



An  
Bord  
Pleanála

## Inspector's Report ABP-301281-18

**Development** The development will consist of a two storey extension to the rear with 2 no. windows at first floor level, one window facing to the rear, and one window with obscure glass facing to the side, extension comprises additional kitchen, utility, dining and living spaces at ground floor level, 1 additional bedroom and new bathroom at first floor level.

**Location** 60, Prospect Avenue, Glasnevin, Dublin 9

**Planning Authority** Dublin City Council Nth

**Planning Authority Reg. Ref.** 2017/18

**Applicant(s)** Elaine & Ronan Gahan

**Type of Application** Permission

**Planning Authority Decision** Dublin City Council

**Type of Appeal** First Party against condition

**Appellant(s)** Elaine & Ronan Gahan.

**Observer(s)** None

**Date of Site Inspection** 22/06/18

**Inspector** John Desmond

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## 1.0 Site Location and Description

- 1.1. The application relates to a 2-storey mid-terraced dwelling located in Glasnevin, c.0.2km south of the eastern entrance to Glasnevin / Prospect Cemetery, c.0.4km north of the Royal Canal and 0.6km north of Phibsboro Shopping Centre.
- 1.2. The existing dwelling dates, most probably, from the late Victorian period. It has a stated gross floor area of 83.97-sq.m and a site area of c.130-sq.m. The terrace of dwellings is orientated west (front) to east (rear), with rear gardens set at an angle to the line of the terrace, and a small setback of a little over 2m providing private front gardens. The dwelling is c.5m in width and the rear garden perpendicular width varies but is in the region of c.4.5m and extends c.18m from the original rear wall of the terrace. The mature rear garden steps up in a terraced manner to the rear. The dwelling has an old, single-storey extension of c.22-sq.m to the rear.
- 1.3. The neighbouring property to the north (no.62) has a modern part-single / 2-storey rear extension, which has been constructed adjacent the party boundary, and roof dormer to the rear roof of the original dwelling. The neighbouring property to the south (no.58) has an older part single and part 2-storey rear extension. The single-storey extension appears to abut the party boundary with the application site.
- 1.4. There is no onsite car parking, with only on-street parking available.

## 2.0 Proposed Development

- 2.1. It is proposed to erect a 2-storey extension to the rear of 33.33-sq.m stated area (note, the stated area does not appear to take account of the replacement floor space for the existing rear extension to be removed to accommodate the proposed extension).

## 3.0 Planning Authority Decision

### 3.1. Decision

GRANT permission subject to 8no. conditions. Condition no.2 is a non-standard condition amending the development and states:

*The development hereby approved shall be amended as follows:*

- (i) The ground floor element of the proposed two-storey extension shall be reduced in length by a minimum of 2400mm so that it extends no further than the rear building line of the existing ground floor extension located to the rear of no.62 Prospect Avenue.*
- (ii) The first floor element of the proposed two-storey extension shall be reduced in length by a minimum of 500mm.*
- (iii) The proposed window in the side / south-western elevation at first floor level shall be maintained permanently in obscure glazing.*

*Reason: To protect the residential amenities of nos. 58 and 62 Prospect Avenue.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the Planning Officer (27/02/18) is consistent with the decision of the Planning Authority and the conditions attaching thereto.

#### 3.2.2. Other Technical Reports

Drainage Division (02/02/18) – no objection subject to standard drainage conditions.

### 3.3. Prescribed Bodies

TII (25/01/18) – no observations.

### 3.4. Third Party Observations

None received to file.

## 4.0 Planning History

**Reg.Ref.2606/07:** Permission **GRANTED** by the Planning Authority (FGD 16/07/07) for part single / two-storey rear extension and rear attic dormer structure. Condition no.2 attaching to the permission reduced the length of the rear ground floor extension by c.5.2m to a depth of c.11.6m.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Dublin City Development Plan 2016-2022**

Land use zoning objective - Z1 'To protect, provide and improve residential amenities'.

Section 16.10.2 Residential Quality Standards – Houses

Section 16.10.12 Extensions and Alterations to Dwellings

Appendix 17 Guidance for Residential Extensions

### 5.2. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA Site no.004024 (c.3km to the east).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main grounds of the First Party appeal against condition no.2(i) and 2(ii) may be summarised as follows:

- Condition 2(i) effectively removes the proposed lounge (8.36-sq.m) and is not a minor reduction in residential amenity and vastly reduces the usability of the home for a growing family in the medium term.
- Condition 2(ii) reduces bedroom 3 from a very small double to a small single. The wording of the Planner's Report suggests that the planner misinterpreted

the graphical information submitted and the resulting double bedroom, at 9.32-sq.m, would measure just 9.32-sq.m due to the 0.5m setback.

- By precedent, it reduces the usability and development potential of viable housing stock.
- Misapplication of Development Plan requirements.
  - Planner's Report quotes conflicting sections of the Plan (s.16.2.2.3 and s.16.10.12) and gives priority to limiting overshadowing and overbearing impact over the goal to create good quality accommodation.
  - Every requirement of the above-mentioned sections is met except for slight overbearing impact on no.62 Prospect Avenue.
- Misapplication of generic planning approaches to a site of unusual geometry.
  - Application of a single straight building line is not feasible within the geometry of sites at Prospect Avenue, compared to conventional orthogonal low-density housing layouts, and would gradually reduce rear extensions along these plots such that the rear building line to no.62 would ultimately converge with the original rear elevation of the Prospect Avenue terrace.
  - The proposed extension is essentially the same size as no.62 and the applicants have a right to be granted the same extent of development.
  - Only minimal overshadowing results to living space of no.62.
  - Saw tooth rear extension building line is appropriate on these sites, providing good access to light, orthogonal relationships between open space and living space, absorbing oblique-shaped space, facilitating conventional construction techniques and creating normal rectangular spaces.
- Precedent for development of similar scale at no.62 Prospect Avenue adjacent.
- The omission of space reduces the total area to that of a starter home from a long-term family home.

- Some overbearing impact is acceptable to achieve optimal site development of this urban block.
- Sun path diagrams (sheets ABP-01 and ABP-02; and aerial photography) illustrate shadow impact on the rear façade of no.62, which would be 2 hours in high summer (1100 to 1300) and 3 hours 20 minutes in deep winter (1120 to 1400) to the middle of the façade.
- The vast majority of no.62 would be unaffected by overshadowing and that dwelling has two large roof lights to light its internal space, with effectively no reduction of internal ambient light.
- Daylight factor calculations can be provided if requested by the Board to support the appellants' position, but would entail significant additional costs to them.
- There is significant overbearing to the rear gardens of this block due to the sites' geometries and overbearing cannot be entirely omitted.
- The proposed development is sustainable and condition 2(i) and (ii) should be omitted.

## 7.0 Assessment

### 7.1. Introduction

7.1.1. This appeal is a first party appeal against a condition (no.2(i) and (ii) only) attaching to the decision of the planning authority. Condition 2 requires the development to be amended as follows:

- (i) *The ground floor element of the proposed two-storey extension shall be reduced in length by a minimum of 2400mm so that it extends no further than the rear building line of the existing ground floor extension located to the rear of no.62 Prospect Avenue.*
- (ii) *The first floor element of the proposed two-storey extension shall be reduced in length by a minimum of 500mm.*

7.1.2. Part (iii) of condition no.2, which requires the first-floor south-west facing window to be maintained permanently in obscure glazing, is not subject of this appeal. The

reason for condition no.2 is '*To protect the residential amenities of nos. 58 and 62 Prospect Avenue.*'

7.1.3. Having regard to the provisions under section 139(1) of the Planning and Development Act, 2000, as amended, the Board has the discretion to limit its considerations to the condition concerned. I am of the opinion that the principle of the development is acceptable and that, having regard to nature of the condition, determination of the application by the Board, de novo, would not be warranted in this instance.

## 7.2. **Condition 2(i)**

7.2.1. I see no particular justification for the setting back of the proposed ground floor extension within the context of this old suburban area and the existing development that has taken place to the rear of such dwellings. I would agree with the appellant that the level of overshadowing of (loss of direct sunlight to) no. 62 (adjacent to the north) would not be excessive, although it may be appreciable in winter months. Also, the loss of daylight to and visual intrusion on no.62 would not be excessive. I am satisfied that the proposed ground floor extension would not seriously injure the amenities of no.62 Prospect Avenue by way of visual intrusion, overshadowing or loss of daylight.

7.2.2. Visual intrusion, or overbearing of the neighbouring property to the south, no.58 Prospect Avenue, from the ground floor extension would not be insignificant, but nor would it be excessive within the context. Direct overshadowing of no.58 would be minimal, as would loss of daylight. I am satisfied that the proposed ground floor extension would not seriously injure the amenities of no.58 by way of overshadowing, loss of daylight or overbearing / visual intrusion.

## 7.3. **Condition 2(ii)**

7.3.1. I see no particular justification for the reduction of the extent of the proposed first floor rear extension within the context. The proposed first floor extension would not unduly impact on neighbouring residential property by way of overshadowing, loss of daylight or visual intrusion / overbearing and would not seriously injure the amenities of property in the vicinity.



## 8.0 Recommendation

- 8.1. I recommend that the Board direct the planning authority to **REMOVE** parts (i) and (ii) of condition no.2.

## 9.0 Reasons and Considerations

It is considered that the design of the proposed extension would not be out of character with the pattern of development in the vicinity, would not set an undesirable precedent for development or seriously injure the amenities of property in the vicinity, would be consistent with the zoning objective pertaining to the site, Z1 '*To protect, provide for an improve residential amenities*', would not adversely affect the character of an Architectural Conservation Area and would be in accordance with the proper planning and sustainable development of the area.

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John Desmond  
Senior Planning Inspector

28<sup>th</sup> June 2018