



An  
Bord  
Pleanála

## Inspector's Report ABP303939-19

---

<b>Development</b>	Garage conversion and extension to rear.
<b>Location</b>	46 Park Drive, Ranelagh, Dublin 6.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	4649/18.
<b>Applicants</b>	Laura and Henry Colley
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party -v- Grant.
<b>Appellants</b>	Conor Kelly and Carmen Lopez.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	28 <sup>th</sup> May, 2019.
<b>Inspector</b>	Paul Caprani.

## Contents

1.0 Introduction .....	3
2.0 Site Location and Description.....	3
3.0 Proposed Development.....	4
4.0 Planning Authority's Decision.....	4
4.1. Decision.....	4
4.2. Documentation Submitted with the Planning Application .....	5
4.3. Planning Authority Reports.....	5
4.4. Planning Assessment .....	5
5.0 Planning History.....	6
6.0 Grounds of Appeal.....	6
7.0 Appeal Responses.....	7
8.0 Development Plan Provision .....	8
9.0 EIAR Screening .....	8
10.0 Planning Assessment .....	9
11.0 Appropriate Assessment.....	10
12.0 Decision.....	11
13.0 Reasons and Considerations .....	11
14.0 Conditions .....	11

## 1.0 Introduction

ABP303939-19 relates to a third party appeal against the decision of Dublin City Council to issue notification to grant planning permission for a garage conversion and an extension to the rear at a dwellinghouse at 46 Park Drive, Ranelagh. The grounds of appeal argue that the proposed development would have a significant impact on the residential amenity of the appellants' property adjacent to the subject site and that the Council's amendment to the proposed extension as required by Condition No. 3 is insufficient to remedy the negative impact.

## 2.0 Site Location and Description

- 2.1. I visited the site in question on the morning of Wednesday the 29<sup>th</sup> of May 2019. I could not gain access to rear of no. 46 or the grounds of no. 47 as part of my site inspection. However, I consider that there is enough evidence on file including photographs submitted with the grounds of appeal of the common boundary and of views of the rear of no. 46 from the appellants dwelling, to enable me to make a recommendation and the Board to make a decision on the application and appeal before it. If the Board however form a different view it can direct that a more detailed site inspection be undertaken prior to determination the appeal.
- 2.2. No. 46 Park Drive is located in the southern environs of the inner suburban area of Ranelagh approximately 4 kilometres south of Dublin City Centre. Park Drive is a mature suburban residential area dating from the early 20<sup>th</sup> century. The street ends in a cul-de-sac to the south and links up with Albany Road to the north of the site. No. 46 is an attractive two-storey red brick house which forms the northern part of a pair of semi-detached dwellinghouses located on the west side of Park Drive between Albany Road and Tudor Road. The existing dwellinghouse is centrally located within the site. The site is rectangular in shape, is 26 metres in depth and 13 metres in width. The front garden depth is approximately 7 metres while the rear garden depth is c.9 metres. A driveway leading to a house to the rear (No. 47 Park Drive) is located along the northern boundary of the appeal site. No. 47 Park Drive appears to be an infill backland development which was granted permission in the

early 1990's. The rear gardens of dwellings fronting onto Albany Road are located to the north of the driveway serving No. 47. No 47 is a bungalow with attic accommodation. No. 47 incorporates an L-shaped footprint and at its closest point is approximately 15 metres from the rear of No. 46 Park Drive. Mature landscaping is located along the common boundary of the rear of Nos. 45 and 46 Park Drive and the appellants' dwelling, No. 47 Park Drive.

- 2.3. The rear elevation of No. 46 accommodates a kitchen and living room at ground floor level and two bedrooms and a bathroom at first floor level.

### **3.0 Proposed Development**

- 3.1. Planning permission is sought to demolish part of the rear of the dwellinghouse and to construct a new extension accommodating an open plan kitchen, living and dining room area to the rear of the dwelling. The extension to the rear encompasses the width of the house and increases the overall depth of the dwelling by between 1.7 and 2.9 metres. The residual depth of the garden with the proposed extension in place ranges from 7.3 to 6.2 metres in depth. It is proposed to reconfigure bedrooms at first floor level incorporating a large master bedroom and en-suite as part of the proposed extended area to the rear. The master bedroom incorporates windows at first floor level facing westwards onto the rear garden towards No. 47 Park Road.
- 3.2. It is also proposed to incorporate a new bay window in the front elevation and a small circular window on the recessed porch area on the front elevation. New rooflights are also proposed on the rear return of the new extension serving the master bedroom.
- 3.3. It is also proposed to convert the existing garage adjacent to the entrance to the house to a music room and utility room.

### **4.0 Planning Authority's Decision**

#### **4.1. Decision**

- 4.1.1. Dublin City Council issued notification to grant planning permission subject to eight standard conditions.

Condition No. 3 stated as follows:

*The lower section of the centre window that serves the master bedroom shall be omitted and the cill height should be raised to match the cill height of the other proposed windows on the rear elevation at first floor level.*

**Reason:** *In the interest of residential amenity and the proper planning and sustainable development of the area.*

#### 4.2. **Documentation Submitted with the Planning Application**

- 4.2.1. In addition to the completed planning application form, planning drawings, public notices and planning fee etc, a **Planning Report** was submitted by Crean Salley Architects. This report states that the proposed works take account of the sensitivity of condition of the house. It is stated that the original rear gardens of No. 45 and 46 had been previously subdivided and a new house has been built there on foot of a planning permission dating from 1991. The current house is in need of renovation, particularly in relation to mechanical and electrical services. It is stated that the proposed works do not detract from the character or special interest of the house and will restore it to a habitable standard consistent with modern living.
- 4.2.2. A separate **Engineering Report** was also prepared in respect of the application. It details the existing drainage arrangements and water supply serving the existing house. It states there will be no net intensification of use with regard to foul water discharge from the public sewer. The existing dwelling discharges into a combined sewer. Details of the proposed water supply is also set out in the report. The report also provides a Flood Risk Assessment. It notes that the flood maps show no records of past flooding or of predicted flooding in the area. The probability of flooding from rivers and seas is therefore deemed to be low.

#### 4.3. **Planning Assessment**

- 4.3.1. A report from the Engineering Department Drainage Division states that there is no objection to the proposed development subject to standard conditions.
- 4.3.2. An observation on behalf of the current appellants was submitted in respect of the proposed development the contents of which has been read and noted.

4.3.3. The planner's report notes the proposed two-storey extension to the rear would project 2.85 metres from the rear building line and would be set in 4.75 metres from the adjoining boundary with No. 45. The report notes that the third-party submission expressed concerns in relation to overlooking. The planner's report notes however that these areas are already overlooked by the rear of properties facing onto Albany Road to the north. Having regard to the nature and scale of the proposed development, it is considered that the extension would not have an adverse impact on the scale and character of the dwelling. In addition, it is considered that, having regard to the orientation of the site and the scale of the proposed development, it would not adversely affect the amenities enjoyed by occupants of adjacent buildings in terms of privacy, access to daylight and sunlight and for these reasons it is recommended that planning permission be granted for the proposed development.

## 5.0 Planning History

There appears to be no planning history associated with the subject site.

## 6.0 Grounds of Appeal

6.1. The decision of Dublin City Council to issue notification to grant planning permission was appealed on behalf of the residents of 47 Park Drive the dwellinghouse to the rear of the subject site constructed in the 1990's. The appeal was made on their behalf by Future Analytics Planning Consultants. The grounds of appeal set out details of the site location and note that No. 47, being an infill site to the rear of the existing dwellings incorporates quite constrained characteristics with modest separation distances between the existing house and the site boundaries. The grounds of appeal also set out details of the development plan highlighting statements in the Plan which seeks to ensure that existing residential amenities are not adversely affected by new development, particularly residential development. The grounds of appeal suggest that the proposed extension and, in particular the projecting bay window feature, reduces the separation distance between the appeal site and the appellants' dwelling to just less than 12.2 metres.

6.2. The inclusion of Condition No. 3 highlights that Dublin City Council recognised that the proposed full height and bay window extension gives rise to negative impacts on

residential amenity. However, it is suggested that this condition is insufficient in itself to address the negative impacts on the appellant's property.

- 6.3. It is noted that the grant of planning permission for the appellants' dwelling at No. 47 Park Drive required a bungalow typology to mitigate against potential overlooking of adjoining properties. While the local authority's planner's report states that there is no planning history associated with the site, the grounds of appeal note that planning permission was granted for No. 47 in 1991 and that this decision was subject to an appeal by An Bord Pleanála. Thus, the subdivision of plots nos. 45 and 46 in order to accommodate the appellants' dwelling is a very important consideration in the application as a whole.
- 6.4. The new bay window extension at first floor level which incorporates a large window 3 metres forward of the existing building line seriously impacts on the appellants' privacy. It is argued that this first-floor window would directly overlook the living space of No. 47. It is suggested that Dublin City Council planner's report did not take this issue fully into consideration.
- 6.5. It is argued that the Planning Authority in incorporating Condition No. 3 of the planning permission acknowledges that the proposed development will have a negative impact on the residential amenity of the appellant. However, it is suggested that the alterations sought under Condition No. 3 will have no mitigation impact on the overlooking arising from the bay window. Issues about privacy can only be properly ameliorated by the omission of a window at first floor level or the restriction of the bay element to the rear to a single floor.
- 6.6. Accordingly, it is concluded that the proposed development would have a significant and unacceptable negative impact on the amenities of adjacent properties and for this reason, An Bord Pleanála is requested to overturn Dublin City Council's decision and refuse planning permission for the proposed development.

## 7.0 Appeal Responses

- 7.1. It appears that neither the applicant nor the Planning Authority submitted a response to the grounds of appeal within the appropriate period.

## 8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The site is governed by the zoning objective Z2 “to protect and/or improve the amenities of residential conservation areas”.
- 8.2. Section 14.8.2 of the development plan states that residential conservation areas have extensive groupings of buildings and associated open space with attractive quality of architectural design and scale. The overall quality of Z2 areas in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works which would have a negative impact on the architectural quality of the area.
- 8.3. Section 16.10.2 of the development plan specifically sets out guidance on extensions and alterations to dwellings. It states the following:
- The design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar materials and windows. Extensions should be subordinate in terms of scale to the main unit.
- 8.4. Applications for planning permissions to extend dwellings will only be granted where the Planning Authority is satisfied that the proposal will:
- Not have any adverse impact on the scale and character of the dwelling.
  - Not adversely affect the amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

## 9.0 EIAR Screening

The proposed development for which planning permission is sought does not constitute a class of development for which EIA is required.



## 10.0 Planning Assessment

- 10.1. The grounds of appeal raise a single issue namely that the proposed development would adversely impact on the residential amenity of Nos. 47 Park Drive through overlooking and associated adverse impact on privacy. No. 47 Park Drive comprises of an infill development located on a separate site to the rear of Nos. 45 and 46 Park Drive. It was facilitated as a result of the amalgamation of the rear parts of the existing gardens of both sites. It has resulted in a building footprint at No. 47 which is located in close proximity to all common boundary walls surrounding the site. Because of the infill development, the existing gardens of Nos. 45, 46 and 47 all incorporate shallow depths which do not easily facilitate extensions to the rear without somewhat impinging upon adjoining residential amenity.
- 10.2. The appellant points out in the grounds of appeal, that the separation distance as a result of the proposed rear extension to the rear of No. 46 is a modest 12.2 metres. This is significantly below the accepted norm of 22 metres in the case of two-storey suburban residential developments. It is noted however that in the current Development Plan the separation distance of 22 metres may be relaxed if it can be demonstrated that the development is designed in such a way to preserve the amenities and privacies of adjoining occupiers. It is also noted that both dwellings are not 2-storey, No. 47 is single storey which would also allow some relaxation in the 22-metre standard.
- 10.3. In my opinion the extension to the rear of the dwelling can be seen as modest and proportionate in terms of extending the footprint of the building to the rear. It should be a reasonable expectation that any family should be allowed to extend and alter a dwellinghouse in order to cater for changing/growing family needs are to upgrade or update the existing house. The proposal in this instance seeks to extend the rear of the dwelling from between 1.8 and 2.85 metres in depth. This in my view, is a relatively modest addition to the rear of the building and is proportionate and appropriate in terms of providing a compromise in terms of providing extra living accommodation to cater for family needs and also ensuring that any adverse impact on privacy levels at the appellants' garden is kept to a minimum.

- 10.4. I further note that the common boundary between both dwellinghouses is heavily landscaped with mature trees which significantly mitigate against the levels of overlooking.
- 10.5. Furthermore, the Board will note that the existing fenestration arrangements serving Bedroom No. 4 and Bedroom No. 5 at first floor level look directly onto the appellants' garden. Moving one of these windows slightly closer to the appellants' garden i.e. the main window serving the master bedroom to the rear, will not in my view have a significant or adverse impact in terms of exacerbating an accentuating overlooking. The window proposed on the rear elevation serving the master bedroom does not look directly into the appellants' dwelling. Oblique views of the appellants' dwelling will be apparent from the window in question. However, I am satisfied that the existing mature landscaping referred to above will somewhat restrict the amount of direct overlooking between windows.
- 10.6. In conclusion, therefore I consider that any increase in loss of privacy or overlooking resulting from the proposed extension would be modest and should be balanced against the reasonable expectation that the applicants in this instance should be permitted to upgrade and extend the dwellinghouse in order to cater for changing family needs. I further consider that the applicant in this instance in designing the proposed extension has incorporated an extension of modest depth to ensure that an adequate level of separation distance is retained if the extension were to proceed.
- 10.7. Finally, the grounds of appeal suggest that the amendment to the proposed extension under Condition No. 3 is insufficient to remedy the negative impact arising from the extension. I would agree with the above conclusion. However, there is nothing in the planner's report which suggests that this condition was to be included in the interests of protecting adjoining residential amenity. It appears to be incorporated primarily on aesthetic grounds rather than reducing the potential for overlooking.

## 11.0 **Appropriate Assessment**

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

## 12.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

## 13.0 Reasons and Considerations

Having regard to the Z2 zoning objective relating to the site and the modest size and scale of the new extension to the rear, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity in terms of overlooking, would not be prejudicial to public health, and would generally be acceptable in terms of traffic safety and convenience. 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, 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 lower section of the centre window that serves the master bedroom of the rear elevation shall be omitted and the cill height shall be raised to match the cill height of the other proposed windows on the rear elevation at first floor level.

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

3. The external finishes of the proposed alterations and extension shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**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 applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to the commencement of development.

**Reason:** In the interest of orderly development.

6. The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, Transportation Planning Division and Noise and Air Pollution Section of Dublin City Council.

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

7. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, and between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

8. The site development and construction works shall be carried out in such a manner to ensure that the adjoining streets 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 the construction works in the interest of orderly development.

9. The developer shall pay to the planning authority a financial contribution of €994 (nine hundred and forty euro) 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. The application of any indexation required by this condition 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.

**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.

---

Paul Caprani,  
Senior Planning Inspector.

June 6th, 2019.