



An
Bord
Pleanála

inspector's Report ABP-303056-18

Development	Retention of kitchen and living room extension to rear, conversion of garage to playroom and attic conversion with dormer window.
Location	1 Wainsfort Park, Terenure, Dublin 6w.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD18B/0367
Applicant	John Sutcliffe.
Type of Application	Retention Permission.
Planning Authority Decision	Grant Retention subject to conditions.
Type of Appeal	Third Party V Decision.
Appellant(s)	<ol style="list-style-type: none">1. Bernadette Burke2. Graham Boylan & Rosanne Edger.3. Seamus & Linda Ryan.4. Barry McNamara
Observer(s)	None.
Date of Site Inspection	15 th February 2019.

Inspector

Susan McHugh

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision.....	5
3.1. Decision	5
3.2. Planning Authority Report	6
3.3. Prescribed Bodies.....	7
3.4. Third Party Observations	7
4.0 Planning History.....	7
5.0 Policy Context.....	7
5.1. Development Plan.....	7
6.0 The Appeals	9
6.1. Grounds of Appeal No. 1.....	9
6.2. Grounds of Appeal No. 2.....	11
6.3. Grounds of Appeal No. 3.....	11
6.4. Grounds of Appeal No. 4.....	13
6.5. Applicant Response	13
6.6. Planning Authority Response	15
6.7. Observations.....	15
6.8. Further Responses.....	16
7.0 Assessment.....	20
8.0 Recommendation.....	26
9.0 Reasons and Considerations.....	26
10.0 Conditions	26

1.0 Site Location and Description

- 1.1. The appeal site is located at No. 1 Wainsfort Park, Terenure, Dublin 6w. Wainsfort Park is part of a well-established and mature residential area. It is located c. 200m south of Wainsfort Road (R817) and c. 1km north of Templeville Road (R112).
- 1.2. Wainsfort Park runs roughly north to south and forms a T-junction with Fortfield Road to the north east. The appeal site shares a side garden boundary with No. 2 Wainsfort Park a semidetached house to the west. The side garden boundary to the east forms the rear boundary of 6 no. properties (No.s 61 -53 - odd numbers) located along Fortfield Road. No.s 61, 59, 57 and 55 are home to the appellants.
- 1.3. Wainsfort Park comprises semi-detached, two storey dwellings with single storey flat roofed garages to the side. Some of the garages along the road have been converted and or extended over at first floor level.
- 1.4. No. 1 Wainsfort Park has a converted side garage along its eastern elevation, and a single storey extension to the rear northern elevation. It also includes a side dormer window. A low hedgerow forms the front side boundary to the west with No. 2 Wainsfort Park, with a low wall along the front boundary. The vehicular entrance walls, pillars and gates are recessed.
- 1.5. The front side boundary to the east is defined by a low wall and adjoins the vehicular access, parking area and side pedestrian access to No 61. An ESB substation is located to the side of and is in line with the converted garage.
- 1.6. The overall stated site area is 0.41 hectares.

2.0 Proposed Development

- 2.1. Retention permission is sought for the following;
 - Conversion of side garage to tv room, this includes a new flat roof and parapet to front and side. Elevational changes include a new window in place of the garage door.

- Single storey extension to the rear comprising kitchen and dining area. This extension extends by 3.9m from the principle rear elevation of the house. It includes a lean to roof with two rooflights. The extension to the side comprises wc and utility, with a lean to roof with two smaller rooflights, serving the kitchen and wc.
- Attic conversion to storeroom with rooflight to rear and new dormer window in eastern side gable. The dormer structure accommodates the access stairs and sits below the ridge height of the house and above the eaves. The dormer window comprises 3 panes finished in obscure glazing.
- The removal of a first-floor gable window to accommodate stairs.
- All associated site and drainage works.

The stated floor area of the development to be retained is 66.7sqm.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to **grant** permission subject to 8 no. conditions. Conditions of relevance include;

Condition 2. *'This retention permission does not include the additional first floor level window indicated on the side elevation drawing submitted.*

The applicant, owner or developer shall lodge the following with the Planning Authority within 4 weeks of the final grant date of this permission;

(i) *Revised accurate plans that incorporate all of the following amendments-*

(a) *An accurate existing front elevation drawing showing the side garage conversion and its roof height accurately,*

(b) *An accurate existing side elevation drawing omitting the first floor level window.*

The applicant, owner or developer may consult with the Planning Authority in advance of lodging the revised plans.

(ii) *The receipt for all these requirements from the applicant, owner or developer has been acknowledged in writing as an acceptable lodgement by the Planning Authority'.*

Condition 3. Restriction on Use.

Condition 4. Attic Space Use.

Condition 6. Minimise Air Blown Dust

Condition 7. Construction Noise and Hours

3.2. Planning Authority Report

3.2.1. Planning Report (dated 30/10/2018)

The Planner's Report forms the basis for the Planning Authority's decision. It includes:

- Notes one third party submission received, and issues raised in relation to; dormer window and overlooking, intrusive nature of development and out of character with the streetscape, inaccurate plans show window in side gable and incorrect dimensions.
- Site is located in an area zoned '*RES – To protect and/or improve residential amenity*'. Alterations to an existing dwelling are considered acceptable subject to its design being in accordance with the relevant provisions of the Development Plan and the Design Guide.
- Single storey rear extension has an external height of 3.02-4.04m and projects 3.9m out from the existing rear building line of the dwelling.
- Dormer to the side roof slope measures 2.7m in width and 2.2m in height.
- External finishes harmonise with the existing dwelling on site.
- Not considered that the dormer window creates any undue loss of privacy and would not have a negative impact on the visual amenity of the area.
- Development for retention acceptable. Recommends proposal is granted permission.

The decision was in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Water Services Section:** Recommends further information in relation to surface water disposal.

3.3. Prescribed Bodies

- **Irish Water:** No objections subject to conditions.

3.4. Third Party Observations

Four no. submissions were received from the following parties;

- Mr. Seamus and Linda Ryan No. 61, Fortfield Road.
- Ms. Bernadette Burke No. 59, Fortfield Road.
- Mr. Graham Boylan and Rosanne Edger No. 57, Fortfield Road.
- Mr. Barry McNamara No. 55, Fortfield Road.

Issues raised are similar to those raised in the grounds of appeal, summarised in section 6 below.

4.0 Planning History

Enforcement

Ref. S7986 file opened 05/07/2018.

Warning Letter **Ref. S152** issued 05/07/2018.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Under the County Development Plan 2016 – 2022, the site is zoned '**RES: To protect and/or improve residential amenity**'.

Chapter 2 refers to housing and Chapter 11 refers to Implementation. The Council has also produced guidance in the form of 'House Extension Design Guide'.

- 5.1.2. Section 2.4.1 of Chapter 2 considers residential extensions.

Policy H18 Objective 1 states: *To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 11 Implementation and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).*

5.1.3. Section 11.3.3 considers Additional Accommodation. Section 11.3.3(i) states with respect to Extensions: The design of residential extensions should accord with the South Dublin County Council House Extension Guide (2010) or any superseding standards.

5.1.4. The House Extension Design Guide produced by the Council provides advice on different types of extensions. Chapter 4 is entitled *Elements of Good Extension Design*. Of relevance to the subject application is the advice provided for rear extensions and dormer windows. With respect to rear extensions, it states (inter alia):

- *Match or complement the style, materials and details of the main house unless there are good architectural reasons for doing otherwise.*
- *Match the shape and slope of the roof of the existing house, although flat roofed single storey extensions may be acceptable if not prominent from a nearby public road or area.*
- *Make sure enough rear garden is retained.*

And for Dormers, it states:

- *Locate dormer windows below the ridge of the roof, even if the roof has a shallow pitch.*
- *Locate dormer windows as far back as possible from the eaves line (at least three tile courses).*
- *Relate dormer windows to the windows and doors below in alignment, proportion and character.*
- *In the case of a dormer window extension to a hipped roof, ensure it sits below the ridgelines of the existing roof and matches the materials used in the main house.*

- *Do not obscure the main ridge and eaves features of the roof, particularly in the case of an extension to the side of a hipped roof.*
- *Avoid extending the full width of the roof or right up to the gable ends – two small dormers on the same elevation can often be a suitable alternative to one large dormer.*
- *Avoid dormer windows that are overdominant in appearance or give the appearance of a flat roof.*
- *Avoid the use of flat-roofed dormer window extensions on houses with hipped rooflines.*

5.2. **Natural Heritage Designations**

There are no designated European sites within the vicinity.

6.0 **The Appeals**

6.1. **Grounds of Appeal No. 1**

A Third-Party appeal was lodged by Dr. Diarmuid Ó Gráda, Planning Consultant on behalf of Ms. Bernadette Burke, 59 Fortfield Road, Terenure, Dublin 6W. The grounds of appeal can be summarised as follows;

- Substantial increase in height of dividing perimeter wall, results in loss of daylight/sunlight, significant overbearing / loss of outlook/inhibits the use of the rear garden and subsequent material loss of residential amenity as well as property value.
- No provision in PA conditions to undo the damage caused by an unauthorised and excessive raising of the boundary wall.
- Concern in relation to Condition No. 2 of PA decision which requires accurate drawings to be submitted. Material errors in the stated dimensions by the PA, permission should not have been granted without having sight of accurate drawings.

- *Contrary to Zoning Objective* - Assert that the development to be retained is contrary to the zoning objective.
- *Planning Report of the PA* - Contains errors and omissions. Reference to one objection only being received, while the Council's website describes four observations. On examination of the file at the public counter 13th November 2018 submissions not on file.
- *Submissions received* - Query how much attention was paid by the PA to issues raised in submissions by third parties, and whether they received a fair hearing. PA did not take adequate account of the concerns of the third parties.
- *Scale of extension to be retained* – Floor area of 67sqm impact can now be assessed in situ, and damaging impact of the extension on the immediate family homes at Fortfield Road can be clearly seen.
- *Height of perimeter wall* – Planning application drawings indicates the height of the side elevation with the perimeter wall at 3.02m above the appellants garden. The wall as constructed / altered measures almost 4m (3.9m). This is about 3 feet (almost 1m) higher than shown in the application, a difference of 23%. The P.A. also misinterpreted the height of this elevation which references an external height of 3.02 -4.04m. Query whether the planner visited the site and or measured the height of the wall.
- Excessive height of rear extension – which results in loss of light to no. 59, and loss of property value.
- The perimeter wall has been used as part of the structure.
- Query why the flat roof over the TV room was not carried all the way back along the extension which would have gone some way towards protecting the residential amenity of the appellants property.
- *Legal Consent* – The east side elevation provides for external finishes including rendering, which would appear to require access from the appellants property, however no written consent has been issued.
- *Excessive Fenestration in Side East Facing Elevation* – which includes 4 windows.

- *Overlooking / Overbearing* - Large dormer window measuring 1.7m x 1.1 m, positioned 7 meters above the garden level is oppressive and results in loss of privacy. Notwithstanding Condition no. 4(b) does not address the impact of the window as it is still an opening window.
- *Excessive Scale of Dormer Window* – Triple window orientated towards rear elevation of no. 59 rather than rear garden contrary to Development Plan standards.
- *Structural stability of non-load bearing party wall without consent.*
- *Permission for retention should be refused.*

6.2. Grounds of Appeal No. 2

A Third-Party appeal was lodged by Graham Boylan and Rosanne Edger 57 Fortfield Road, Terenure, Dublin 6W. The grounds of appeal can be summarised as follows;

- *Dormer extension* - Visually intrusive due to its scale and positioning and negatively impacts on light.
- P.A. did not give adequate consideration to residents directly impacted by the development.
- *Inaccurate Drawings* – The scale and specifics of the proposed development were not therefore fully understood at the time permission for retention was granted.
- *Loss of Privacy* – Attic conversion/dormer window allows direct visibility of living areas at ground and first floor including rear garden.
- Request that a condition that the window be permanently fitted non-opening window with obscure glazing to privacy level 5 should be included.

6.3. Grounds of Appeal No. 3

A Third-Party appeal was lodged by Seamus and Linda Ryan 61 Fortfield Road, Terenure, Dublin 6W. The grounds of appeal can be summarised as follows;

- *Validity of Application* – should have been declared invalid given the inaccuracies in the drawings and missing information.
- *Flawed Assessment by PA* – did not take account of the 3 no. submissions lodged, or issues raised, or provide an analysis of impacts on neighbouring sites.
- *House Extension Design Guide* – Contrary to guidance provided as part of the Development Plan, and no assessment by PA of compliance with guidance.
- *Residential Amenity* – Dormer structure and windows contrary to residential zoning objective.
- *Inaccurate Drawings* – Condition No. 2 unclear how the PA can approve a planning application based on, by its own admission inaccurate drawings.
- *Attic Space Use* – Condition No. 4 given the nature of the application and enforcement history, a dormer of this size was designed as part of a potentially habitable space rather than a storage space. To ensure that the attic is used only as a storage space request that the space is engineered to facilitate this use only be removing the stairs, blocking up the dormer window and restoring the roof profile.
- *Overlooking / Loss of Privacy* – All three dormer windows can be fully opened, and overlook their property. Condition No. 4 in no way addresses the issue of overlooking or loss of privacy.
- *CCTV* – Applicant has installed CCTV which appears to have the capacity to turn full circle and look directly into their property, and was not included in the planning application.
- *Value of Property* – Substantial depreciation from overbearing and overlooking.
- *Lack of Precedent* – No comparable examples of dormer windows so close to a neighbouring property looking into habitable space.
- *Retention Permission* - There should be no difference in the treatment of an application for retention as for permission. By granting permission for retention it is setting a precedent.

6.4. **Grounds of Appeal No. 4**

A Third-Party appeal was lodged Barry McNamara 55 Fortfield Road, Terenure, Dublin 6W. The grounds of appeal can be summarised as follows;

- *Contrary to Residential Amenity Zoning Objective* – Residential amenity and value of the properties from 55-61 Fortfield Road has been compromised to a detrimental effect, to the benefit of the applicant.
- *Contrary to Development Plan Guidance on Extensions* – Location of any window in its current configuration contravenes the guidance.
- *Discrepancies in planning documentation* – Drawings submitted do not accurately reflect the development to be retained, in particular the side elevation drawing which does not correspond with the dormer as constructed, no dimensions provided on the existing elevation and no existing sections submitted.
- *Planners Report* – Omits reference to all submissions lodged.
- *Residential and Visual Amenity* – Disputes PA assessment that the dormer window does not create any undue loss of privacy and would not have a negative impact on the visual amenity of the area.
- *Conditions No. 6 and 7* – Relevance of conditions which refer to windblown dust and construction noise and hours of work when works are already complete.
- *Dangerous Precedent* – Infers that it is acceptable to do what one wants and seek forgiveness after the fact.

6.5. **Applicant Response**

- 6.5.1. An individual response to each of the four third party appeals, was lodged by Mr. Paul Redmond acting on behalf of the applicant. In each case, examples of dormer extensions from the SDCC House Extension Design Guide, of dormer extensions in the vicinity of the appeal site, including those of the appellants, are cited and photographs presented. To avoid unnecessary repetition, I have grouped similar issues and generic responses, which can be summarised as follows;

- *Overlooking* – Assertion that properties are overlooked is incorrect. Original first floor gable window was removed and if anything, the applicant has moved this window to a less intrusive position at roof level. The appellants properties at no. 61 and 59 have always been overlooked. There is a minimum of 22m distance between opposing windows of all the appellants properties. House no. 61 Fortfield Road constructed on a corner site in the 1970's, is the closest property to the appeal site, and includes permitted first floor windows which overlooks the appeal site. The dormer structure and window to be retained therefore, is fully compliant with SDCC planning regulations.
- *Requirement for permanently fitted, frosted non-opening window* – This is not an option as they must comply with fire regulations. The windows are frosted.
- *Intrusive and Impacts light and visibility into living areas* – the existing house has not been extended beyond the gable wall of the original property.
- *Devaluation of Property* – Contend that the works carried out enhance the value of surrounding properties.
- *Out of Character with the Area* – Assertion is incorrect.
- *Garage Conversion to the front including raising the height of the roof* – The parapet and garage roof height was raised, this was to maintain the floor to ceiling level through to the converted garage room, as there were originally two steps down into the garage from the Hall internally.
- *Perimeter wall details inaccurate on Plans* – Measurements could only be done from client's side of the boundary wall.
- *Boundary Wall has been compromised* – Disputes claim.
- *Fortfield Road Amenity* – Disagree that a flat roof extension and 1m passageway should be built.
- *Dormer Requirements* – It was not possible to set the dormer back a minimum of 3 ridge tiles from the gable end wall, as the gable end wall and the dormer wall would not have lined up, to facilitate the required head height for the new stairs leading into the attic store room.

- *Lack of Engagement with Neighbours* – Assertion is incorrect, applicants did consult with neighbours c. August 2016, they considered to be affected by the development. Unfortunately, opinions changed shortly thereafter. House renovation and rear extension less than 40sqm. Request by neighbour to complete the side wall that faces her garden wall, be completed in pebble dash and gave verbal consent for builder to enter her garden to complete the works. Later decision by clients to construct staircase in order to provide access to attic by way of a dormer (in order to retain box bedroom at first floor below), resulted in retention application and further consultation with neighbours in 2nd July 2018. Notwithstanding, the amicable meeting, within a week, neighbours views had changed and SDCC followed with an enforcement notice.
- *Flouting of Planning Authority Rules and Regulations* – Assertion is incorrect, SDCC decision to grant retention permission is evidence that the development is fully in accordance with planning guidelines and current building regulations.
- *Planning Application Lacks Credibility* – Refute this claim.
- *Planning Authority Process Lacks Credibility* – Disagree, found process to be thorough and fair.

6.6. **Planning Authority Response**

The Planning Authority confirmed its decision and refers to the planner's report, noting that not all submissions/objections received were scanned up at the time of writing the planners report.

6.7. **Observations**

None.

6.8. Further Responses

6.8.1. A further response was lodged by Dr. Diarmuid Ó Gráda Planning Consultant on behalf of Ms. Bernadette Burke, 59 Fortfield Road, and by the three other appellants;

- Seamus and Linda Ryan, 61 Fortfield Road,
- Graham Boylan and Rosanne Edgar, 57 Fortfield Road, and
- Barry McNamara, 55 Fortfield Road.

The responses reiterate many of the points previously raised in individual submissions and can be summarised as follows;

- Several points made in applicant's response are vague and others difficult to understand.
- Strongly disagree with the substance and details in the submission.
- Claims by applicant in relation to negotiations with neighbours are exaggerated and inaccurate.
- Appeal site is a corner property, with unusual configuration abutting nine other properties, with any rear extension it would be difficult to avoid negative impacts on adjoining properties.
- As the two storey house at No. 1 Wainsfort Park faces southwards, a bulky rear extension results in overshadowing of the properties on the east side. The dividing perimeter wall has been raised inordinately, cutting off daylight/sunlight and casting much of no. 59 Fortfield Road into damp shade. This inhibits the use of the rear garden at no. 59 by the overbearing impact and a loss of outlook.
- Ask the Board to refuse permission resulting in a material loss of residential amenity in direct contravention of the residential zoning objective.
- Reiterate that the decision of the PA was inadequate and unreliable, in the context that works were substantially carried out, in the absence of a planning permission, and that there were material errors in the dimensions indicated. No permission should have been granted until accurate drawings were submitted.
- Council Planners Report contains errors and omissions.

- Report of the PA contains notable errors and omissions, reference to one objection, although Council's website describes four observations
- Dimensions shown on drawings submitted as they relate to the height of the perimeter wall at 3.02m are incorrect, and the Council relied on inaccurate details.
- Excessive height of rear extension
- Excessive fenestration in side elevation.
- Non-compliance with South Dublin County Council's Standards.
- Queries the structural stability of the dividing shared boundary wall, and suggest retaining a 1m side passage with a flat roof to the side extension.

6.8.2. A complete version of the applicant's response was re-circulated to the Third Parties, and again four further responses were lodged by the four appellants and their agent. Many of the points previously raised are reiterated, while other issues raised can be summarised as follows;

6.8.3. Dr. Diarmuid Ó Gráda Planning Consultant on behalf of Ms. Bernadette Burke, 59 Fortfield Road

- Suggest that the measurement of dimensions is a central issue in this appeal and invite the Board to carry out its own measurements on site.

6.8.4. Seamus and Linda Ryan, 61 Fortfield Road

- Disagrees with assertion that a standard first floor window is similar to a triple dormer window that opens fully at second floor level.
- Disputes the date cited for construction of their property and query's relevance of reference to the property obtaining planning permission.
- Contends that examples of dormers cited by the applicant are not comparable, and that the dormer is located adjacent to their boundary wall directly overlooking their property.
- Notes that over a 2 year period three extensive areas of unauthorised development took place on their property without the benefit of planning permission.

- No consultation took place prior to the commencement of construction work. Instead it was on their request that they met with the applicant, there were no drawings and the meeting was not minuted.
- Works carried out causing the raising of the walls/roof of the converted garage were not referred to in the public notices and permission should not have been granted, a request for further information would have been appropriate.
- The design of the dormer has not been treated sympathetically.
- Dormer has impacted negatively on the value of their property.
- Disputes necessity for an openable window to serve a store as the requirement for such only relates to a habitable room.
- In the event of the Board granting permission for a dormer structure on this side elevation, the window opening should be blocked up and rendered with a high-level fixed opaque glass window with a sill height of 1.7m or higher above the internal floor level of the space to be included.
- Lists a number of procedural anomalies.
- Request that the side gable wall of the dwelling be reinstated to the condition prior to construction.

6.8.5. Graham Boylan and Rosanne Edger, 57 Fortfield Road

- Disagree with the applicant's assertion that the window has been moved to a less intrusive position at roof level. The new window is at a significantly elevated level adding direct visibility into their property.
- Disputes the applicant's assertion that their property has always been overlooked.
- Asserts that examples of dormers cited by the applicant in College Square are significantly smaller in size, with greater separation to adjoining properties, and others cannot be compared to the subject site which has created significantly more of an impact on its neighbours.

- Contends that the dormer does not adhere to the South Dublin County Council Design Guide.
- Disagree that other dormers cited replicates the dormer at this property.
- Query the building regulation requirement for an opening window to a non-habitable room.
- No comparison between building works carried out to both properties.

6.8.6. Barry McNamara, 55 Fortfield Road

- Disputes the assertion that the development does not result in overlooking of adjoining properties.
- Disputes the stated timing of the works.
- Disingenuous to say that relevant neighbours were consulted about the dormer window given the number of appeals against the decision.
- References to similar developments in the area are misleading.
- Takes exception to reference to planning permission obtained for a dormer extension to his property which infers that planning permission is optional.
- Notes that no consultation took place with the applicant at the time of his application for planning permission as the current owner was not the owner at the time.
- Contends that the SDCC House Design Guide which refers to 22m separation distance between directly opposing windows at first floor cannot be relied on as this dormer is to the side.
- Contends that examples of dormers cited by the applicant relate to dormers to the sides of houses overlooking the side of the neighbouring house, the context and setting is not relevant to this appeal.

7.0 Assessment

7.1. There are four Third Party appeals, and I consider it appropriate to consider them jointly. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Amenities
- Other Matters
- Appropriate Assessment

7.1.1. I wish to draw the Board's attention to the fact that No.1 Wainsfort Park lies to the west of No. 61, 59, 57, 55 and 53 Fortfield Road. It shares its eastern side boundary with the rear gardens of these properties. The eastern side elevation, extension and attic dormer of No. 1 abuts the rear gardens of house No.s 61 a detached house, and No. 59 a semidetached house. The rear gardens of the remaining semidetached properties abut the rear garden of the appeal site.

7.1.2. The owners of four properties lodged submissions to the PA, however, only one was noted by the planner in their assessment. The PA have acknowledged this error. The owners of the four properties No. 61, 59, 57 and 55 are the appellants in the current appeal.

7.1.3. The floor area of the extension to side and rear is exempt. The application for retention permission arose from the construction of the attic conversion and dormer window (which were subject to enforcement). Permission for retention was granted by the Planning Authority subject to conditions.

7.2. Residential Amenities

7.2.1. The development is located in an area zoned RES:'To protect and/or improve residential amenity'. In this zone residential extensions to an existing dwelling are considered acceptable in principle and objective H18(1) states that the Council will favourably consider proposals to extend existing dwellings subject to the protection

of residential and visual amenities. However, there is an obligation to reconcile the need to meet the requirements of the applicant seeking to maximise accommodation with the need to protect the residential amenities of adjoining property.

- 7.2.2. I intend to break the application down into its constituent parts, as I am of the opinion that there are three distinct elements: 1) the conversion of side garage, 2) ground floor rear extension and 3) the attic conversion and dormer window to the side.

Conversion of Side Garage

- 7.2.3. With respect to the conversion of side garage to TV room, I can confirm to the Board that numerous designs of converted garages appear to have taken place over the years along Wainsfort Park.

- 7.2.4. I note that the planning authority and the appellants refer to incorrect dimensions on the drawings submitted with respect to the height of the new flat roof and parapet to the front elevation. The drawings indicate an overall height of 3.02m, which is incorrect. I am satisfied that a revised drawing indicating the correct dimensions should be attached by way of condition.

- 7.2.5. I consider the conversion and elevational changes including the raising of the parapet are acceptable in this instance. I recommend that this element of the planning application be approved by the Board.

Ground Floor Rear Extension

- 7.2.6. With respect to the ground floor rear extension it is noted by the appellants that there are also discrepancies on the drawings submitted. This was noted by the planning authority who required revised drawings be submitted by way of condition.

- 7.2.7. A dimension of 3.02m is referred to on the drawings as the height of the side/rear extension. The applicant has stated that the height indicated refers to the height measured from within the boundary of the appeal site.

- 7.2.8. In this regard I note that houses no. 61 and 59 which share their rear garden boundary with the development to be retained. I would also note that there is a difference in site levels between the appeal site and the adjoining rear gardens along Fortfield Road, and this is indicated on the drawings submitted.

- 7.2.9. From my site inspection I measured the height of the original rear boundary wall to no. 59 as 2.3m stepping up to 2.6m. I also measured the height of the side elevation of the ground floor rear extension which extends above the appellants rear boundary wall as having an overall height of 3.9m. The appellants are particularly concerned that permission should not have been granted by the PA in the absence of the correct dimensions being indicated.
- 7.2.10. While I do consider the increase in height to be significant I do not consider it to be excessive. I acknowledge that the eastern side extension at ground floor appears as a blank wall to the occupants of no. 59, however it is single storey only. Furthermore, the single storey extension and partial flat roof to the front which has a lean to roof the side is not excessive in height. I am satisfied that a revised drawing indicating the correct dimensions should be attached by way of condition.
- 7.2.11. With respect to amenities, I consider that the impact of the increase in the height of this wall is overstated by the appellants. In terms of overshadowing, I am satisfied that the extension which is located to the west of no. 61 and 59 will not have a serious impact in term of overshadowing.
- 7.2.12. The appellants have further suggested that a 1m side passage be retained to the side extension and that the side extension should be finished with a flat roof in place of the lean-to roof. In my opinion this is overly onerous on the applicant, given that is ostensibly a single storey extension.
- 7.2.13. I consider the ground floor rear extension to be acceptable in this instance. I recommend that this element of the planning application be approved by the Board.

Attic Conversion and Side Dormer Window

- 7.2.14. With respect to the attic conversion and side dormer window, this in my opinion is the crux of the appeals.
- 7.2.15. The appellants focus, in particular on the fact that the proposed attic conversion/dormer extension and window are not in compliance with the South Dublin County Council House Extension Design Guide 2010. The guidelines (pages 20 and 21 of the document refer) generally advise locating dormer windows below the ridge of the roof, even if the roof has a shallow pitch, and to locate dormer

windows as far back as possible from the eaves line (at least three tile courses). In the case of a dormer window to a hipped roof, it advises that it sits below the ridgelines of the existing roof and matches the materials used in the main house.

- 7.2.16. The dormer structure and window to be retained is set down from the ridge of the roof and it is set back from the eaves line and matches the materials used in the main house. I am satisfied that the dormer structure and windows are acceptable and generally in accordance with the House Extension Design Guide.
- 7.2.17. The appellants have raised concern in relation to the scale of the dormer which is considered to be overbearing and that it results in overlooking and loss of privacy of adjoining properties.
- 7.2.18. In this regard the Planning Authority accepted the scale of the dormer structure and window requiring only that it be finished in obscure glazing by way of condition. I can confirm from my site visit that the dormer structure accommodates the stairs access to the attic and that the dormer windows which includes three panes are already finished in obscure glazing. While the nature of the use of the attic is also queried by the appellants, I am satisfied from my site inspection that it is currently in use as storage and not as a habitable room.
- 7.2.19. The applicants note that the eastern side elevation originally included a window at first floor, and that it was removed in order to accommodate the stairs access to the dormer. They contend that the dormer window to be retained does not result in significant overlooking or loss of privacy of adjoining properties. In my opinion the issue of overlooking is overstated by the appellants. From my site visit I can confirm that the dormer window principally serves the stairs and that direct views from the attic are very restricted given that the attic floor is stepped back approx. 1m from the windows. I also note that the dormer window is stepped off the boundary with adjoining properties by approx. 3.2m.
- 7.2.20. It is suggested by one of the appellants that in the event of permission being granted that the window opening should be blocked up and rendered with a high-level fixed opaque glass window with a sill height of 1.7m or higher above the internal floor level. I have considered the merits of this modification and consider that it is not warranted, and also that it would visually detract from the design of the dormer.

7.2.21. The appellants are also concerned that the dormer structure and windows are visually obtrusive. I am satisfied having viewed the dormer from the rear gardens of house no. s 61 and 59 and from Fortfield Road that this is not the case. I also noted that the dormer is aligned between the two houses. I also note the separation distance of approx. 11m between the dormer window and first floor windows of No.s 61 and 59 Fortfield Road.

7.2.22. The appellants have stated that the proposed dormer would set an undesirable precedent for similar developments. In relation to the matter of precedent, I would note that each application is assessed on its own merits, having regard to the relevant planning considerations and site context. As previously stated, a wide variety of dormer windows exist in the area, as evidenced by the applicant in response to the third-party appeals. While I acknowledge that the examples cited are not directly comparable to the setting and context of the subject appeal, I am satisfied that this dormer will not in and of itself set a precedent. I also note the variety of first floor and dormer extensions of the third-party appellants properties.

7.2.23. In conclusion, I am satisfied that the three elements of the proposal do not have a seriously negative impact on the residential and visual amenities of the adjoining dwellings or of dwellings in the vicinity. It is clear that precedent for side and rear extensions including dormer windows has already been set throughout the estate.

7.3. **Other Matters**

7.3.1. *Validity of Application* – The matters raised relate to the detail of the application drawings submitted to the planning authority and the planning authority procedures in dealing with the application. These are not matters on which the Board can adjudicate. The appeal before the Board is valid and the third party's right to participate is given full effect.

7.3.2. *Validity of Planning Authority Decision* – The appeal makes the related points that the planning authority failed to properly consider the application, and that they should have had regard to submissions lodged which were not referenced in the planners report. In this regard it may be noted that the Board will consider and decide upon the application de novo and has no supervisory function in relation to how the planning authority carries out its planning functions.

- 7.3.3. *Structural Issues* – Concerns are raised by the appellants and owners of no. 59 Fortfield Road with respect to constructing over the party boundary wall along the eastern boundary. I do not see any basis for addressing potential structural issues in relation to the appellants party boundary wall under the planning code. Notwithstanding, I do note that the side wall of the rear and side extension is not a load bearing wall.
- 7.3.4. *Relevance of Conditions 6 & 7* – The appellants note that given the application is for retention, that conditions which relate to requirements during construction are irrelevant. I agree, Conditions 6 & 7 are not therefore relevant and fails the tests of necessity and precision required of conditions attached to grants of planning permission as set out in chapter 7 of the Development Management Guidelines (DOERHLG 2007). I recommend they should be removed.
- 7.3.5. *Lack of Engagement* – There is no requirement for consultation between an applicant or their agent with adjoining landowners prior to lodging a planning application. While it is clear that difficulties arose with respect to the latter attic conversion, I do not consider this matter to be a significant planning consideration.
- 7.3.6. *CCTV Cameras* – Concern was raised by the appellants in relation to the presence of CCTV cameras on site. I noted from my site inspection the location of two CCTV cameras, fixed below the eaves to the front and rear of the property. I do not consider however, this to be a significant planning consideration, particularly given their discreet location and design.

7.4. **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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.

8.0 Recommendation

- 8.1. I recommend that planning permission for retention should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the South Dublin County Development Plan 2016-2022, and the nature, scale and orientation of the extension to be retained, it is considered that subject to compliance with the conditions set out below, the proposed development would not materially contravene the development plan for the area, and would not seriously injure the residential or visual amenities of the area. The proposed development to be retained, would therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development to be retained 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. The proposed development shall be amended as follows:
 - (a) Revised eastern elevation omitting window at first floor.
 - (b) An accurate existing front elevation drawing showing the side garage conversion and its roof height.

Revised plans, which incorporate these amendments, shall be submitted to the planning authority for written agreement before the development commences.

Reason: In the interest of protecting the residential amenity of adjacent properties.

3. The existing house and extension/attic conversion to be retained shall be jointly occupied as a single residential unit and the extension/attic shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension/attic conversion in the interest of residential amenity.

4. The attic to be retained shall be used for storage only and not as a habitable space.

Reason: To restrict the use of the attic conversion in the interest of residential amenity.

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

Reason: In the interest of public health.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.

Susan McHugh
Planning Inspectorate

1st March 2019