted that this is a non-statutory document. The Guide states that extensions,

particularly those that are higher than 1 storey should be located away from the side boundary. Guidance is also set out with regard to the 45° rule to minimise overshadowing to adjacent properties. I would concur with the submission by the applicants, that this guidance is not prescriptive. These policies are open to interpretation and are generally aspirational. It will not be feasible to comply with such standards in all instances, particularly in tight urban areas such as the subject site. It is also noted that a single storey extension could be constructed to the rear of the property under exempted development provisions without the need to offset from the boundary or comply with the 45° rule.

7.3.4 The proposed rear extension extends to a height of c. 3.9 metres and extends for a distance of approximately 8.4 metres along the northern boundary. It is considered that the extension is generally appropriate and will improve the amenity of the existing dwelling. Having regard to the scale and height of the extension, it is not considered that it would give rise to any significant visual impact or adverse impacts to adjoining properties in terms of overshadowing or overlooking.

7.3.5 Notwithstanding this, it is not considered that a split decision is appropriate in this instance due to concerns regarding the overall nature of the development and the fact that such an extension could be constructed in any event under exempted development provisions subject to compliance with the relevant criteria.

7.4 Access

7.4.1 The proposed development provides for the development of a new vehicular access and off street parking for 2 no. spaces. Significant concerns have been raised by the Roads Department of South Dublin County Council due to the proximity of the entrance to the signalised junction at St. Peter's Road and St. James's Road. It is noted that the proposed entrance would result in conflicting traffic movements at a location where multiple vehicle movements occur at present. The report also notes the proximity of the site to a pedestrian crossing and potential for conflict with pedestrians.

7.4.2 St. Peter's Road comprises a two-way carriageway, off street parking and a dedicated cycle path. There is an on street parking space directly to the front of the dwelling. The applicant has set out a number of other examples in the vicinity where new vehicular accesses have been created in close proximity to a road junction or

signalised crossing. Data is also presented regarding the low usage of the existing signalised crossing adjacent to the dwelling.

7.4.3 Whilst I would not concur with the assessment of the Planning Authority that the creation of the vehicular entrance would result in an adverse visual impact due to the loss of the front garden, I do have concerns regarding the potential safety of the proposal. The provision of the two off street parking spaces inevitably means that cars would be reversing from the driveway onto the street in immediate proximity to a pedestrian crossing and a cycle path.

7.4.4 Notwithstanding the low level of use of this pedestrian crossing, there would nonetheless be a potential for conflict with pedestrians, cyclists and other vulnerable road users. In this regard, it is considered that the proposed entrance would give rise to an unacceptable traffic hazard.

7.5 **Appropriate Assessment**

7.5.1 Having regard to the nature and scale of the proposed development, comprising extensions to an existing dwelling house within an established urban area, and the distance to the nearest European site, 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 **Recommendation**

8.1 It is recommended that permission be refused permission for the reasons set out below.

9.0 **Reasons**

1. Having regard to the location of the proposed entrance immediately adjacent to the signalised junction at St. Peter's Road and St. James's Road and the existing cycle lane, it is considered that the additional traffic associated with the proposed development would endanger public safety by reason of traffic hazard and would lead to conflict between road users, that is, vehicular traffic,

pedestrians and cyclists. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed detached family flat would materially contravene the provisions of the South Dublin County Development Plan and specifically Section 11.3.3 (ii) which seeks to ensure that family flats are linked directly to the main dwelling house and are temporary in nature. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Erika Casey
Senior Planning Inspector

23rd November 2017