



An
Bord
Pleanála

Inspector's Report 302561-18

Development

Retention and permission for modifications to previously approved development. Development includes retention of raised parapet on flat roof on 1st floor extension, retention of attic dormer element to rear and retention of two flat roof rooflights and permission for new attic window to front.

Location

11 Villa Park Road, Navan Road,
Dublin 7

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3365/18

Applicant(s)

Donal Tuttle

Type of Application

Retention and permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party Appeal

Appellant(s)

Donal Tuttle

Observer(s)

Brian and Jacinta Clarke

Lynne McSherry

Date of Site Inspection

9 December 2018

Inspector

Joanna Kelly

1.0 Site Location and Description

The site, a rectangular shape comprising of a two-storey end of terrace, is located along Villa Park Road, Dublin 7 approximately 60m north of Phoenix Park. Blackhorse Avenue is located to the south and the Navan Road is to the north. The site currently houses a two storey dwelling which has been subject to alterations in recent months. Permission has also been granted in the side garden (northern boundary) for a dwelling which has not been constructed to date. There is a rear access/lane to the side of no. 1 Villa Park Gardens which allows vehicular access to the site. There is currently security fencing to the rear elevation.

2.0 Proposed Development

The applicant is seeking retention and permission for modifications to previously approved development. Development includes

1. Retention of raised parapet on flat roof on 1st floor extension
2. Retention of attic dormer element to rear
3. Retention of two flat roof rooflights
4. Permission for new attic window to front elevation

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for the proposed development for two reasons as follows:

1. Having regard to the zoning provisions of the Dublin City Development Plan 2016-2022, the scale and bulk of the rear dormer, the height of the two-storey rear extension and prominent location of the site it is considered that the development to be retained and completed would result in an overbearing impact on adjoining properties and would result in a development which would

be visually obtrusive. It is considered that the development to be retained and completed would be seriously detrimental to the visual and residential amenities of the residential area and would set an undesirable precedent for further similar developments in the vicinity. The proposed development to be retained and completed is therefore contrary to the proper planning and sustainable development of the area.

2. Having regard to the pattern of development in the area and in particular to the absence of windows at roof level on the terrace of properties fronting onto Villa Park Road or other properties in the vicinity of the proposed development, the proposed front dormer extension would result in a development which would be visually obtrusive and visually incongruous. It is considered that the development would be detrimental to the visual and residential amenities of the residential area and would set an undesirable precedent for further similar developments in the vicinity. The proposed development is contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Report

The planning report notes the zoning and planning policies for the area. A number of submissions were noted which raised concerns in respect of contravention of standards set out in the City Development Plan; excessive height of parapet wall of the first floor rear extension; proposal out of character with the area; negative impact on adjoining residential amenity; encroachment and over-sailing onto adjoining property; industrial style rooflight; rear extension will be used as roof garden; impacts on Phoenix Park.

Reference is made to the permitted dormer at no. 3 Villa Park which is similar in width but this was set down from the ridge of the roof and back from the eaves. The extension does not directly overlook any adjoining properties and cannot be seen from the public road. The dormer extension is not considered subordinate to the original house. Proposal was considered unacceptable.

With regard to the front dormer, ABP previously refused permission for rooflights to the front of the house as the visual impact on the terrace of houses was not acceptable. The proposed roof windows are out of character with the surrounding area and would negatively impact on the residential and visual amenities of the area.

With regard to the raised parapet the section drawings submitted with the application do not show any increase in floor to ceiling heights and there is no justification for the increase in height submitted with the application.

The planner recommended a refusal for two reasons.

3.2.2. Other Technical Reports:

Drainage Divisions No objection

4.0 **Planning History**

File Ref. No. 2536/15 Permission granted for two storey three bed house in the side garden of no. 11 Villa Park Road.

File Ref. 2008/17 Application granted for modifications to previously approved residential development to include a new two storey house to be reconfigured, enlarged to 207sq.m. and attached to no. 11 Villa Park including a 59sq.m.extension to rear of house no. 11 including dormer element at attic level.

File Ref. No. 3059/17 PL.300448-17 Application for modification to previously approved residential development including addition of partial basement level to new house at no. 11a and addition of attic windows to front of existing and new house no. 11 and 11a. ABP granted the basement and refused permission for the dormer windows on the front elevation for the following reason:

“Having regard to the pattern of development in the area and in particular to the absence of windows at roof level on the terrace of

properties fronting onto Villa Park Road or other properties in the vicinity of the proposed development, and to the fact that the proposed development, as approved, provides for windows at attic level for both no. 11 and 11a, the Board did not consider that the visual impacts on the terrace of houses were acceptable. The Board, therefore, considered that this element of the proposed development would be visually intrusive and would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.”

File Ref. No. PL.243142 Permission granted for conversion of existing attic storage space to a storage room. This site is at no. 3 Villa Park and has been referenced in the documentation submitted in this appeal. This permission pertained to a dormer on the rear roof slope which the Board considered acceptable.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022 is the statutory plan for the area. The site has a land use zoning objective ‘Z1’ – ‘to protect, provide and improve residential amenities’.

Section 16.10.12 deals with extensions and alterations to dwellings.

The design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar finishes and windows. Extensions should be subordinate in terms of scale to the main unit. Applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:

- Not have an adverse impact on the scale and character of the dwelling

- Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

Appendix 17 of the CDP provides the following:

17.7 Appearance

Most houses were originally designed and built as completed entities and did not take account of any need to incorporate future extensions. It is therefore necessary when considering the design of an extension to take account of the following criteria:

The extension should not dominate the existing building and should normally be of an overall shape and size to harmonise with the existing house and adjoining buildings; the original appearance should be the reference point for any consideration of change that may be desired.

The materials used should ideally be the same as those used on the existing building; features such as windows and doors on the new extension should relate to those on the original building in terms of proportion.

Extensions to the front, which significantly break the building line, should be resisted.

17.8 Subordinate Approach

The subordinate approach means that the extension plays more of a 'supporting role' to the original dwelling. In general, the extension should be no larger or higher than the existing.

17.11 Roof Extensions

The roofline of a building is one of its most dominant features and it is important that any proposal to change the shape, pitch, cladding or ornament of a roof is carefully considered. If not treated sympathetically, dormer extensions can cause problems for immediate neighbours and in the way a street is viewed as a whole.

When extending in the roof, the following principles should be observed:

The design of the dormer should reflect the character of the area, the surrounding buildings and the age and appearance of the existing building.

Dormer windows should be visually subordinate to the roof slope, enabling a large proportion of the original roof to remain visible.

Any new window should relate to the shape, size, position and design of the existing doors and windows on the lower floors.

Roof materials should be covered in materials that match or complement the main building.

Dormer windows should be set back from the eaves level to minimise their visual impact and reduce the potential for overlooking of adjoining properties.

5.2. **Natural Heritage Designations**

No known designations in the vicinity of the site.

6.0 **The Appeal**

6.1. The primary grounds of appeal are summarised as follows:

- Reason 1 relates to the rear of the house. A dormer extension was permitted as part of File Ref. No. 17/2008. This dormer retention relates in part to an additional area of dormer which is recessed and adjacent to the permitted element. It only has an additional area of 0.6m and 2.1m internally.
- A similar, larger feature was granted by ABP on a nearby site at no. 3 Villa Park PL.243142.
- The context in this case is much less visually dominant because the new house about to be built against no. 11 will completely wrap around with a pitched roof at 90 degrees rendering it almost invisible.
- The dormer is stepped back from the party boundary with no. 9 Villa Park whereas the dormer permitted by ABP is not.
- Request that the dormer element is granted.

- With regard to the rear extension the previously approved two storey element was slightly amended to facilitate adequate head height internally.
- The context for this is not visually dominant as a new house is to be built adjacent to no. 11 Villa Park.
- The first floor extension is set back in excess of 2m from the ground floor extensions on the adjoining properties.
- The neighbouring property at no. 9 Villa Park Road is due south of the subject property and thus there can be no issue of overshadowing.
- Reason 2 relates to the pitched dormer to the front of the house. A precedent has already been set for this element at no. 58 and 58a Villa Park Avenue.
- Request that permission be granted for the development.

6.2. **Planning Authority Response**

- None noted on file

7.0 **Observers**

7.1 Lynne McSherry (includes signatories from local residents)

- ABP are still in the process of making a decision on the appellant's previous modified planning application for dormers to the front of the buildings on this site. DCC should have refused to deal with the application under section 37, Part 5 (a)(i) of the planning act.
- Proposal is considered material contravention and should not have been granted.
- The refusal of the roof windows to the front of the buildings is very much welcomed by local residents.
- Other parts of this appeal are for retention of an unauthorised development. The appeal is an attempt to disrupt legal proceedings.
- There is no correlation between the dormer in this appeal and that which was

granted and cited by the appellant as precedent. The latter was set down from the ridge of the roof and back from the eaves.

- The original roof profile of no. 11 Villa Park Road has been altered significantly to the extent that only a small strip of the original roof remains in the area of the boundary with no. 9 Villa Park Road. This gives the appearance that an additional storey has been added.
- The stepping back as referred to by the appellant's architect has been negated by the sheer bulk and scale of the development.
- With regard to the raised parapet, there is considered discrepancy and confusion regarding the measurements of same. Concerned that the parapet has the potential to facilitate a terrace/roof garden on top of the flat roof.

7.2 Brian and Jacinta Clarke

- Design of the development has negatively impacted on the residential and visual amenities of home no. 9 Villa Park.
- Dormer extension materially differs from that of no. 3 Villa Park as it is prominently located on a corner.
- The roof below the dormer elements has been removed, across the full width of the roof and the height of both dormer roofs have been raised to the level of the roof ridge line at no. 11 Villa Park. As a result, dormer extensions dominate the rear roofscape and are not subordinate structures.
- The windows in the dormer extensions are considerably larger than those in the dormer extensions at 3 Villa Park. Windows intrude on privacy of neighbouring residents. Windows appear to contravene Appendix 17 of the Dublin City development plan as their increased size and their positions do not correspond to the windows that were at the rear of the original house.
- The extensions to the roof are out of scale relative to the existing roof profile and are not comparable to other extensions in the area.
- Worth considering the visual impact of these extensions in the event that no. 11 a dwelling is not constructed.
- Even if no. 11a dwelling is constructed the extensions will still be clearly visible from Villa Park Gardens, Blackhorse Avenue, the Phoenix Park. The only street from which the extensions will be concealed is Villa Park Road.
- The increased height of the rear extension is unjustified.
- A 900mm increase in height to an extension in close proximity to adjoining house is unacceptable and is a significant amendment to the design.

- The rear extension is out of scale and not in keeping with pattern of development in the area.
- First floor extension is not set back in excess of 2m from ground floor extension of observers' property as stated by the appellant. It is set back c. 1.35m.
- Some measurements have been omitted from the drawings that would have helped to clarify the present height of the extension.
- The increased height of the extension causes an even greater negative impact on the ingress of natural light to living space and outlook from habitable rooms in observers' property.
- The bulk and close proximity of the extension has significantly devalued the observers' property.
- ABP has already refused permission for attic windows to the front of this property.
- The dormer windows cited at 58 and 58A Villa Park Avenue are considerably smaller than the dormer window proposed in this application. Unfortunately, these windows were granted retention despite their visually intrusive design in the context of the roofscapes of adjacent properties.
- The roof lights are not flat and have a significant vertical profile. The roof light on the flat roof of the first floor will be visible from the street if permission to retain the raised parapet is refused.
- The total effect of the bulk, design and scale of the extensions are not in keeping with the character of the area and are not acceptable as they detract from the existing visual and residential amenities of the area and the observers' property in particular.

- The development is not built in accordance with most of the recommendations of Appendix 17 of Dublin City Development Plan 2016 and is contrary to proper planning.
- Ask that ABP refuse permission in order to protect the residential and visual amenities of the neighbouring properties.

8.0 Assessment

Pursuant to site inspection and inspection of the surrounding environs including examination of all documentation, plans and particulars, and submission/observations on file, the following are the relevant planning considerations of this application:

- Retention of raised parapet on flat roof on 1st floor extension
- Retention of extended attic dormer element to rear
- Retention of two flat roof rooflights
- Attic window to front elevation
- AA screening

I note the comments of the observers that the application should not have been accepted by the planning authority as there was a concurrent appeal pertaining to the site with ABP. I consider that validation of an application is a matter for the planning authority and does not fall within the remit of An Bord Pleanála.

7.1 Retention of raised parapet on flat roof on 1st floor extension

The proposal involves retaining a raised parapet on the first floor extension. While I note observers have raised concerns regarding the scale and mass of the proposed extension, the parapet does not actually result in a material difference to that which was granted other than eliminating an overhang detail and the rain water gutter. This element is not considered to have an impact on any existing residential or visual amenities of the area.

7.2 Retention of extended attic dormer element to rear

An attic dormer has been granted under File Ref. No. 2008/17 and the first party is now seeking to retain alterations made which primarily consist of minor increase in floor area and the provision of an additional window at roof level on the rear elevation. From examination of the floor plans it would appear that these works were to facilitate the provision of light to the stairs. The window does not give rise to overlooking. I consider it reasonable that people should be able to extend their houses to provide/improve the residential amenity of a dwelling subject to the proposal not impacting on the existing residential amenities of the area. While I note the observers' concerns regarding the scale of the development, the proposal does not result in any significant increase in floor area being provided and does not result in overlooking or overshadowing to adjoining properties. I also note that the appearance of the dormer is more prominent on the rear roof than that previously permitted. Observers make reference to the provisions of the Dublin City Plan regarding dormer windows and that they should be visually subordinate to the roof slope. The Dublin City Development Plan refers to "design principles" and, therefore, I consider that each application should be considered on its own merits and that principles do not have to be slavishly applied. The development plan also provides that "any new window should relate to the shape, size, position and design of the existing doors and windows on the lower floors" which arguably is the case in this instance. Having regard to the provisions of the Dublin City Plan and to the site context and more importantly on the basis that the proposal will not injure the existing residential or visual amenities of the area, I consider that the proposal is acceptable. There are many examples of similar rear dormer extensions throughout Dublin City.

7.3 Consideration of works in the context of the permitted dwelling no. 11a

I consider that the retention of the works in this appeal needs to be considered in the context of the permitted adjoining dwelling no. 11a which has not been constructed to date. The roof plan for retention submitted indicates that there would be no eaves overhang of no. 11a onto this site of no. 11 Villa Park. However, the existing contextual rear elevation for retention shows that there will be an overhang of the party line. I consider that an alteration may be required to the eaves at this location,

however, the works would be considered 'de minimis' and do not impact on any third party properties.

7.4 Retention of two flat rooflights

I have no objection to the retention of the two flat roof lights which do not give rise to any impact on the existing residential amenity of the area. These rooflights are not visible from the public realm.

7.5 Attic window to front elevation

The applicant is proposing an attic window to the front elevation. The Board has previously refused permission for an attic window on this front roof slope previously and the reason has been cited heretofore under the history section of this report. The window proposed is the same as that previously applied for and refused. I note that reference is made to precedent at no. 58 and 58a Villa Road. While I acknowledge these windows are similar to those proposed in this application, there is no material change in circumstances as to why this window would now be permitted. The attic room is not considered suitable as habitable space and given that there is a large window already serving this room, there is no justification for the dormer on the front elevation. I consider that the previous reason for refusal is still relevant in this regard.

7.6 AA Screening

Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

9.0 Recommendation

I recommend a **split decision** as follows:

1. Permission is **refused** for the proposed attic window on the front elevation for the reasons and considerations outlined below;
2. Permission is **granted** for the retention of the raised parapet on flat roof on 1st floor extension, retention of first floor attic dormer element to rear and the retention of two flat roof rooflights subject to conditions.

10.0 Reasons and Considerations

1. Having regard to the pattern of development in the area and in particular to the absence of windows at roof level on the terrace of properties fronting onto Villa Park Road or other properties in the vicinity of the proposed development, and to the fact that the proposed development, as approved, provides for windows at attic level for both no. 11 and 11a, the Board did not consider that the visual impacts on the terrace of houses were acceptable. The Board, therefore, considered that this element of the proposed development would be visually intrusive and would seriously injure the amenities of the area. Further, having regard to the previous refusal pertaining to the same development, File Ref. No. 300448-18, there is no change in circumstances that would warrant a reversal of this decision. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2.Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan, the permitted development on the site, and to the nature and scale of the development to be retained, it is considered that, subject to compliance with the conditions set out below, the development to be retained does not seriously injure the residential amenities of the area or property in the vicinity. The development is, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall have been 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. In the default of agreement the matter(s) in dispute may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Apart from the modifications permitted on foot of this decision, the development shall otherwise be carried out in accordance with the terms and conditions of planning permission register reference number 2008/17 amending planning permission register reference number 2536/15.

Reason: In the interest of clarity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall have complied with the requirements of the planning authority for such works and services.

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

4. 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.

Joanna Kelly
Senior Planning Inspector

9th December 2018