



An
Bord
Pleanála

Inspector's Report ABP 300923-18.

Development	Construction of an extension.
Location	103 Upper Trees Road, Mount Merrion, Co. Dublin.
Planning Authority	Dún Laoghaire-Rathdown
Planning Authority Reg. Ref.	D17B/0521
Applicants	Joan and Vincent Clarkin
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellants	(1) David Carey (2) Simon Coghlan & Lorraine Carroll
Observers	None
Date of Site Inspection	15/6/18
Inspector	Siobhan Carroll

1.0 Site Location and Description

- 1.1. The appeal site is located at no. 103 Upper Trees Road, Mount Merrion, Co. Dublin. It is part the established residential area of Mount Merrion situated to the west of the N11 and between Stillorgan to the south and Fosters Avenue and Mount Anville Road to the north. Mount Merrion was developed as a residential area from the 1920's.
- 1.2. The site has an area of 0.023 hectares and it extends back for circa 25m. It comprises a mid-terrace residential unit within a parade of retail and commercial units. The adjoining unit to the east no. 101 contains a Hair Salon. A physiotherapy clinic is located at no. 105 the adjacent unit to west of the site. Other retail premises and businesses in the parade to west include a delicatessen, Hair Studio, Lawnmower service premises and a Solicitors.
- 1.3. The front of the property addresses a service road where there is on-street parking. The ground floor of no. 103 contains a café to the front. A separate door serves the residential unit which contains four bedrooms and has accommodation at ground level and first floor level. The residential unit is served by a rear garden. The northern site boundary adjoins a laneway. The neighbouring residential unit at no. 105 features a two-storey rear extension.

2.0 Proposed Development

- 2.1. Permission is sought for an extension to a mid-terrace residential unit within a parade of mixed use units comprising the following;
 - Single storey extension to the rear
 - Two-storey extension to the rear
 - Conversion of attic space with installation of two rear dormer windows
 - Insertion of two roof lights to the front elevation

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 13 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The extension of the existing dwelling unit at ground floor and first floor was considered acceptable. The design and scale of the two proposed dormer windows to the rear was considered acceptable. It was noted in the report that the floor to ceiling height at attic level was 2.2m which is insufficient for use as a habitable room.

3.2.2. Other Technical Reports

3.2.3. Transport Planning – No objections subject to conditions.

3.2.4. Municipal Services – No objections subject to conditions.

3.3. Third Party Observations

3.3.1. The Planning Authority received two observations/submissions in relation to the proposed development. The main issues raised are similar to those set out in the appeals.

4.0 Planning History

Reg. Ref. D03A/0146 – permission was granted for a change of use from retail to coffee shop in the front ground floor unit at no. 103 Trees Road.

Adjoining site

Reg. Ref. D16A/0206 – Retention permission was granted for change of use of ground floor pharmacy to physiotherapy suite, reversion to use of part of ground floor and entire first floor to apartment. Permission was granted for rear extensions to apartment and physiotherapy suite at ground floor level, rear extension to apartment

at first floor level to include 11m² enclosed glazed terrace, rooflights to rear roof, internal alterations and associated site, boundary and landscaping works.

5.0 Policy Context

5.1. Development Plan

The site is governed by the provisions of the Dún Laoghaire – Rathdown County Development Plan 2016-2022.

- It is zoned Objective A ‘to protect and/or improve residential amenity’.
- Chapter 8 – Principles of Development
- Section 8.2.3.4 – refers to Additional Accommodation in built up areas
- Section 8.2.3.4 (ix) refers to “Living Over the Shop” it encourages residential use on the upper floors of commercial properties and notes that in certain circumstances dispensations from normal standards may apply to facilitate such developments.

6.0 The Appeal

6.1. Grounds of Appeal

(1) David Carey

- The appeal relates to the 2 no. dormer windows proposed at the rear of the property.
- It is noted that there are no other dormer windows within the buildings along the row in which no. 103 is a mid-terrace property.
- The appellant contends that the proposed dormer window would appear visually obtrusive and out of character with the surrounding development.
- The proposed dormers would be visible from Cedarmount Road.
- The Planning Authority in their assessment of the proposal noted that the converted attic would be unsuitable for human habitation under Building

Regulations. No condition referring to the use of the attic space was attached to the permission only a note.

- The appellant notes that even if the attic is unsuitable for human habitation that it may still be used for storage and as a study. Should it be used as a study it could potentially cause overlooking of the appellant's garden to the north at Cedarmount Gardens.
- The appellant requests that permission be refused for the proposed dormer windows and that rooflights be used as an alternative.

(2) Simon Coghlan & Lorraine Carroll

- The appellants live at no 105 Upper Trees Road with their young family and operate a chartered physiotherapy practice at the address.
- They note that there is a precedent for small residential units above adjacent retail premises on Upper Trees Road. These units are predominantly owner occupied by couples or small families. They state that the existing residential unit at no. 103 is being used for student accommodation.
- The appellants state that a portion of the drainage pipe from no. 103 and which serves the café and residential unit runs under the appellant's property to connect main drain.
- It is noted that the pipe is old and in poor condition. The appellant's repaired and patched sections of the pipe recently. They have concerns that an increase in occupancy at no. 103 could result in further issues with the foul drainage system. The appellants note that this is a private issue.
- They consider that the conversion of the attic into a bedroom presents a potential fire risk as their attic at no. 105 shares a partition wall.
- The appellants contend that the proposed first floor extension would cause overlooking of their rear gardens.

- The noise generated by occupants is likely to create more noise and disruption to the appellants and other neighbouring residents.
- Concern is expressed regarding the design and scale of the first floor extension and dormer windows.
- Regarding the proposed dormer windows it is stated that there is no precedent for the dormers and that they would appear visually obtrusive and cause overlooking to the appellant's rear garden,
- It is contended that the proposal does not comply with development plan parking standards.

6.2. Applicant Response

A response to the appeals was submitted by the applicants Vincent and Joan Clarkin. The main issues raised are as follows;

- The applicants make reference to two typographical errors contained in the Record of Executive Business Chief Executive's Orders dated 19th of January 2018. Page 1 of the order describes the dwelling as a three bedroom property, however the applicants state it is currently a four bedroom property. On page 6 of the order the measurement of the dormer window is stated as 1.0m in width and 1.5m in height. The scaled drawing submitted indicated the dormer windows have a width of 1.8m and a height of 1.5m.
- In response to the appeal from Mr. Simon Coghlan and Ms. Lorraine Carroll the applicants makes the following comments;
- The property is not let to students. They note that the houses at no. 103, no. 109 and no. 105 Trees Road are large residential units. No. 101 Trees Road is let under two separate tenancies.
- Regarding issues concerning the sewer at the café and residential unit at no. 103 the applicants state that they have advised the occupants of no. 105 that they will ensure adequate drainage would be in place prior to and during any building works.

- The development does not include a proposal to convert the attic to a bedroom. It is stated that all fire regulations will be fully complied with.
- The proposed first floor extension has been designed to be less intrusive.
- The matter of noise generation is not considered a relevant concern.
- Regarding the proposed dormer windows it is contended that there are a number of precedents for dormer windows which have been granted permission in the surrounding area of Upper Trees Road and Cedarmount Road.
- No property directly faces into the rear of no. 103 Trees Road and therefore the proposed dormer windows would not appear visually dominant when viewed from other properties.
- The proposed dormer windows would be set back behind the first floor extension. It is not considered that they would give rise to significant new overlooking. There would be no overshadowing as a result of the proposed development.
- Regarding the matter of parking there is communal parking at the front of the property.
- It is considered that the rear garden is adequate to serve the extended dwelling unit.
- The applicants state that they have not applied to use the dormer rooms for habitable use.
- In response to the appeal from Mr. David Carey the applicants makes the following comments;
- The objection refers to the design and scale of the 2 no. dormer windows. In response to the matter the applicants state that no property directly faces the rear of no. 103 Trees Road.
- The site is located within a small thoroughfare of commercial and residential properties which form part of Upper Trees Road. There are dormer windows located within some properties on Upper Trees Road and also Cedarmount

Road. In the case of some of those windows there a direct view of the opposing garden and property.

- The proposed dormers are considered to be relatively small in scale. The assessment of the Planning Officer in their report regarding the proposed dormers is noted;
- “It is considered that the proposed development will not result in any significant negative impacts on residential amenity in terms of appearing overbearing, overlooking or overshadowing impacts.”
- “Given the separation distance of 20m to the boundary with Cedarmount Road it is not considered that significant overlooking would occur.”
- In relation to the issue of potential overlooking from the proposed dormer windows the applicants refer to the assessment of the Planning Officer which stated that it was not considered that it would result in undue overlooking having regard to the separation distance to the properties on Cedarmount Road.

6.3. Planning Authority Response

- The Planning Authority refer the Board to the Planner’s Report and state that they consider that the grounds of appeal do not raise any new matters which would justify a change of attitude to the proposed development.

6.4. Further Responses

A further submission was received from Simon Coghlan & Lorraine Carroll in response to the first party submission referring to their appeal. The main issues raised are as follows;

- The appellants state that the proposed development will provide a five bedroom residential unit. The plans for the attic conversion include a partition which could create two attic rooms and therefore create a six bedroom residential unit.

- A five bedroom residential unit would be acceptable to the appellants however they object to the use of dormer windows in the creation of a fifth or sixth bedroom in the attic space. As the proposed dormer windows would have negative impact upon their residential amenities.
- It was the appellants understanding that the property would be let to students.
- Regarding the subject of foul drainage the applicants response that they will ensure adequate drainage would be in place prior to and during building work is not considered satisfactory.
- In conclusion the appellants preference is that the number of bedrooms be limited to five and that the attic would not be converted and that the dormer windows be omitted. It is requested that the issue of drainage is considered further.

A further submission was received from David Carey in response to the first party submission referring to their appeal. The main issues raised are as follows;

- Mr. Carey reiterates the point that his dwelling overlooks the garden and rear of no. 103 Upper Trees Road.
- If the proposed dormer windows were constructed they would be visible and appear obstructive from the appellant's property.
- The appellant reiterates the point that there is no precedent for dormers along the adjacent properties and that the subject scheme would create one.
- The precedents described by the applicants of other properties on Cedarmount Road and Upper Trees Road are not considered directly comparable. It is noted that the separation distances between dormer windows on Cedarmount Road and opposing ones on Upper Trees Road is double that between the proposed dormer windows and the boundary of no. 2 Cedarmount Road.

- The proposed development will significantly increase the occupancy of the residential unit.
- It is contended that there is no clear indication in relation to the use of the proposed converted attic.
- The first party response refers to the communal parking at the front of the property. It is stated that Cedarmount Road is used for overflow parking by customers and staff of the shops and also by some residents of Upper Trees Road. The appellant does not consider that the communal parking area can accommodate additional parking which would be generated.
- It is requested that the Board refuse permission.

7.0 Assessment

Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

- Design and Impact on Residential Amenity
- Car parking
- Drainage issues
- Appropriate Assessment

7.1. Design and Impact on Residential Amenity

7.1.1. It is proposed to convert the attic, construct 2 no. dormers in the rear roof plane and develop an extension to the rear of the dwelling at ground and first floor level.

Section 8.2.3.4(i) of the Dun Laoghaire Rathdown Development Plan 2016-2022 refers to extensions to dwellings.

7.1.2. In terms of dormer extensions to roofs it is advised in Section 8.2.3.4(i) of the Development Plan that they will be considered having regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions

and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions shall be set back from the eaves, gables and/or party boundaries.

- 7.1.3. The rear dormers have a width of 1800mm and a height of 1536mm and they would project out a maximum of 2200mm from below the rear roof ridgeline. In terms of the proposed design of the rear dormers I consider they would integrate well into the rear roof plane, they do not project above the ridgeline of the building and given their limited scale they would not appear as overly dominant features. In relation to the matter of overlooking from the proposed rear dormers, having regard to the fact that there are no directly opposing windows and to the separation distance provided of circa 22m from the proposed dormers to the boundary of the appellants the property no. 2 Cedarmount Road to the north, I am satisfied that it would not result in any significant new overlooking. In relation to the appellants property at no. 105 Upper Trees Road having regard to the site context and the established pattern of development I consider that the proposed dormer windows would not unduly increase the level of overlooking of that property.
- 7.1.4. To the front of the dwelling two new rooflights are proposed. I note that there are two similar rooflights to the front of no. 109 Upper Trees Road to the west of the site. I would consider given their relative small scale of the proposed rooflights (500mm x 600mm) that they would be visually subordinate within the roof plane and would therefore integrate well into the streetscape.
- 7.1.5. Regarding the proposal to convert the attic, the Planning Officer in their assessment of the proposal noted that the floor to ceiling height provided would be insufficient to serve a habitable room. The applicants have confirmed that they do not proposed to use the converted attic as bedroom.
- 7.1.6. The first-floor extension has an area of circa 23sq m and would provide for a reconfigured layout with larger rear bedrooms. The extension would project out 3.3m from the existing building line. It would be in line with the first-floor extension to the adjoining property no. 105 to the west. Having regard to the pattern of surrounding development including the rear extensions to the neighbouring dwelling it considered that the proposed first floor extension is in keeping with the design and character of the area.

7.2. Car parking

- 7.2.1. The appellants have raised concern in relation to car parking and question whether adequate parking is available to serve the proposal. The existing dwelling on site is served by a car parking space to the rear of the property with access from the laneway off Cedarmount Road. The car parking space is indicated on Drawing N:17.184.PD02. In their response to the appeals, the applicants stated that the existing dwelling is served by the communal parking to the front of the building. I note that the Transportation Planning Section have no objections to the proposed scheme. Having regard to the limited scale of the proposed development and the existing car parking available, I consider the proposed development is acceptable in terms of parking considerations.

7.3. Drainage

- 7.3.1. The appellants from the adjoining property no. 105 raised the matter of foul drainage. They referred to the condition of the foul drain which runs under the buildings. However, they note in their submission that the condition of the foul drain within their property is a private issue.
- 7.3.2. The proposed foul drainage layout is indicated on the General Layout Plan - Drawing No.17.184PD02. It indicates that the revised foul drainage layout within the building will connected to the foul sewer to the front of the buildings on Upper Trees Road. The Drainage Planning Section of the Council has no objections to the proposed scheme. Condition no. 5 attached to the permission issued by the Planning Authority required that the applicant check that the surface water discharged from the existing property is fully separated from foul water and that if there is a combined drain then the applicant shall make the necessary changes before the extension is constructed.
- 7.3.3. I consider, should the Board decide to grant permission that it would be appropriate to attach a condition which requires that the applicants submit plans for the agreement of the Planning Authority indicating the disposal of foul and surface water on site via separate drainage systems.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, an extension to an existing dwelling within an established urban area, and its 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 granted permission for the reason set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the current Development Plan for the area, and having regard to the pattern of existing development in the area and the design and scale of the proposed extension, it is considered that, subject to compliance with the 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, and would comply with the provisions of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The proposed 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 house shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

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. The disposal of foul and surface water on site shall be via separate drainage systems. The developer shall submit plans indicating the foul and surface water drainage systems to be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public health to ensure a proper standard of development.

4. The external finishes of the proposed extension, including roof, shall be the same as those of the existing dwelling in respect of colour and texture. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The developer shall pay to the planning authority a financial contribution 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, as amended. The contribution shall be paid prior to 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 developer or, in default of such agreement, 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.

Siobhan Carroll
Planning Inspector

22nd of June 2018