



An
Bord
Pleanála

Inspector's Report ABP-300680-18

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| Development | Two storey rear domestic extension. |
| Location | 19 Rathminton Drive, Tallaght, Dublin 24. |
| Planning Authority | South Dublin County Council |
| Planning Authority Reg. Ref. | SD17B/0366 |
| Applicant(s) | John Hannan. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse Permission. |
| Type of Appeal | First Party |
| Appellant(s) | John and Lorraine Hannan. |
| Observer(s) | None. |
| Date of Site Inspection | 18 th April 2018 |
| Inspector | Susan McHugh |

1.0 Site Location and Description

- 1.1. No. 19 Rathminton Drive is located at the end of a terrace of four number two storey houses. The terrace is positioned forward of and perpendicular to another similar terrace located to the north west, and both face onto a cul de sac. To the north east and rear are two storey semi-detached houses along Suncroft Drive. The adjoining house within the terrace to the south east is No. 20 Rathminton Drive.
- 1.2. The site benefits from a garden to the front, side and rear and accommodates a three bedroom two storey house, with partially constructed single storey extension to rear. A detached single storey structure is located in the side rear garden and adjoins the side garden of end of terrace house No. 18 Rathminton Drive. The structure is screened from the rear garden of No. 19 by timber panel fencing.
- 1.3. The side boundary with No. 20 is defined by the side wall of the partially constructed extension and a 2m high side garden boundary wall. The site has an area of 0.0309 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a two storey extension to the rear with a stated floor area of 40 sqm. At ground floor it is proposed to provide a kitchen extension with glazed sliding doors to the rear garden. At first floor it is proposed to provide two bedrooms. It is also proposed to carry out internal alterations to provide a store and study, including a new bathroom window to the existing bathroom along the west gable elevation.
- 2.2. The proposed hipped roof would have an eaves height of approx. 5m and a ridge height of 6.88m which is set below the ridge height of the existing house by approximately 0.9 metres.
- 2.3. The application was accompanied by a shadow study.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the following reasons;

1. Seriously injure the residential amenity of No. 20 Rathminton Drive, contrary to the requirements of Policy H18 and H18 Objective 1 relating to house extensions, and the South Dublin House Design Guide, and materially contravene the zoning objective which seeks 'to protect/and or improve residential amenity' and would therefore contravene the South Dublin County Development Plan 2016-2022.
2. Set an undesirable precedent for other similar development.

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 10/12/2017)

Basis for planning authority decision.

Include:

- Non-compliance with Design Guidelines for extensions as set out in the South Dublin House Extension Design Guide, and does not accord with Housing Policy 18, Objective 1 of the County Development Plan.
- The construction of the single storey extension permitted under Reg. Ref. SD17B/0287 appears to have commenced.
- The ground floor element of the proposed extension appears to be identical in terms of the width, length, and separation distances to site boundaries to the ground floor extension permitted under SD17B/0287.
- Considered that the provision of a two storey extension, located in close proximity to the south eastern boundary for a length of 3.6m at a height of 6.85m, would give rise to significant loss of natural light and would have an overshadowing, overbearing and visually obtrusive impact on the dwelling and

associated rear amenity space of No. 20 Rathminton Drive which would have a negative impact on residential amenity.

- Would set an undesirable precedent.

3.2.2. Other Technical Reports

Environmental Services: No report received.

3.3. Prescribed Bodies

Irish Water: No report received.

3.4. Third Party Observations

None.

4.0 Planning History

4.1.1. There have been two previous applications of note pertaining to the site.

P.A. Reg. Ref. SD17B/0287 Permission **granted** November 2017 for a single storey ground floor kitchen extension to the rear with a flat roof and a floor area of 20sqm. This permission is being implemented on site.

P.A. Reg. Ref. SD15B/0252 Retention permission **granted** November 2015 for single storey structure to the side rear garden.

5.0 Policy Context

5.1. South Dublin Development Plan 2016-2022

5.1.1. Under the South Dublin County Development Plan 2016-2022, the site is zoned – **'RES: To protect and/or improve residential amenity'**.

- 5.1.2. Sections 2.4.1 of Chapter 2 considers *Residential Extensions*.
- 5.1.3. **Housing Policy 18** states: t '*It is the policy of the Council to support the extension of existing dwellings subject to the protection of residential and visual amenities*'.
- 5.1.4. **H18 Objective 1** states: '*To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with standards set out in Chapter 11 Implementation and the Guidance set out in South Dublin County Council House Extension Design Guide 2010.*'
- 5.1.5. Section 11.3.3(i) states with respect to Extensions: *The design of residential extensions should accord with the South Dublin County Council House Extension Guide (2010).*
- 5.1.6. 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* and provides advice for different types of extensions. 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. They should match the shape and slope of the roof of the existing house. With regard to overbearing impact, it notes:
- 5.1.7. '*As well as blocking out light to a neighbouring property, a poorly located or bulky extension can also feel oppressive or overbearing when experienced from adjoining residential properties.*'

5.2. **Natural Heritage Designations**

None of relevance.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal against the decision to refuse permission by the planning authority has been lodged by the applicant. The main grounds of the appeal can be summarised as follows:

- The shadow analysis carried out demonstrates that the location of the extension along the boundary wall with house No. 20 would not result in overshadowing, particularly given the orientation.
- Similar extensions have been permitted and constructed in the area, some of which are larger in scale, mid terraced, with less open space and located on the boundaries. Addresses and planning references of similar examples are listed.
- No objections from adjoining neighbours in relation to the proposal. The separation distance from the rear of the proposed extension to the rear of adjoining properties to the rear is 26.3m in excess of the 22m County Development Plan requirement.
- The remaining private open space on site would be in excess of 100sqm.
- The extension would not set an undesirable precedent for similar developments given the sites orientation and unique configuration.

6.2. Planning Authority Response

Decision confirmed – issues raised covered in Planner’s Report.

6.3. Observations

None received.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues raised are addressed under the following headings:

- Impact on Residential Amenity
- Material Contravention
- Appropriate Assessment

7.2. Impact on Residential Amenity

- 7.2.1. The development is located in an area zoned RES: 'To protect and/or improve residential amenity'. In this zone residential extensions to an existing dwelling are considered an acceptable development in principle, and Objective H18(1) states that the Council will favourably consider proposals to extend existing dwellings subject to protection of residential and visual amenities.
- 7.2.2. The area is characterised by well-established medium density, two storey terraced suburban type housing.
- 7.2.3. Reason for refusal No. 1 refers to the negative impact on the residential amenity of house No. 20 Rathminton Drive which is located to the south east of the appeal site within the terrace. I note that the planning authority have recently granted permission for a single storey flat roofed extension to the rear of No. 19, and that the ground floor element of the current proposal is identical. As such it is the first-floor element of the current proposal that is problematic.
- 7.2.4. In particular the planning authority had concerns in relation to the scale and height of the two-storey element located along the common boundary with No. 20 Rathminton Drive, which it was considered would give rise to a significant loss of natural light and would have an overshadowing, overbearing and visually obtrusive impact on the dwelling and associated rear amenity space of No. 20 Rathminton Drive.
- 7.2.5. On the matter of scale, the exempted development regulations provide a very useful guide. Class 1 of the Regulations (Class 1, Schedule 2 Part 1, of the Planning and

Development Regulations 2001, as amended) allows for up to 40sqm floor area to be added by way of new construction, to the rear of a house subject to certain conditions and limitations. The floor area of 40sqm proposed is comparable to that generally permitted as exempted development.

- 7.2.6. The first-floor element of the proposed extension extends by 3.66m from the rear building line of the existing house, and is located along the boundary with and to the northwest of No. 20 Rathminton Drive. The proposed rear extension includes a hipped roof with a ridge height of 6.88m which is set below the ridge height of the existing house by approximately 0.9 metres. The back gardens are north east facing.
- 7.2.7. In terms of overshadowing a shadow study has been submitted which indicates the degree of overshadowing for both the permitted single storey and proposed two storey extension on the rear garden of no. 20. It demonstrates that there is a marginal increase in overshadowing on 21st June at 1500hrs and 1800hrs. Having visited the site mid-morning in the month of April, I did not observe any overshadowing from the existing partly constructed single storey extension which extends to a height of approx. 3m.
- 7.2.8. The House Design Guide states that 'Two storey extensions will not normally be acceptable to the rear of terraced houses if likely to have an overbearing impact due to the close spacing between houses. I note the rear garden length of the subject site is 12.4m, and that the rear garden length of house no. 20 is slightly longer at 12.5, the rear garden width of house no. 20 of approx. 5.8m. I also note the existing single storey flat roof extension to the rear of house No. 20 along the boundary with the appeal site, which extends approx. 0.5m beyond the existing permitted and already partly constructed single storey extension.
- 7.2.9. I am of the opinion that the first floor extension which extends by 3.66m from the rear elevation and with an eaves height of 5m, which is 2m above the height of the already permitted and constructed ground floor extension is not excessive and would not be overbearing or visually obtrusive as viewed from the rear of No. 20. I note also that no observations were received from the owner of this property.

- 7.2.10. On the matter of precedent, I note there is no precedent for first floor extensions along the terrace to the rear, however each application is assessed on its own merits.
- 7.2.11. In conclusion, it is considered having regard to the orientation of the rear gardens, the location of the proposed extension to the north of No. 20, the relatively modest scale, height and bulk of the proposed first floor extension and roof profile, I consider that the proposed development would not have a material impact on the degree of overshadowing currently experienced by adjoining properties, would not be overbearing or visually obtrusive and therefore, will not have an additional negative impact on the residential amenities of No. 20.

7.3. Material Contravention

- 7.3.1. The decision of the Planning Authority states that the development (if permitted) would materially contravene Policy H18 and H18 Objective 1 relating to house extensions, and the South Dublin House Design Guide and materially contravene the zoning objective, and would therefore contravene the South Dublin County Development Plan 2016-2022.
- 7.3.2. In this context, if the Board are minded to grant permission for the proposed development, Section 37(2) of the Planning and Development Act 2000 must be considered. Section 37(2) requires that if the Planning Authority have decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in certain circumstances.
- 7.3.3. However, I do not share the view to the Planning Authority that the development would materially contravene the development plan for the area or the Design Guide for Extensions. The policies referenced in the reasons for refusal are general policies rather than policies which specifically relate to the appeal site. In addition, the site is zoned RES – ‘to protect/and or improve residential amenity’ and would not therefore contravene the South Dublin County Development Plan 2016-2022 and the proposal would not materially contravene this zoning objective. Accordingly, I do not consider that the proposed development, if permitted, would materially contravene the

applicable development plan and Section 37(2) of the Act requires no further consideration.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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. I recommend that permission be granted for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands and to the compliance with the development standards for residential extensions in the South County Development Plan 2016-2022, it is considered that subject to compliance with conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance 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 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 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, save as part of the dwelling.

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

3. 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.

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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, as amended. 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developers or, in default of such agreements, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Susan McHugh
Planning Inspectorate

19th April 2018