



An
Bord
Pleanála

inspector's Report ABP-302868-18

Development	Modify vehicular access & relocate street light to the left of the entrance, and construction of part single storey part two storey extension to rear.
Location	78, Stannaway Road, Crumlin, Dublin 12
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3695/18
Applicant(s)	Colm Kilcoyne
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	First Party
Appellant(s)	Colm Kilcoyne
Observer(s)	Philip Moloney
Date of Site Inspection	3 rd February 2019.
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 166sqm is located on the northern side of Stannaway Road and comprises an end of terrace two storey dwelling. The area is characterised by dwellings of similar scale and design many with off street car parking to the front. A set of photographs of the site and its environs taken during the course of my site inspection is attached. Please note that the rear of the appeal property was not accessible during the site inspection.

2.0 Proposed Development

2.1. The planning application submitted to DCC on the 9th August 2018 sought permission to modify existing vehicular access and relocate the street light to the left of the entrance and also to construct part single storey part two storey extension to rear.

3.0 Planning Authority Decision

3.1. Planning Authority Reports

3.1.1. Planning Reports

- **Case Planner** – Stated that the established maximum depth of a first floor rear extension for terraced housing is 3.5m. Recommended that the first floor rear extension be modified. Stated that the front garden is insufficient in depth to provide for an off street car parking space as required under the Guidelines “Parking Cars in Front Gardens”. Recommended that the vehicle entrance, the relocation of the street light (on the public footpath), the off street car parking space and driveway be omitted. The Case Planner recommended that permission be granted subject to amendments as set out in Condition No 3 & 4. The notification of decision to grant planning issued by Dublin City Council reflects this recommendation.

3.1.2. Other Technical Reports

- **Drainage** – No objection subject to conditions.

3.2. Prescribed Bodies

3.2.1. None recorded.

3.3. Third Party Observations

3.3.1. None recorded.

3.4. Decision

3.4.1. DLRCC issued a notification of decision to grant permission subject to **12 conditions**. Conditions relevant to this appeal are as follows:

3. The proposed vehicle entrance, relocation of the street light and modification of the front garden boundary shall be omitted from this permission.

Reason: *In the interest of public safety.*

4. Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to, and agreed in writing by the Planning Authority and such works shall be fully implemented prior to the occupation of the extension:

(a) The proposed rear extension shall project a maximum of 3.5 metres from the existing rear building line at first floor level.

(b) The existing barge board (horizontal white plaster course located at sill level between ground and first floor levels) on the front elevation shall be retained

(c) The front garden boundary wall and pillars shall be re-instated except where pedestrian entrance is indicated (0.801 m between gate pillars).

(d) The front garden shall be reinstated as an amenity area either grassed or landscaped except where garden path is provided

(e) The measurements indicated above are external measurement

(f) *All internal and external modifications to give effect to the above*

Reason: *In the interests of the protection of public safety, residential amenity and visual amenity.*

4.0 **Planning History**

4.1. There is no evidence of any previous appeal on this site.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The site is within an area zoned **Sustainable Residential Neighbourhoods – Zone Z1** where it is an objective *to protect, provide and improve residential amenities*. **Section 16.10.12** of the Development Plan sets out the development standards for **Extensions and Alterations to Dwellings**. Appendix 17 provides more detailed **Guidelines for Residential Extensions**.

5.2. The Case Planner makes reference to the DCC “**Parking Cars in Front Gardens**” Guidelines where it states that *the basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres. It is essential that there is also adequate space to allow for manoeuvring and circulation between the front boundary (be it a wall, railing or otherwise) and the front of the building. A proposal will not be considered acceptable where there is insufficient area to accommodate the car safely within the garden, and to provide safe access and egress from the proposed parking space, for example near a very busy road or a junction with restricted visibility*. The leaflet further states that generally, *the vehicular opening proposed shall be at least 2.5 metres or at most 3.6 metres in width and shall not have outward opening gates. Narrower widths are generally more desirable and maximum widths will generally only be acceptable where exceptional site conditions exist*.

5.3. Natural Heritage Designations

5.3.1. The site is not located within a designated Natura 2000 site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal submitted on the 26th October 2018 has been prepared and submitted by Brock McClure Plannign & Development Consultants on behalf of the applicant Colm Kilcoyne. The appeal is against Condition No 3 and Condition No 4(a), (c) and (d) only and may be summarised as follows:

- **Condition No 3 and No 4(c) & (d)** – There is a clear planning precedent for vehicular entrances and associated car parking within the immediate context. Notably the majority of the houses at this location have driveways and associated car parking. The dimensions identified by the Planner is rejected. The garden depths extend to 5.5m in places. A car parking space of 3 x 5m can be successfully accommodated within the front garden, which is contrary to the assessment of the planning officer. Further the addition of a car parking space would relieve the on street parking that currently exists at this location. Requested that Condition No 3 and No 4(c) & (d) is removed.
- **Condition No 4(a)** – The Board is asked to revise the wording of Condition 4(a) to provide for a first floor extension of 5m. Submitted that there is significant precedent in the immediate area for first floor extensions that extend to 4.5m. The applicant has submitted a development option for a depth of 5m at first floor level. This is considered a balanced approach given the set back to adjoining properties. Requested that Condition No 4(a) is amended.
- **Amended Drawings** - As part of this appeal, the applicant submitted amended plans *documenting a more appropriate proposal by way of indicative revisions to drawings submitted at planning application stage.* Submitted that these revisions address the issues raised by the Planning Authority and negate the requirement to attach Condition No 3 and associated

Conditions 4(c) and (d) and lend a more favourable Condition 4(a) to the grant of permission in question.

6.2. Planning Authority Response

6.2.1. There is no response from DCC recorded on the appeal file.

6.3. Observations

6.3.1. There is one observation recorded on the appeal file from Philip Moloney, No 76 Stanaway Road (adjoining property to the north). The issues raised relate to loss of natural light, reduction in property value, appeal property is not a family home, rather it is a rented out and incorrect property map as it incorporates part of the observers rear garden.

6.4. Further Responses

6.4.1. There are no further responses recorded on the appeal file.

7.0 Assessment

7.1. This is a first party appeal against Condition No 3 and No 4 (a), (c) & (d) only. In general where there is an appeal against a condition(s) only the assessment is confided to same as set out under Section 139 of the 2000 Act (as amended). However there is a single observation on the appeal file raising specific concerns in relation to residential amenities, reduction in property value and accuracy of the property map. Accordingly I consider it appropriate to consider this appeal de novo.

7.2. Please note that access to the rear of the appeal property was not possible during the site inspection. While accessibility would have been beneficial I am satisfied that together with the details available on file that the scheme can be assessed.

7.3. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle

- Residential Amenity
- Vehicular Entrance
- Residential Amenity
- Other Issues

8.0 Principle

8.1. The appeal site is wholly contained within an area zoned Residential (General) – Zone Z1 where residential extensions and alterations to an existing dwelling for residential purposes is considered a permissible use. I am satisfied that that the principle of the development of a rear extension is acceptable at this location subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

9.0 Residential Amenity

- 9.1. The first party have appealed Condition No 4 (a) that required that the proposed rear extension project a maximum of 3.5 metres from the existing rear building line at first floor level. The proposed rear extension extends to 6.825m at ground floor and 6.515m at first floor level with the first floor is set back 1.285m from the property to the west (No 80) and the extension at ground and first floor level set back c0.8m – 1.96m from the property to the east. The applicant has submitted a development option for a depth of 5m at first floor level as part of their appeal. It is further noted that the observer to the appeal at No 76 Stanaway Road (adjoining property to the north) raises specific concern in relation to residential amenity and loss of natural light.
- 9.2. I have considered the proposed plans and particulars and I agree with the Case Planner that the extension as proposed would cast a degree of shadow for such a development on its neighbours due to the orientation of the proposed first floor extension in a north-west direction. I further agree that the rear extension requires modification, in order to protect residential amenities. While it is accepted that the applicant has reduced the depth of the first floor extension to 5m I do not consider this is adequate to protect the amenities of adjoining properties. In this regard I agree with the approach of DCC and recommend that a condition similar to Condition No 4(a) be attached reducing the depth of the rear extension to 3.5m.

10.0 Vehicular Entrance

- 10.1. The first party have appealed Condition No Condition No 3 and No 4 (c) & (d) (omission of vehicular entrance) requesting that they be removed. The Case Planner considered that the front garden was insufficient in depth to provide for an off street car parking space as required under the Guidelines "Parking Cars in Front Gardens". The applicant submits that there is a clear planning precedent for vehicular entrances and associated car parking within the immediate area. In addition the applicant has submitted a revised proposal for the vehicular entrance reducing its width while increasing the width of the pedestrian entrance. The conditions under appeal state as follows:

3. *The proposed vehicle entrance, relocation of the street light and modification of the front garden boundary shall be omitted from this permission.*

Reason: *In the interest of public safety.*

4. *Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to, and agreed in writing by the Planning Authority and such works shall be fully implemented prior to the occupation of the extension:*

(a) The proposed rear extension shall project a maximum of 3.5 metres from the existing rear building line at first floor level.

(c) The front garden boundary wall and pillars shall be re-instated except where pedestrian entrance is indicated (0.801 m between gate pillars).

(d) The front garden shall be reinstated as an amenity area either grassed or landscaped except where garden path is provided

Reason: *In the interests of the protection of public safety, residential amenity and visual amenity.*

10.2. The planning application submitted to DCC on the 9th August 2018 sought permission to modify the existing vehicular access and relocate the street light to the left of the entrance. The proposed vehicular entrance is stated on drawings as 3.5m wide with a side pedestrian entrance of 0.801m. As pointed out by the Case Planner and as noted on day of site inspection the development of a wide vehicular entrance has already been carried out and has a stated width of 4.15m. There is no separate defined pedestrian entrance currently on site (site photos refer). The revised vehicular entrance submitted with the appeal on the 26th October 2018 is 3m wide with a side pedestrian entrance of 0.8m.

10.3. I have noted the DCC "Parking Cars in Front Gardens" Guidelines together with the plans and particulars proposed. Firstly I do not consider the vehicular entrance and associated works to be visually incongruous. While the existing vehicular opening on site is extensive relative to adjoining properties I do not consider the principle of such an opening to be out of character with the area where it was noted on day of site inspection that vehicular entrances and associated off street car parking appears

to be the rule rather than the exception. It is noted that there is no DCC Roads or Traffic report recorded on the appeal file.

- 10.4. On balance I do not consider that the extent of the opening (as amended) along the frontage to be out of character with the area. It is recommended that should the Board be minded to grant permission that a condition be attached restricting the width of the vehicular entrance to 3m and that of the pedestrian access to 0.8m. I am also satisfied given the location of the appeal site that the proposed entrance would not conflict with traffic or pedestrian movements in the immediate area. Overall I consider the proposal to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard.

11.0 Other Issues

- 11.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising a rear house extension modified vehicular entrance, within an established urban area, and its 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 a European site.
- 11.2. **EIA Screening** – Having regard to the nature and scale of the proposed development comprising a rear house extension modified vehicular entrance in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 11.3. **Property Values** – The scheme before the Board is for a rear house extension modified vehicular entrance within a serviced urban area where such developments are considered a permissible use and where it is reasonable to expect developments of this kind would normally be located. Therefore the proposed scheme is not considered to be a bad neighbour in this context and I do not therefore consider that to permit this development would lead to a significant devaluation of property values in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal.

11.4. **Legal Interest** – I note the observers concerns that the property map incorporates part of their rear garden. In this regard I would draw attention to Section 34(13) of the Planning Act that states, that a person is not entitled solely by reason of a permission to carry out any development. Therefore, should planning permission be granted for the retention of the entrance as constructed and should the appellant or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant.

Development Contributions – Dublin City Council did not attach a Development Contribution condition. DCC has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) namely Dublin City Council Development Contribution Scheme 2016 – 2020. I have reviewed the categories of development that will be exempted or partly exempted from the requirement to pay a development contribution under this scheme and note the following. Under Section 12 Exemptions and Reductions it states that *residential ancillary car parking and the first 40sq meters of extensions to a residential development (subsequent extensions or extensions over and above 40 square meters to be charged at the residential rate per square meter)* will be exempted from the requirement to pay development contributions under the Scheme. According to the planning application form the stated floor area of new extension is 48sqm (Question No 10 refers). Having regard to the foregoing recommended amendments to reduce the overall depth and floor area of the extension the development would fall under the exemptions criteria. Accordingly a Section 48 Development Contribution is not required.

12.0 Recommendation

12.1. It is recommended that permission be **granted** subject to conditions for the reasons and considerations set out below

13.0 Reasons and Considerations

13.1. Having regard to the Z1 Sustainable Residential Neighbourhoods zoning objective for the area as set out in the Dublin City Development Plan 2016-2010, the overall

design and scale of the development proposed, the location of the appeal site and the established pattern of residential development in the area it is considered that subject to the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by plans and particulars submitted with the appeal on the 26th October 2018 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. Prior to commencement of work on site revised plans, drawings and particulars showing the following amendments shall be submitted to, and agreed in writing by the Planning Authority and such works shall be fully implemented prior to the occupation of the extension:
 - a) The vehicular entrance shall have a maximum width of 3m wide. The pedestrian entrance shall have a maximum width of 0.8m
 - b) The proposed rear extension shall project a maximum of 3.5 metres from the existing rear building line at first floor level.
 - c) The existing barge board (horizontal white plaster course located at sill level between ground and first floor levels) on the front elevation shall be retained

Reason: In the interests of the protection of public safety, residential

amenity and visual amenity.

The footpath in front of the proposed vehicular entrance shall be dished and strengthened at the Developers own expense including any moving / adjustment of any water cocks / chamber covers / public lighting and all to the satisfaction of the appropriate utility company and Planning Authority. With regards to the dishing and strengthening of the footpath the Developer shall contact the Road Maintenance & Control Section of Dublin City Council to ascertain the required specifications for such works and any required permits.

Reason: In the interest of public safety.

3. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity

4. 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.
5. Site development and building works shall be carried only out between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

Mary Crowley

Senior Planning Inspector

3rd February 2019