



An
Bord
Pleanála

Inspector's Report ABP-301200-18

Development	Application for retention planning permission for minor alteration to as built extension granted under planning permission 2913/17, alterations to be retained comprises of additional ground floor extension area and reduced first floor extension area all to rear.
Location	68, Irishtown Road, Irishtown, Dublin 4
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4612/17
Applicant(s)	Niamh Gallagher
Type of Application	Retention Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Max and Joan Purser
Observer(s)	None
Date of Site Inspection	13/06/2018
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located on the norther side of Irishtown Road, in the inner suburb of Irishtown. No. 68 Irishtown road is a mid-terrace dwelling within a recently constructed part single part two storey extension to the rear. A number of the dwellings along this section of the road have been extended in a similar manner,

2.0 Proposed Development

- 2.1. On the 21st December 2017, planning permission was sought for the retention of minor alterations to a built extension. The subject alterations comprise additional ground floorspace (6sq.m.) and a reduced first floor area to the rear of no. 68 Irishtown Road.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 22nd February 2018, Dublin City Council issued a notification of their intention to GRANT permission subject to 3 no. standard conditions.

3.2. Planning Authority Reports

- 3.2.1. **Drainage** Division: No objection subject to conditions.
- 3.2.2. **Planning** Report: Private open space reduced to 20sq.m. The additional negative impact on the neighbouring property is not so serious as to warrant a refusal. The single storey extension could have been built as exempt development. The enforcement section of the Planning Authority is satisfied that the first-floor extension complies with condition no, 2 of the parent permission. The proposed development is acceptable.
- 3.3. Two submissions were made to the Planning Authority. The objections stated that the development as shown on the plans does not match the development as built.

4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **2913/17**: Planning permission was granted for the removal of an existing 11.5sq.m. single storey extension to the rear and the

combination of single and two storey extensions to the rear adding 24.5sq.m. and 16sq.m. to ground and first floors respectively.

Condition no. 2 of the decision stated: "The first-floor rear extension shall be reduced in depth from 5.45m to a maximum external depth of 4m, which will result in the extension at first floor level being only suitable for either a bedroom or a bathroom. Reason: In the interest of the amenity of the adjoining neighbour".

- 4.1.2. **Enforcement 1117/17:** noncompliance with condition no. 1 not pursued as breach is too minor.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

5.1.1. In the plan, the site is zoned '**Z2 Residential Conservation** which has the stated objective "to protect and / or improve the amenities of residential conservation areas". Within Z2 zones 'Residential' is a permissible use.

5.1.2. **Chapter 16** includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design. Applicable to the proposed development are the following:

- Indicative plot ratio for Z2 zones is 0.5 to 2.0,
- Indicative site coverage for the Z2 zone is 45-60%

5.1.3. Section 16.2.2.3 also states that extensions should be confined to the rear in most cases, be clearly subordinate to the existing building in scale and design and incorporate a high standard of thermal performance and appropriate sustainable design features.

5.1.4. Appendix 17 of the development plan refers to the general principles for extensions.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An agent for the owner of the adjoining property at no. 66 Irishtown Road has appealed the decision of the Planning Authority to grant permission for the retention of the subject development.

6.1.2. The appellant states that there is a need to clarify elements of the proposal given that the application drawings are inaccurate. It is submitted that the extent of the extension as built does not reflect the drawings before the Board. It is submitted that if granted the permission will have no legal standing as the Board would be granting permission for a development that does not exist.

6.1.3. The grounds of the appeal can be summarised as follows:

- There is a direct and unequivocal negative impact of the development on the appellants property.
- The impact of the first-floor extension was addressed by the Planning Authority with condition no. 2 of reg. ref. 2913/17. The applicant has chosen to ignore this condition and constructed an extension that is longer at ground and first floor level. The ground floor extension has an external depth of 5.09m, not the 4.48m indicated on the application drawings. The ground floor is 0.33m longer and 0.4m closer to the boundary.
- It is submitted that there is a lack of transparency and accuracy in the drawings.
- The Board is requested to refuse permission on the grounds that the 'as built' extension does not comply with the permission granted and that the overshadowing and overbearing impact of extension would be contrary to the residential conservation zoning of the area.
- It is submitted that the proposed development having regard to its greater scale height and bulk would create an adverse impact on the appellant's property and that at 1 Seapoint Terrace.
- The distance between the rear elevation of the as built extension ranges from 9.5m to 8.8m as shown in reg. ref. 2913/17. The Applicant now indicates that this distance is 10m.
- The applicant's windows at first floor and ground floor facing the site will lose light.
- It is submitted that the application for retention will not address the enforcement notice as there is a significant and material difference.

- The application for retention does not mention the 2 no. upstanding rooflights in place of the permitted single rooflight.
- The application shows an additional 6sq.m. ground floor extension adjoining the appellants property. The 3.6m high extension will extend from the permitted 3.9m to 6.12m and the as-built 6.45m.
- The first-floor plan indicates a net reduction of 6sq.m. It is submitted that this is false.
- The submitted drawings show the ground floor extension 4.38m from the rear elevation (allowing for 0.1m internal walls and 0.3m external walls). However, the wall has been measured as 5.09m in length.
- The original first floor extension was indicated as being 5.49m, including a reduction in the thickness of the wall this results in a 5.3m length.
- It is submitted that the submitted and the as-built extensions are in breach of condition no. 2 and are contrary to section 16.2.2.3 of the development plan.
- The first-floor extension is shown as being 2.4m from the appellant's boundary but is actually only 2m.
- The open space is shown as being 20-23sq.m. A 5-bedsace dwelling outside of the canals requires 50sq.m. private open space.
- It is submitted that the drawing inaccuracies are material and warrant a refusal of permission.
- The greater footprint and distance to boundary of the first floor has a negative impact on the appellants amenity. The appellant's dwelling is served by a small north-eastern yard that already suffers from lack of direct sunlight. The proposed development results in a wholly unacceptable impact. This impact is being generated by an unauthorised development.
- The levels of overshadowing are contrary to the BRE guidelines.
- If the first-floor room is used as a bedroom the level of intrusion would be significant.
- The Board is requested to refuse permission.

6.2. Applicant Response

6.2.1. The applicant responded to the third-party appeal. The grounds of the response are as follows:

- Permission was granted under 2913/17 for a two storey extension. This was constructed with an increased floor area which was the subject of enforcement action following a complaint by the appellants. The subject application seeks to regularise this.
- The appellant's claims that the drawings are inaccurate and misleading are refuted. Drawings of the as-constructed extension are submitted with the response.
- The first-floor extension is less than half the size of the ground floor extension and is at least 2m from the boundary with no. 66. In normal circumstances the extensions would be exempted development.
- The planners report noted the enforcement and noted that it was judged to be minor.
- Notwithstanding that a larger than permitted extension was built, the planner assessed it to be not serious enough to warrant a refusal.
- The Planning Authority granted permission because they considered the breach to be minor and insignificant. The extension is subordinate to the dwelling and does not cause overshadowing of no. 66 due to the set back at first floor level.
- The Board is requested to grant permission.

6.3. Planning Authority Response

6.3.1. None on file.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant and the planning authority. The single issue raised in the appeal is the extent of the development to be retained and its impact on the residential amenity of the appellants.

7.2. Extent of the Development to be retained

- 7.2.1. There are two main grounds raised by the third-party appeal – that the submitted drawings do not accurately reflect the as-built extension and that the extension as built adversely impacts on the residential amenity of the appellant's property.
- 7.2.2. The appellant claims that the ground floor extension as built is 6.45m and not the 6.12m shown on the Planning Authority drawing for retention. My measurement of the drawing submitted to the Planning Authority and to the Board is 6.2m. It was not possible to measure the ground floor external wall on the date of my site visit but the distance between the rear elevation of the extension and the rear boundary wall was measured by me and found to be 3.8m. This corresponds with the distance shown on drawing NG/PP/s/01 submitted to the Board by the applicant in response to the appeal. The height of the ground floor extension is not in dispute.
- 7.2.3. The increase in ground floor footprint reduces the amount of private open space available. The development as permitted comprised a north-facing rear garden area of 24sq.m. The development to be retained shows a rear garden area of just over 23sq.m. The deviation is not considered excessive. The subject dwelling would qualify as being within the inner city (section 16.10.2 of the development plan) and would therefore require a private open space of 5-8sq.m. per bedspace. The subject dwelling with 5 bedspaces falls short of the required 25sq.m. Notwithstanding that the garden faces north, the 2sq.m. shortfall is not considered material.
- 7.2.4. At first floor level, both the drawing submitted to the Planning Authority and the drawings submitted to the Board show a length of 4.5m. That this breaches condition no. 2 of the parent permission (reg. ref. 2913/17) which required a reduction in length from 5.4m to 4m is not disputed by the applicant. That it is closer to the boundary with no. 66 than the extension permitted is also not disputed by the applicant. The intent of an application for retention permission is to regularise an as-built extension, not to force the applicant to comply with the permitted permission.
- 7.2.5. I am satisfied that the 4.5m first floor extension, with an opaque window on the western elevation will not adversely impact the residential amenity of the properties to the east or west of the subject site. The dwelling to the east – 1 Seapoint Terrace has been extended in a similar manner. The set back of the first-floor extension is

sufficient to prevent overlooking. The positioning of the extension on the eastern boundary will prevent overshadowing of the appellants property.

- 7.2.6. The appellants suggested that the first-floor extension would be used as a bedroom and would therefore compromise their residential amenity. My site visit confirmed that the room is in use as a bathroom, as per drawing no. NG/PP/s/01.

8.0 Appropriate Assessment

- 8.1.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site

9.0 Recommendation

- 9.1. I recommend permission be GRANTED subject to the following conditions

10.0 Reasons and Considerations

Having regard to the pattern of development in the vicinity and the nature, scale and design of the extension to be retained, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of neighbouring property, would not unduly detract from the setting of neighbouring structures, would represent an appropriate form of development that would be compatible with its surroundings, and would be acceptable in terms of pedestrian and vehicular safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by the drawings submitted to the Board on the 20th day of April 2018, 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. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwelling and to protect the residential amenities of adjoining properties

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: To ensure adequate servicing of the development, and to prevent pollution.

Gillian Kane
Planning Inspector

14 June 2018