



An  
Bord  
Pleanála

## Inspector's Report ABP-302488-18

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<b>Development</b>	Demolition of an existing single storey side extension and the construction of a new two storey end of terrace house and associated works
<b>Location</b>	Side of 47, Newbrook Avenue, Donaghmede, Dublin 13, D13 DK35
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	WEB1292/18
<b>Applicant(</b>	Jason Bonney
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Donaghmede Estate Residents' Association
<b>Observers</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> November 2018.
<b>Inspector</b>	Stephen O'Sullivan

## **1.0 Site Location and Description**

1.1. The appeal site with a stated area of 403m<sup>2</sup> comprises the side garden of No 47 Newbrook Avenue, a two storey end of terrace dwelling on the western side of Newbrook Avenue at the corner of Newbrook Avenue and a dead end side spur to Newbrook Avenue. The area is characterised by similar terraced residential development. A set of photographs of the site and its environs taken during the course of the site inspection is attached.

## **2.0 Proposed Development**

2.1. It is proposed to demolish the single storey side extension to the house on the site and to build a new two-storey house at the end of the terrace. The stated area of the new house is 139m<sup>2</sup>. The stated area of the house to be retained is 89m<sup>2</sup>. The proposed house would include a two-storey projection c1.5m from the front wall of the existing terrace. It would also have a dormer window on the back slope of the roof that light storage space in the attic. The boundary between the back gardens of the houses would be stepped so that the garden of the original house would be 61m<sup>2</sup> while that of the new house would be 88m<sup>2</sup>. Parking for 2 cars is shown in front of the proposed house. The existing house would retain a driveway.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to 13 conditions, none of which would substantially alter the proposed house. Condition no. 4 stated that only car parking space would be provided for the new house with an access no more than 3.6m wide.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planner's report stated that the proposed development was similar to that refused permission by the board under PL29N. 243060. The context of that decision has changed because the current development plan requires private open space of 10m<sup>2</sup> per bedspace while the plan that applied in the previous case required 15m<sup>2</sup>. Both the existing and proposed house would meet the current development plan standards. The shape of both gardens would be somewhat irregular due to the retention of the shed behind the existing house and the curve in the boundary of the proposed house. However both gardens would have rendered them useable shapes. The parking provision would be adequate. The board's previous interpretation of parking standards was overly strict. One parking space per house would be adequate. It is difficult to be precise on that basis of the board's second reason on the previous decision. The Inspector on the previous case considered that the scale, form and design of the proposal was in keeping with the character of the area and the planning authority concurs with this conclusion. A grant of permission was recommended.

### 3.3. Third Party Observations

The appellants objected to the proposed house on grounds similar to those raised in the subsequent appeal.

## 4.0 Planning History

- 4.1. PL29N.243060, Reg. Ref. 3642/13 – the board refused permission for a house on the site after the planning authority had decided to grant permission. The board's reasons were –

*1. It is considered that, by reason of an insufficient and substandard level of external private amenity space to serve the proposed dwelling, together with inadequate car parking provision in accordance with the standards as set out in the Dublin City Development Plan 2011 – 2017 to serve the existing and proposed dwellings, the proposed development would seriously injure the existing and future residential amenities of the dwellings and of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.*

*2. The proposed development would be incongruous by reason of its roofscape and the extensive site coverage proposed. It is considered, therefore, that the proposed development would constitute overdevelopment of the site and would seriously injure the visual and residential amenities of the area*

4.2. Reg. Ref. 3824/15 – the planning authority granted permission on 27<sup>th</sup> January 2016 for a porch extension and a dormer window on the rear roof of the existing house at No. 47 Newbrook Avenue.

## 5.0 Policy Context

### 5.1. Development Plan

The Dublin City Development Plan 2016-2022 applies. The site is zoned residential under objective Z1. Section 16.10.2 of the plan sets down standards for houses.

With regard to private open space it states –

*A minimum standard of 10sq.m of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70m<sup>2</sup> of rear garden area is considered sufficient for houses in the city.*

Section 16.10.9 refers to houses in side gardens. It states –

*The development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites and to a high standard of design can constitute valuable additions to the residential building stock of an area and will generally be allowed for by the planning authority on suitable large sites.*

*However, some corner/side gardens are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than to create a poor quality independent dwelling, which may also compromise the quality of the original house.*

*The planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:*

- *The character of the street*

- *Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings*
- *Impact on the residential amenities of adjoining sites*
- *Open space standards and refuse standards for both existing and proposed dwellings*
- *The provision of appropriate car parking facilities, and a safe means of access to and egress from the site*
- *The provision of landscaping and boundary treatments which are in keeping with other properties in the area*
- *The maintenance of the front and side building lines, where appropriate.*

Table 16.1 sets out maximum car parking standards for the city. The site is in zone 3 where the standard is 1.5 per dwelling.

## 5.2. **Natural Heritage Designations**

None

## 6.0 **The Appeal**

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

- The appellant appealed the previous application to the board which upheld the appeal and established a precedent for similar proposals on this site.
- The proposed house is close to existing homes on Newbrook Avenue in parking that at No. 93 opposite which makes it an unsuitable structure that impinges on the well being of residents. Major alterations of the site have been opposed for many years by residents.
- Future occupants may be of a transient nature with no attachment to the community, which should be stated even if it does not influence the planners. It does not appear that the owner of the site lives there.

- The proposed design would be in conflict with existing homes and should be approved.
- There are ongoing traffic problems in the area at this location. The proposed development would lead to traffic hazard. This part of Newbrook Estate is a cul-de-sac with narrow lanes. Local residents are often trapped in their driveways. Correspondence with the council regarding these problems is submitted.
- It is not clear why costly works are required to provide attic storage.
- There is a history of problems with drains in the area which the conditions of the planning authority's decision would not ease.
- The development here would be totally unsuitable as previously determined by the board.

## 6.2. Applicant Response

- The proposed house would provide a good standard of residential accommodation. The second floor is proposed as an Office/Play Room/Storage in accordance with the building regulations. The width of the dormer is restricted to 3.5m which is similar to other similar windows permitted by the planning authority.
- The proposed private amenity space and car parking would meet the current development plan standards. The garage at the back of the site would be retained and it provides a second parking space. 75m<sup>2</sup> of private amenity space would be provided behind the proposed house to serve the 5 bedspaces within it.
- The provision of houses in side gardens is in line with the development plan. the proposed house is in keeping with the character of the area. The proposed house would maintain the height of the terrace in which it would stand. Examples of similar houses in side gardens or with rear dormers in the vicinity are cited, including those at 49a Carndonagh Road, 71 Donaghmede Road, 2 Donaghmede Park and 110 Newbrook Avenue

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

No response was received from the planning authority.

### 6.4. **Further Responses**

The appellant's response to the applicant's response states that the developments cited in the latter were not subject to objection from residents. This is the 6<sup>th</sup> such appeal to the board concerning development of the site. A lorry is frequently parked to the side of the site. If permission is granted parking problems would be exacerbated. Nothing in the submitted convinces that orderly development would occur. No part of the development at No. 110a Newbrook Avenue impinges on the cul de sac at that location.

## 7.0 **Assessment**

- 7.1. The Dublin City Development Plan 2016-2022 recognises the role that new houses on corner plots and side gardens in existing residential area can play in making a more efficient use of the land in such areas, although this is subject to various safeguards in relation to the residential amenity of other properties in the vicinity and the established character of such areas.
- 7.2. The proposed development would meet the standards set out in the current development plan with respect to private open space and car parking, both for the new house and the existing one on the site. Both houses would have back gardens of at least 10m<sup>2</sup> per bedspace or 60-70m<sup>2</sup>, which would comply with the applicable standard set out section 16.10.2 of the plan. The existing house would retain 1 car parking space on its curtilage which the proposed house (under the conditions of the planning authority's decision would have 1 space to its front and another in the garage at the back. This would comply with the parking standard of 1.5 spaces per dwelling in this area set out in Table 16.1 of the plan. the comments in the appeal regarding parking are noted. At the time of inspection there were several cars parked in the street in the immediate vicinity of the site, more so than elsewhere in the surrounding estate. However the possibility of inconsiderate parking will always arise in urban areas and it should be addressed by the enforcement of road traffic

laws rather than by refusing permission for housing that would otherwise be in keeping with the proper planning of an area.

- 7.3. The scale, height, form and design of the proposed house would match the terrace to which it would be attached. The proposed dormer on its rear roof is not an established or common feature along Newbrook Avenue although it does appear in places, as shown by the photographs submitted with the response to the appeal. It would not significantly impinge on the character of the area, but neither would it increase the amount of residential accommodation in the proposed house. Its appropriateness is therefore debatable. In the absence of a clear contravention of a specific provision of the development plan on this type of structure, it is not recommended that it be omitted from this development. The proposed house would therefore respect the character of the area.
- 7.4. The proposed house would not unduly overlook, overshadow or overbear any other property. Its impact on the outlook from the front of the houses to the north would be acceptable. The proposed development would not, therefore, seriously injure the amenities of property in the vicinity of the site.
- 7.5. As stated in the appeal, the board previously refused permission for a similar development on this site. However the material considerations pertaining to this application are different because a different development plan applies. The board is the final arbiter on the planning merits of any particular proposal and has to consider each application and appeal before it on its own merits. It is not, therefore, bound by any precedent established by its previous decisions the way an inferior court or tribunal is when considering issues that have previously been determined by a superior one notwithstanding the general desirability of seeking consistency in the decisions of any administrative body.

## **8.0 Recommendation**

- 8.1. I recommend that permission be granted subject to the conditions below.



## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the site and the standards for residential development set out in the Dublin City Development Plan 2016-2022, including those relating to houses on corner site at section 16.10.9 of the plan and the parking standards at Table 16.1, and to the pattern of development in the area it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity and would be acceptable with regard to the safety and convenience of road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 1.0 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, 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 Only one car parking space shall be provided in front of the permitted house and the access to it shall be no more than 3.6m wide. The remainder of the front garden shall be set out and maintained in soft landscaping/planting.

**Reason:** In the interests of amenity and road safety

- 3 The materials, colours and finishes of the permitted house shall match/harmonise with those of the existing house on the site.

**Reason:** In the interest of visual amenity.

- 4 Site development and building works shall be carried out only between the

hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 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.

- 6 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

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

- 7 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:** In the interest of public health.

- 8 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

- 9 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.

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Stephen J. O'Sullivan  
Planning Inspector

23<sup>rd</sup> November 2018