



An  
Bord  
Pleanála

## Inspector's Report ABP-302181-18

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<b>Development</b>	The development will consist of the demolition of the single storey extension, and part 3 storey extension to rear
<b>Location</b>	44, Grosvenor Road, Rathmines, Dublin 6
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	2039/18
<b>Applicant(s)</b>	John & Orla McKiernan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Stephen Carson
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17 <sup>th</sup> October 2018 & 18 <sup>th</sup> October 2018
<b>Inspector</b>	Ronan O'Connor

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located on the northern side of Grosvenor Road, Rathmines. On site is a two-storey over lower ground level property (presenting a three storey elevation to the rear) with an existing single storey conservatory extension to the rear. The property is detached from No. 43 to the south-east but is attached to No. 45 to the north-west, with the rear windows of No. 45 facing over the appeal site. To the north-east the appeal property faces the blank gable wall of No. 46.
- 1.2. The area is predominantly residential in nature and is characterised by relatively large period properties.

## **2.0 Proposed Development**

- 2.1. The development will consist of the demolition of the single storey extension, and the construction of a 3 storey extension to rear.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Grant permission. Conditions of note include:
  - Condition No. 2: The development shall be revised as follows: a) The rear, corner windows serving Bedroom no. 4 and Bedroom no. 5 shall be omitted and replaced with windows on the rear elevation that match the size, cill height and shape of the proposed sash windows on the rear elevation, as shown on Drawing no. XT-R-435-02 submitted as further information. b) The eastern side elevation of the proposed extension shall be a solid wall. The portion of glazing on the eastern side elevation shall be omitted; Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority: Reason: In the interests of privacy and residential amenity.

- Condition No. 3: The windows on the western elevation serving Bedroom no. 4 and Bedroom no. 5 shall be permanently glazed with obscure glass. Reason: In the interests of privacy and amenity.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The reports of the planning officer reflect the decision of the planning authority.

Points of note are as follows:

##### Report Dated 6<sup>th</sup> March 2018

- Proposed extension would overshadow a window at No. 45 Grosvenor Road.
- Concerns regarding loss of amenity and visual dominance.
- Requested to omit second floor extension and omit the proposed enlargement of the window on the western elevation.
- Level of perceived overlooking is of concern – reduction in the size of the window opes is requested.
- Requested that 2 of the 3 rooflights are omitted.
- Single storey extension was considered to be acceptable.
- Further Information was requested in relation to (i) omission of second floor extension and the proposed enlargement of a window on the western elevation at first floor level (ii) reduction in the size of the window opes (iii) plans to show proposals for the removal of the side chimney (iv) reduction in the number of rooflights from 3 to 1.

##### Report Dated 29<sup>th</sup> June 2018

- The report responds to the additional information submitted on the 8<sup>th</sup> June 2018.
- Applicant proposes to retain the second floor extension/shadow analysis submitted showing limited impact.
- Applicant proposes to obscure the window on the western elevation at first floor level.

- Concern remains in relation to obscured window on eastern side elevation- perception of overlooking – omit it by way of condition.
- Size of windows can be addressed by way of condition.
- Applicant has stated that chimney is proposed to be retained.
- Rooflights are retained as they could be installed as exempted development.
- Recommendation was to grant permission.

### 3.2.2. Other Technical Reports

Drainage – No objection subject to conditions.

## 3.3. Prescribed Bodies

3.3.1. None.

## 3.4. Third Party Observations

3.4.1. Two submissions were received. The issues raised include impact on development potential of adjoining property at No. 43 as a result of the windows on the eastern elevation, windows out of scale; impact on amenity of No. 45 including overlooking, overshadowing/loss of light, visual amenity, impact on property value, impact of construction works, lack of consultation.

## 4.0 Planning History

4.1.1. None.

## 5.0 Policy Context

### 5.1. Development Plan

Dublin City Development Plan 2016-2022

5.1.1. The site is located in an area that is zoned Objective Z2 (To protect and improve the amenities of residential conservation areas) under the provisions of the Dublin City

Development Plan 2016-2022. Under this land use zoning objective, residential development is a permissible use.

5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy CHC4 – To protect the special interest and character of all Dublin’s Conservation Areas.
- Section 16.2.1 Design Principles.
- Paragraph 16.10.12 of the Plan relates to extensions to residential properties.
- Appendix 17 of the Plan provides guidance on residential extensions.

## 5.2. **Natural Heritage Designations**

5.2.1. None.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. The Third Party Grounds of Appeal are as follows:

- Appellants are the owners of the property to the west/northwest (No. 45 Grosvenor Road)
- Appellant’s house and the appeal property have an unusual and sympathetic relationship.
- Proposal would detract from the amenities of appellant’s property by reason of overlooking, overshadowing and visual obtrusiveness.
- Existing lightwell at the junction of No. 45 and 44 providing light to both properties.
- Original design of both houses is mutually sympathetic and the amenities and privacy of both houses are protected equally.
- Appellant’s property enjoys unimpeded light during daylight hours and available sunlight from the east during the morning period.

- House currently enjoys a good degree of privacy. – overlooked by only one window.
- Proposal will result in overshadowing – shown clearly by the shadow study/particularly impact the first floor bathroom/ground floor kitchen roof lights/windows to the hall landing areas/in morning time/particularly during summer months and September.
- Will result in overlooking - windows are proposed that will side elevation overlook No. 45 – direct overlooking of hall and landing areas/also windows to the rear elevation/will overlook two bedrooms to the rear of No. 45.
- Conditions will not address this issue.
- Proposal will result in a much more obtrusive and overbearing structure when viewed from the kitchen than is currently the case/views from the bathrooms at first floor and second floor levels would be impacted.
- Proposal is contrary to the policies of the Development Plan.
- Impacts would not be addressed by a reduction in the height of the property to two storeys.
- Will have negative impacts on the value of appellant's property.
- ABP requested to overturn the decision of the planning authority and refuse permission.

## 6.2. Applicant Response

6.2.1. The applicant's response to the Third Party Appeal is summarised as follows:

- No works to the front elevation – integrity of the streetscape is protected.
- Relationship between 44 and 45 is maintained by retaining the separation distances and light well at upper floor levels.
- Works proposed are relatively modest.
- Proposed external finish will match the existing house in respect of materials and colour.

- Shadow analysis submitted – demonstrates that there are no appreciable changes neighbour's amenities.
- Proposed development would result in a reduction in depth at ground level and a modest 1.5 deep extension to the first and second floors.
- Light study submitted at further information stage (and attached to the appeal submission) shows that there is no quantitative change in the existing conditions in relation to the first floor (secondary) window, the hall and stairwell.
- Planner's report correctly notes that the second floor extension would shade neighbouring bathroom windows only and the shading would be limited to 1-2 hours in the morning during mid-summer only.
- Roof has been designed to maximise light penetration into yard of No. 45 and the neighbouring properties.
- Intention to resolve perceived overlooking and allow No. 45 to enjoy the same if not more privacy/existing west facing window that are clear glazing at present will be obscured.
- Corner 'feature' window has been omitted and replaced with windows on the rear elevation.
- Proposed 1.5m extension would in fact lessen the existing overlooking by creating a far more oblique angle where overlooking is negligible/this issue should be disregarded/windows have been redesigned in scale and size to lessen the perceived impact.
- Proposed extension is in keeping with the surroundings and would not be visually overbearing or obtrusive to neighbouring properties.
- Proposal will enhance the overall appearance of the facades.
- Views will only be restricted from a small secondary bathroom window in No. 45.
- Proposal conforms to design guidance for extensions.
- Will provide improvements for a growing family of six.

6.2.2. The applicant's response includes a submission from Conservation Architects Cathal O'Neil which is summarised below:



- No impact on the streetscape.
- Small degree of additional overshadowing – will be minimal/will only be experienced in rooms which are not of high amenity value.
- No record of planning permission for kitchen area.
- No overlooking as a result of obscured windows – windows could be fixed by way of condition/additional north facing windows do not result in overlooking.
- No increase in visual obtrusiveness/no impact on views.

### 6.3. **Planning Authority Response**

6.3.1. None.

### 6.4. **Observations**

6.4.1. None.

### 6.5. **Further Responses**

6.5.1. A response from the Third Party Appellant to the First Party Submission is summarised below:

- Plans clearly show an increase in the number and size of windows in the rear and side elevation facing the property.
- Proposed three storey extension would be located c3.5m from the rear elevation of No. 45.
- Opaque windows will not prevent overlooking when they are opened.
- Loss of privacy as a result of the increased number of windows and the change in the configuration of these windows.
- Proposal would result in more significant overshadowing than the existing extension.
- Reduction in light to the hall/landing, main reception and circulation space which are striking design features within the house.

- Will resulting in overshadowing of the family bathroom/loss of light and sunlight will detract from its amenities.
- Will result in a loss of visual amenities from kitchen and bathroom windows.
- Conservation issues were not referred to in the appeal submission/amenities of the house is the issue.
- Works to the kitchen are exempted development.
- Proposals would be contrary to the zoning objective of the area which seeks to protect the residential amenities of the area.

## 7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Residential Amenity
- Design and Conservation
- Other Issues
- Appropriate Assessment
- Environmental Impact Assessment

### 7.2. **Principle of Development**

7.2.1. The site is zoned 'Z2' under the Dublin City Development Plan, 2011-2017. The stated objective for 'Z2' zoned land is "to protect and/or improve the amenities of residential conservation areas". The principle of residential development is generally acceptable on 'Z2' zoned land, subject to safeguards.

### 7.3. **Residential Amenity**

7.3.1. The Third Party Appellants have raised the issue of residential amenity including impacts on daylight and sunlight/overshadowing, loss of privacy and loss of outlook/impact on views.

- 7.3.2. In relation to loss of daylight and sunlight/overshadowing, the appellants have raised specific concerns in relation to the impacts on the kitchen rooflights, the first and second floor bathrooms and the hall/landing areas. The BRE Guidelines (Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, 2011) note that bathrooms and circulation areas need not be analysed when considering impacts of development on adjoining buildings, and consideration of impacts is limited to rooms where daylight is required, including living rooms, kitchens and bedrooms.
- 7.3.3. The First Party has submitted a shadow analysis as part of the further information submission, which considers the impact of the extensions on the neighbouring properties. This indicates that there would be an impact on morning sunlight levels to the kitchen skylights at No 45, as well the first and second floor bathroom windows, the impact being greatest on 21<sup>st</sup> September. However, this impact is limited to a relatively brief period in the morning, and the skylights still receive some sunlight in the morning time. The orientation and location of the skylights is such that these skylights are effectively overshadowed for much of the day, given the close proximity of existing development. I do not consider that the minor additional impact on same is sufficient to warrant a refusal in this instance. There is no additional impact on the bedrooms at No. 45 that face towards the appeal site.
- 7.3.4. In relation to overlooking, any windows that face directly towards the appellants property are obscured. The appellants have stated that overlooking would still result if these are opened. The applicants have stated that they would accept a condition requiring these windows to be fixed shut. I consider that this is a reasonable compromise in this instance and a condition can be imposed in relation to same. In relation to the windows facing towards the blank gable wall of No. 46, I do not consider that there would a material increase in the level of overlooking, over and above the existing rear facing windows that have the same outlook.
- 7.3.5. In relation to loss of outlook from the windows of No. 45, I note that the outlook from the landing window at second floor level is limited already due the existing rear return of No. 44. There will be an impact on outlook from the bathroom windows and the kitchen skylights as a result of the extensions but I consider that sufficient outlook will remain, having regard to the limited additional depth of the rear extensions at No. 44. The bedrooms facing the appeal site will also maintain a sufficient level of outlook.

- 7.3.6. In relation to visual impact, the rear extensions will be visible from the rear windows of No. 45, and from some adjoining properties, but having regard to the limited additional depth of the extensions I do not consider that the visual amenity of the surrounding properties will be materially impacted upon.
- 7.3.7. I note the occupier of No. 43 raised concerns in relation to the development potential of this property. The planning authority imposed a condition that required *inter alia* the removal of windows on the eastern elevation. I consider that this is a reasonable condition and should be re-imposed.
- 7.3.8. Overall, I do not consider the proposal results in any injurious impact on residential amenity and would not have an adverse impact on property values.

#### **7.4. Other Issues**

- 7.4.1. Design and Conservation - No objection was raised by the appellants in relation to conservation issues. Subject to conditions relating to the omission relocation of the corner windows, the planning authority was generally satisfied with the appearance of the proposed development. I concur with the view of the planning authority in relation to the relocation of the windows, and consider that the conditions relating to same be re-imposed in this instance. The overall appearance of the extensions, subject to these conditions, is acceptable.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, extensions to an existing property, within a serviced area and separation 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 the conservation objectives of any European site.

#### **7.6. Environment Impact Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, extensions to an existing property, and having regard to the separation distance to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact

assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 8.0 Recommendation

8.1. Grant permission.

## 9.0 Reasons and Considerations

Having regard to the design, appearance of the proposed extensions, and the pattern of development in the vicinity, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenities of property in the vicinity, would not have an adverse impact property values, and would not adversely impact on the character of the Residential Conservation Area. The proposed development, therefore, would 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, as amended by the further plans and particulars received on 8<sup>th</sup> June 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. The development shall be revised as follows: a) The rear, corner windows serving Bedroom no. 4 and Bedroom no. 5 shall be omitted and replaced with windows on the rear elevation that match the size, cill height and shape of the proposed sash windows on the rear elevation, as shown on

Drawing no. XT-R-435-02 submitted as further information. b) The eastern side elevation of the proposed extension shall be a solid wall. The portion of glazing on the eastern side elevation of the extension shall be omitted; Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority:

**Reason:** In the interests of privacy and residential amenity.

3. The windows on the western elevation serving Bedroom no. 4 and Bedroom no. 5 shall be fixed-shut and permanently glazed with obscure glass.

**Reason:** In the interests of privacy and amenity.

4. The external finish shall match the existing house in respect of materials and colour.

**Reason:** To protect existing amenities

5. 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.

6. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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Rónán O'Connor  
Planning Inspector

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19<sup>th</sup> October 2018