



An  
Bord  
Pleanála

**Inspector's Report**  
**302956-18**

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<b>Development</b>	Construction of house with vehicular access in side garden.
<b>Location</b>	66 Clarence Mangan Road, Blackpitts, Dublin 8
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3773/18
<b>Applicant(s)</b>	Ed O'Flaherty
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Peter and Ann Crotty
<b>Date of Site Inspection</b>	2 <sup>nd</sup> February 2019
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. The site of 122 sq.m. is part of the original curtilage of a corner site located on the North side of Clarence Mangan Road at its junction with Blackpitts (to which Granville Parade runs parallel to the rear of the site). An island junction to the front of the house separates the Clarence Mangan Road from Greenville Avenue. The site backs onto Hammond Street which is off Granville Parade. There is a complex road network and varied form of building typology which is mainly two-storey. Clarence Mangan Road is part of medium density 1920s council housing development comprising a mix of small semi-detached and terraced housing with front and back gardens and plot widths in the order of 8.4-11m with generous building line set back at corner junctions. This is quite different from the denser single bay red brick houses along Hammond Street which backs onto the site where houses have small yards with many houses extending to the original boundary. A laneway between the roads appears to have been incorporated into the house plots along Hammond Street and a gate onto Blackpitts remains but is boarded up.
- 1.2. The original plot of no. 66 is approximately twice the width of the mid-terraced house plots. The plot depth is the shallowest at 16.5m as compared no.55 at around 40m due to the street layout and tapering of plot depths. The frontage width of 8.38m (narrowing to 7.15m) is consistent with the mid-terraced houses.
- 1.3. The site is part of the original front garden which turns the corner alongside the house to the rear boundary. The site is boarded up and there is a for sale sign as distinct from the dwelling. The photographs on file show the former low railing extending along the entire frontage of the site as distinct from the screened rear garden/yard.
- 1.4. The house at no.66 has been extended deep into the garden at ground level and less so at first floor level which leaves a small yard stated to be around 25 sq.m but is not included in the plans. No. 1 Hammond street which has been extended partially backs on to the dwelling at no.66 and extends across the full width of the proposed development site. This house at no. 1 has been extended up to the boundary and features a large first floor window facing into the site.

## 2.0 Proposed Development

2.1. The proposed development involves:

- Construction of a two-storey three-bedroom house of 122 sq.m.
- Style is consistent with existing on the front elevation with the same symmetry, roof height and slope as in adjacent houses. The side elevation fronting Blackpitts is more contemporary and incorporates a zinc type clad flat roof extension to the rear with a picture window at first floor level.
- A rendered and brick finish is proposed
- A vehicular entrance is proposed to the rear garden off Blackpitts.
- 0.54 site coverage.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission subject to 6 conditions.

Condition 1 relates to compliance with drawings.

Condition 2 relates to section 48 contribution

Conditions 3 relates to section 49 (LUAS) contribution  
restrict flat roof use

Condition, 4 requires amendments

Omission of car parking to provide open space and wall to be provided in accordance with agreed revised boundary treatment.

Condition 5 relates to drainage

Condition 6 relates to archaeology

Conditions 7, 8 and 9 relate to construction stage.

### 3.2. Planning Authority Reports

3.2.1. The planning report refers to policies and guidance on infill development and corner sites as contained in the current Development Plan. (z1, QH8, QH22, sections 16.10.10 and 10.10.9.) The site context and mixed building pattern are

acknowledged. A favourable comparison is made between the former proposal for two dwellings and aspects of the overall design in terms of standards, and design.

### 3.2.2. Other Technical Reports

Drainage: no objection subject to conditions

Archaeology: \site is within a zone of archaeological Constraint for /recorded Monument DU018-020 and is subject to statutory protection under the National Monuments Act 1994. It is also on the boarder of a zone od archaeological interest in the Dublin City Development Plan 2016-22. A condition is recommended in the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

Transportation Planning: No objection. The 15m distance of the vehicular access from the junction is acceptable in terms of traffic safety.

### 3.2.3. Objections

- One submission is made by the residents in 1 Hammond Street in relation to impact on amenity by way of proximity and loss of daylight, and sunlight and privacy and overbearing impact. This is further to the cumulative impact of extensions carried out to the rear of no.66 up to the boundary and it is submitted without planning permission. No discussions have taken place as advised in development plan.

## 3.3. Prescribed Bodies

Irish Water: No report

TII: No objection. Levy applies for Luas.

## 4.0 History

### 4.1. The site:

PA ref: 3130/18 refers to refusal of permission for two houses on the same site.

The proposed development would be substandard with regard to the minimum provision of private open space for each house as set out under Section 16.10.2

(Residential Quality Standards – Houses) of the /Dublin City Development Plan 2016-2022 and would therefore represent and overdevelopment of the site,. Further the proposed additional houses would excessively breach building line, proportion and parapet level established along Clarence Mangan Road contrary to the requirements of Section 16.10.9 (Corner sites/side gardens) of the Dublin City Development Pan to maintain the building lines, proportion and parapet levels. The proposed development would therefore by itself and the precedent it would set for other similar development seriously injure the residential and visual amenity of both existing and potential residents, be contrary to the provision of the development plan and the proper planning and sustainable development of the area.

#### 4.2. **No. 1 Hammond Street**

An Bord Pleanala Ref PL29S.236002/PA ref: 4246/09 refers to permission for a two storey over basement extension to side and rear at 1 Hammond Street which provides for 4 bedrooms in a house three times the original size. (Pursuant to a first party appeal against conditions, permission was granted without modifications in relation to stepping back and use of materials. The drawings indicate a brise soleil attached to the first-floor rear corner window.

### 5.0 **Policy Context**

#### 5.1. **Development Plan**

- 5.1.1. The site is zoned Z1 to protect and improve residential amenity.
- 5.1.2. Chapter 16 provides a range of guidance for residential development, whether new build, infill, subdivision or provided by way of extension and all are relevant. Section 16.10.9 and 16.10.10 refer to infill development and corner sites/side gardens. The overall aim is visual integration while not adversely impacting the scale and character of the dwelling nor the amenities of adjacent properties in respect of privacy and access to light.

Private Open Space: space: Privacy is an important element of residential amenity, and contributes towards the sense of security. Private open space for houses is usually provided by way of private gardens to the rear or side of a house. 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. In relation to proposals for house(s) within the inner city, a standard of 5-8sq.m of private open space per bedspace will normally be applied.

## 6.0 Grounds of Appeal

6.1.1. The neighbours to the rear of the site at 1 Hammond Street have lodged an appeal against the grant of permission and the issues raised are similar to those already raised in the objection to the planning authority. The matters refer to;

- Loss of light and overshadowing to family home.
- The proposed development at a distance of 6m from the rear of the appellants' kitchen window/ extension which is 3m from the rear boundary is unacceptable and contrary to section 17.2 which states that it should have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.
- The occupant is an artist with her studio on the first floor. The extension of 8 years was designed to optimise the natural lighting hence the corner window – a two storey house 6m away will greatly reduce the amount of light.
- The bedroom beside the bathroom will suffer a loss of privacy due to proximity of development. And 10m separation.
- Overbearing effect
- 2 storeys at 3m distance from boundary 6m from appellants house will be overbearing due to height as viewed from living, working and outdoor private space – the amenity of which should be protected under the development plan.
- The amenities of no.66 have not been fully considered. The residual open space now breaches the exemption criteria. The whole site should be considered.
- 28sqm for a 6-bed space house is substandard - it should be 30sqm.

- Request an increased setback from rear wall to provide a compromise 8m separation. This reduced site coverage would increase open space and improved car parking off street which is to be welcomed.
- The first floor could be revised to improve privacy.
- The 10m separation is not the norm on the street.
- The 40sqm houses along Hammond Street were understandably permitted to build to the boundary to provide basic accommodation. The subject development is not comparable.
- Loss of light to no. 66 such as through rooflight.
- It appears there has been inadequate consideration of the lowering of ground and consequently lower parapet level.

## 6.2. First Party Response

6.3. The response opens with a supporting statement by reference to the development plan, planning history and planning authority report and decision. The grounds of appeal are specifically addressed in the following statements:

- The extension is equidistant from the rear party boundary wall as compared to the appellants' extended dwelling.
- The narrow side windows while acceptable to the planning authority in terms of privacy could be omitted as there is another window.
- A boundary height of 8m is acceptable to the applicant if deemed so by the Board. (Inspector's note: This appears to be an error or misreading of the grounds which in fact refers to 8m separation.)
- The overbearing impact is disputed by reference to the scale, height and form and harmonising characteristics with the prevailing features in the surrounding development.
- The 22m distance does not apply as windows are not directly opposing due to orientation and design. There is sufficient distance from the proposed

development to the shared boundary to prevent overlooking of the ground floor and amenity space.

- The development site is separate to the original house at no.66 which is not subject of the planning application. It is however stated that the residual open space is in the order of 25sq.m.
- The 30sq.m. is only marginally breached and is considered appropriate as the house is for 4/5 persons and the open space is of a functional layout as referred to by the planning authority.
- The Board is requested to consider reinstatement of the car park space due to the seasonal use of open space. A permeable surface is proposed such as Grasscrete which allows grass to grow while providing a suitable surface for a car.

#### **6.4. Planning Authority Response**

No further comments

#### **7.0 EIAR screening**

- 7.1. Having regard to the nature and scale of the proposed development and the location of the site, 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 Assessment**

##### **8.1. Issues**

- 8.1.1. This appeal is against the scale and proximity of a dwelling house in a side garden on the basis of its impact on residential amenities. There is no dispute with respect to the principle of a house at this location and in this regard, I note that the proposed plot is consistent with other plots along the same road and at 122 sq.m. can provide for a separate dwelling that harmonises with the building typologies in the immediate environs. The depth of the site together with the depth of the site to the rear however is a design constraint. It is the detailed approach to the issues arising from the



separation distance that is subject of dispute. I am satisfied that having regard to the development plan policies in respect of infill development and corner sites that a house can be accommodated in principle and that the salient issues in this case relate to:

- Loss of light and overshadowing
- Overbearing impact
- Overlooking and Loss of privacy
- Substandard development - Private open space
- Car Parking

On the matter of subdivision raised by the appellant, this assessment is based on the understanding that the site has been subdivided as it is no longer part of the curtilage of the house on no.66. Based on maps and photographs, the subject was it seems never part of the private curtilage to the rear of the house and is I consider quite separate. While there are statements about the planning status of works carried out at no.66 I consider this to be an enforcement issue and to be separate to the development under appeal. To assess both sites would require new notices and further drawings should the Board wish to further consider this matter.

## **8.2. Loss of light – overshadowing**

- 8.2.1. The appellants are concerned about the proximity of the two storey dwelling at about 6m from their property. The applicant however makes the case that the proposed rear building line is simply equidistant at 3m from the party boundary as is the appellants extended property. In a counter response the appellants refer to the completely different context of Hammond Street that has resulted in a much more compact form of development which understandably breaches current residential standards; the extension of very basic and narrow houses with original floor areas of around 40 sq.m. into yard areas has been facilitated so as to modestly modernise dwellings. In this regard I note the applicant appears to have availed of this opportunity to improve accommodation by extending to the side and the rear to provide quite a generous double width 4-bedroom family home. The house has become reliant on the rear open aspect for enjoyment and amenity in the first-floor corner room which is used as an artist's studio.

- 8.2.2. I accept that the subject site is not reliant on-site depth for providing basic accommodation in accordance with current standards but is in fact supporting an additional dwelling of relatively generous proportions by local standards. The site can amply provide a small three-bedroomed town house. It would seem unreasonable to no not permit an effective comparable extension to the side of no.66 with the inevitable breach of a normally 22m back to back separation and a consequent deep shadow.
- 8.2.3. I note the approx. 2.4m high southern boundary wall to No. 1 Hammond Street already casts a shadow across the rear yard which of course varies throughout the year – the southerly orientation of the rear elevation of the appellants' house provides good access to sunlight with a summer sun at around 60 degrees. With the sun at 45 degrees, the flat roofed extension at 6m in height and over a 3m distance from the boundary would not increase the shadow cast into the rear yard of no.1. However, during spring and winter times when the sun is lower there will be some increase in shadow. I do not consider it unreasonable to seek to minimise the increase in shadow.
- 8.2.4. The house does not need to be as deep as proposed to provide a three bed dwelling. A marginal scaling back of the first floor would allow for better light penetration to the proposed and surrounding houses to the north.
- 8.2.5. I note the hipped roof profile rather than an extended ridge reduces the bulk and permits higher levels of sunlight than an extended roof. Given the varied building types this not out of character.

### 8.3. **Overbearing Impact**

- 8.3.1. The appellants also raise concerns about the overbearing aspect. While the design ensures privacy is maximised and height is minimised, I accept that a 6m high north facing blank gable wall 3m behind the 2.4m high wall would be somewhat austere and a modest stepping back is appropriate. A stepping back of the first floor would still accommodate a third single room.

### 8.3.2. **Overlooking and loss of privacy**

8.3.3. The appellants are concerned about the impact on privacy. No.1 was extended at a time when the subject site was a front railed garden in accordance with prevailing building lines and while availing of this open aspect I do not consider it reasonable that existence of first floor windows, in no.1, 3-5m from the rear boundary should unduly compromise the building of a three-bedroom house on this site. Two number bedrooms proposed have windows to the front with the second bedroom also having two narrow windows in the rear elevation and the third bedroom has a large window onto the side elevation (Blackpitts) in addition to narrow windows on the other side elevation of the projection.

8.3.4. The applicant offers to remove the narrow opposing windows which are of concern due to a rear bedroom window in no.1.

8.3.5. I note the windows in the rear elevation which aligns with rear building line of the adjacent house and that the separation distances due to the plot depths are shallower. The windows are secondary in the second bedroom as it has a window in the front elevation but to remove them would result in a rear elevation without any window which I consider would be bleak in aspect and in terms of internal light. It is a tight urban context and alternatives to privacy can be provided by screening and obscuring of glazing partially or wholly. I consider this to be preferable to omission of windows in the second bedroom

8.3.6. The appellants are also concerned about privacy to due proximity of the windows in the third room to a bedroom window. I consider the omission of the more northerly window in the west elevation would be appropriate.

### 8.4. **Substandard- Open Space**

8.4.1. The proposed private open space amounts to 28 sq.m. which for a new build falls short of a minimum inner-city standard of 30sq.m. The applicant's case is that the 28 sq.m. is functional space and allows for a good quality layout. A marginal stepping back in the order of one metre would I consider bring the open space up to the minimum qualitative standard. I see no reason to not require this minimum space particularly when in doing so would reduce impacts but without compromising the building of a three-bedroom family dwelling which I consider is on balance a desirable addition to the area.

## **8.5. Car Parking**

- 8.5.1. The applicant in his response about the private open space issue also challenges the condition omitting the car park space on the basis that the open space is seasonally used and the off-street parking will reduce demand for on-street parking. This response was not circulated for further comment. I note the Transport Planning Division has no objection in terms of traffic safety. Notwithstanding the use of permeable surface, the site layout which provides for 28 sqm of space would be significantly encroached upon by a parking space and gates. The car would be close to the floor to ceiling windows with little residual planting space. A marginal setting back of the rear building line would allow for some perimeter planting and be more amenable to providing for a dual use. Consideration should also be given to a slight stepping from the boundary to incorporate an external sliding gate to maximise the exclusive amenity space. A single gate as indicated in the drawings is I consider too intrusive as it requires the virtually the entire 'garden' to accommodate a car while opening and closing the gate. This could be addressed by condition.
- 8.5.2. On balance I consider the proposed dwelling subject to minor amendments to be appropriate form of development on the site and to be in accordance with the proper planning and sustainable development of the area.

## **9.0 Appropriate Assessment**

- 9.1. In view of the modest scale and nature of the proposed development which involves building on a serviced site in an urban area, I do not consider the issue of appropriate assessment arises.

## **10.0 Recommendation**

- 10.1. I recommend that the decision of the planning authority be upheld and that permission be granted based on the following reasons and consideration and subject to conditions set out hereunder.

## 11.0 Reasons and Considerations

Having regard to the zoning objective for the area which seeks to protect and provide for residential amenity (z1) in the Dublin City Development Plan 2016-2022, the pattern of development in the area, the site size, corner location and scale of proposed dwelling it is considered that the proposed development would not constitute overdevelopment, would not give rise to traffic hazard, would not give rise to undue overshadowing or overlooking nor is it considered that the proposed development would be out of character with surrounding development. Accordingly, the proposed development would not seriously injure residential amenities of the area, would be acceptable in terms of traffic safety and would therefore be in accordance with the proper planning and sustainable development of the area.

### Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 22<sup>nd</sup> day of August 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 proposed development shall incorporate the following amendments and revised drawings shall be submitted for written agreement prior to commencement of development: -

(a) The proposed dwelling house at its deepest measurement shall be reduced in depth at ground and first floor levels by one metre thereby increasing the setback from the rear boundary.

(b) The proposed narrow bedroom windows in the rear elevation at first floor level shall be obscured up to a height of 1.6m above floor level.

(c) The more northerly bedroom window in the west elevation shall be omitted.

(d)The vehicular entrance shall be gated and operated by a mechanism that is minimally intrusive into the private open space and shall not open outwards onto the public footpath. A single swing hinged gate shall be not be used.

**Reason:** To ensure an adequate standard of development and to protect existing residential amenities of neighbouring development.

3. Prior to commencement of development, details of the materials, colours and textures of all external finishes, relating to both the dwelling and boundary treatment including gates, shall be submitted to and agreed in writing with the planning authority. All finishes shall harmonise with those of the adjacent buildings.

**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.

**Reason:** In the interest of public health.

5. The developer shall comply with the requirements for the Roads Streets and traffic department of the planning authority.

**Reason:** To ensure a satisfactory standard of development.

6. The following requirements of the Archaeology, Conservation and Heritage Section shall be strictly adhered to:

(a)If during the course of site works and construction, archaeological material is discovered the planning authority shall be notified immediately. Further it is obligatory under the National Monument Act 1994 that such is brought to the attention of the National Monuments Service, Department of Culture, Heritage and the Gaeltacht and National Museum of Ireland.

(b)In the event of an archaeological find on site the planning authority in consultation with the City Archaeologist and the National Monuments Service, Department of Culture, Heritage and the Gaeltacht shall determine the future resolution of the site.

(c) If, however no archaeological remains are encountered then no further archaeological mitigation shall be required.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

7. Site development and building works shall be carried out only between the hours of 0700 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 amenities of property in the vicinity.

8. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

9. The area of private open space shown on the lodged plans as also providing for one-off street car park space shall be designed primarily as an amenity rather than car parking area and shall be soiled, seeded and landscaped to ensure minimum car parking and in accordance with the detailed requirements of the planning authority. This work shall be completed before the dwelling is made available for occupation.

In this regard and in compliance with condition 2 a comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

10. 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.

11. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission

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Suzanne Kehely

Senior Planning Inspector

4<sup>th</sup> February 2019