



Development	Alteration/extension to rear with associated site development.
Location	176 Botanic Road, Glasnevin, Dublin 9
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4687/18
Applicant(s)	Elizabeth Henry and B. Kelley
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Noel Scallon
Observer(s)	
Date of Site Inspection	7 th June 2019
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site relates to an end-of-terrace two-storey over basement double fronted Victorian house on the west side of Botanic Road just south of the Botanic Gardens. A short cul-de sac bounds the site to the north and this is the entrance road to a car park for the Botanic Gardens to the north and west. The site has vehicular and pedestrian access from this road in addition to pedestrian access off Botanic Road.
- 1.2. The site is part of the original deeper plot for no. 176 and is in the order of 30m deep by 9m wide narrowing slightly to the rear.
- 1.3. The house is laid out as a single-family residence with kitchen/living room at basement level and direct access to the rear garden. The front door and reception rooms are at ground level and bedrooms and study in first floor and return levels.
- 1.4. The rear garden is a mix of paving, gravel and lawn and enclosed by stone walls and block wall to the rear which divides the original site.

2.0 Proposed Development

- 2.1. It is proposed to extend at a new raised basement level to the rear which will incorporate the lower level of the existing return into the same void with total floor area of 45sq.m at this new level. The first-floor return is to be substantially retained as a bedroom and the projection of around 4m deep from the main house is also retained
- 2.2. The existing basement level is to be retained as kitchen/living accommodation only to be accessed from within the house and rear windows/openings will be blocked up due to extension.
- 2.3. The rear garden is reduced to 90 sq.m.
- 2.4. The surface water drainage is proposed to discharge to a soakpit to BRE 365 standard or Acquacell unit.
- 2.4.1. A canopy is indicated – the extent of which is not readily apparent as it is not shown in roof plans although a dotted line is marked as 900mm from the proposed rear wall and it is also shown in both side elevations.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 8 conditions.

Condition 1 - Standard compliance

Condition 2 – Section 48 contribution €367.2

Condition 3 – refers to drainage and requires compliance with the Greater Dublin Regional Code of Practice for Drainage Works, the design to be on a completely separate foul and surface water system with surface water discharging to proposed new soakaway, incorporation of SUDs, compliance with relevant standards for soakaways, locational requirements for private drains.

Condition 4 – requires inward opening side door.

Condition 5,6,7, and 8 refer to building and constructions standards.

3.2. Planning Authority Reports

3.2.1. Planning Report: (14/2/19) This report refers to the acceptable nature of the proposal in the context of zoning. Specific issues are addressed in the following comments:

- While the height range of 3.5 to 3.8m above ground level is noted together with associated ground works and the effective raising of the party boundary, the proposed scale and extent is considered acceptable having regard to orientation.
- The concerns relating to the encroachment of the boundary to the west are considered a civil matter.
- In respect of flooding concerns, the report relies on report of the Drainage Division which has no concerns subject to conditions.
- In respect of access to manholes, the drainage /division advises that the particular drain is private and there are no objections to covering private drainage once it complies with Building Regulations.

3.2.2. In a separate appended sheet, the development contribution is set out in line with a proposal for 44 sq.m. A levy of €367.2 is applied to 4.25sq.m.

3.2.3. Other Technical Reports

Drainage Division: No objection subject to conditions.

3.3. Third Party Observations

- 3.3.1. Submission received from Hugh McDonnell refers to boundary infringement along north east boundary by about 1.1 – 1.6m.
- 3.3.2. Submission received from Noel Scallon refers to impact on amenities by reason of overshadowing and obstruction of view in addition to flooding. There is also concern about the development overlapping with drain(s) and manhole(s) serving the terrace.

3.4. Prescribed Bodies

- 3.4.1. TII: Section 49 Supplementary Development Contribution Scheme – Luas Cross City applies to the area.
- 3.4.2. Irish Water: No submission
- 3.4.3. NTA: No submission

4.0 Planning History

- PA ref. 1396/95 refers to permission for an extension on site.
- Pre-app –The issue of relationship with neighbours was raised.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The objective for the site is to protect and/or improve the amenities of residential conservation areas (z2).
- 5.1.2. Section 11.1.5.4 refers to conservation areas and it is policy as expressed in CHC4 to protect and enhance the positive elements defining the character of such areas.
- 5.1.3. Section 16.2.2.3 refers to Alterations and Extensions: Dublin City Council will seek to ensure that alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its private open space, its context and the amenity of adjoining occupiers.
- 5.1.4. Appendix 17.4 refers to extension and avoidance of adverse impact on the character of the dwelling or unacceptable effect on the amenities of adjoining properties in respect of privacy, light and outlook.

5.2. Natural Heritage Designations

Not relevant

6.0 The Appeal

6.1. Third Party Grounds of Appeal

6.1.1. The owners/occupiers of the adjoining terrace have appealed the decision to grant permission and the grounds of appeal refer to:

- Overshadowing/overbearing impact
- Flood risk
- Interference with drainage and access to same

6.2. Response to Third Party

6.2.1. Flooding Risk:

- The applicant is happy to omit soakaway if acceptable to planning authority. However, if a soakaway is required in line with SUDS it is clarified that the base of the proposed tank would be up to 1.8m below grass and about 600-700m below basement level of the appellant's neighbouring property. The soakaway will have an overflow connected to the surface water network and soakaway would not contribute to any increase in flood risk to no. 174. Furthermore, the soakaway will be carried out in line with BRE Digest 365 and CIRIA C753 which provide for further testing and accordingly the soakaway could not contribute to increased flood risk.
- The soakaway improves permeability of the garden and its capacity to absorb rainwater rather than allowing run-off to cause localised flooding and would not increase flood risk.

6.2.2. Overbearing

- It is modest single storey extension designed to minimise impact on neighbours and is notably lesser than previously permitted two storey extension within the same terrace. In this context a 1.3m increase in height is modest.
- The north west siting of the extension relative to the neighbouring garden patio gives rise to minimal impact. The private garden will continue to have well in excess of minimum direct sunlight by reference to BRE guidance Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2nd ed.)

6.2.3. Building on drains

- While mindful of the comments of the Drainage Division and its lack of objection to development concerning the private drains, the applicant has engaged a structural/civil engineer to oversee works associated with drainage and to ensure compliance with regulations and that the capacity for future maintenance of the drainage system is not compromised in any way.

6.3. Planning Authority Response

- No response.

6.4. Third Party Response

- They welcome the offer of omitting the soakaway as there is real fear of flooding based on previous flooding of basement. At present if there is blockage in 176 it would be possible to lift the manhole cover and clear but if built over this is no longer possible. The drop in levels restricts rodding and there is no manhole on the roadway to allow straight through rodding. It is suggested that if there was a manhole at the end of our system on the roadway to the Botanic Gardens this might be a solution.
- The applicants had similar concerns regarding flooding in the case of the proposed dwelling to the rear at 176A. A copy of an objection is attached which refers to a history of flooding and also to limitations of drainage system serving the terrace. The Botanic Garden canteen also connect to a foul sewer drain and this has been blocked resulting in up to 2 -3 feet of flood water in basement of terrace.
- It is further pointed out that the 5m set back for a soakaway cannot be provided within the site. Concern that this may overflow and impact on loading of their soak pit in 174.
- The proposed soakaway is too close to the road and may be impacted by traffic.
- View from lower half of window will be completely blocked thereby obscuring view of the Botanic gardens enjoyed for most of life.
- The high wall will have a prison like and overbearing impact on patio.

7.0 EIA Screening

- 7.1. Having regard to nature of the development comprising a modest domestic extension and works to an existing dwelling and the urban 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. The issues

- 8.1.1. This proposal relates to a modest extension and associated site works. There is no dispute with the principle details of material and finishes and I am satisfied that the design approach is architecturally compatible in this conservation area. The issues raised by the third-party centre on drainage and impact on amenity by reason of height and extent along the party boundary.

8.2. Height and extent

- 8.2.1. The proposed basement level extension provides an internal floor area of around 45sq. (48.89sq.m. including walls) but due to the incorporation of the existing lower level of the return of 14sq.m(including walls) which facilitates a 2.7m high ceiling, the net increase is in the order of 31sq.m. The overall height is approximately 3m above the rear garden level and is marginally higher above the basement level. The massing on the one hand is increased by a 900mm canopy but on the other hand, the sloping of the roof at the junction with the existing rear façade wall which retains original openings reduces the bulk of the extension. The windows which either face into the rear garden or are rooflights will not result in overlooking.
- 8.2.2. While the boundary will be effectively raised by up to 1.3m over the depth of 5.7m (about 6.6m including canopy) to over 3m in height (but with a dip at the rear elevation), the extension is to the north of the adjoining property and will not give rise to any significant overshadowing nor will it be unduly overbearing. I say this also having regard to the generous plot widths and garden depths. The partial interruption of a private view of the Botanic Gardens (dominated by a glass house) from one of the lower level windows is not a material consideration.
- 8.2.3. The canopy could be omitted or stepped back from the boundary with no.174 and aligned with door openings only to reduce bulk but this is an interesting feature and its reduction would serve little purpose.
- 8.2.4. I note on comparison with the pre-app drawings that the proposed hipped roof over the return is omitted and the roof also appears to be reduced in its massing resulting in a flat roof-light replacing a higher lantern type roof with vertical windows. This

rationalisation of design and resultant low roof profile appears to support the statement in the agent's cover letter with the application that the applicant is acutely conscious of ensuring that the new additions do not detract for the attractive appearance and proportions of the original house and its urban context. In these circumstances, I consider the scale of development to be acceptable.

8.3. Drainage and flooding

- 8.3.1. The neighbouring dwelling is most concerned about the impact of the proposed development on flooding and restriction on access to drains in the rear garden of the site and into which the drainage (foul) of the terrace feed before connecting to the public sewer which appears to be combined based on the Irish Water map submitted by the applicant.
- 8.3.2. The flooding issue is of immense concern due to the history, the precise cause of which is not explained and due to the perceived potential impact of the soakaway in the event of a flooding event whereby it exceeds its capacity. I note an overflow pipe is proposed to be connected to the public sewer which is combined and so potentially if the drains are overloaded these could backfill in the event of valve failure or such like.
- 8.3.3. The agent explains that aside from the approval of the Drainage Division, ultimately the system is to be overseen by an engineer and states that there will be no increase in risk of flooding. In any event I note that the net increase in roof area is very small and substantially relates to building over a patio area anyway. Other houses in the terrace appear to be served by soak pits for surface water and so the moderate increase in the use of such a system so as to reduce loading on a combined sewer makes sense and accords with Sustainable Urban Drainage. Accordingly, it seems reasonable to continue to use such a system while at the same time potentially upgrading it in line with current standards and as per the Council's requirements. I note the applicant is agreeable to this. I consider the detailed workings of this and connection to sewers is matter for the Drainage Division. As a precautionary measure I would recommend a condition requiring the design and overseeing by a chartered engineer which, in view of the agent's response submission, would not be unreasonable. The issue of access for neighbours to what is a private sewer connection in a private garden is a civil matter as already noted by the planning authority. In order to facilitate alternatives, I consider it appropriate to reword the condition to allow discretion by the Drainage Division.

8.3.4. Accordingly, I am satisfied that by reason of the design and scale, that the proposed development subject to conditions of permission would be acceptable in terms of protecting residential amenities of adjoining property, would not cause an increased risk of flooding and would be acceptable in terms of public health. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

8.4. **Other matters**

I note the section 48 contribution is based on a proposed new build of 44 sq.m. and does not appear to take account of the previous domestic extension of 22 sq.m. I note the development contribution scheme allows the first 40sq.m of any extension to the original house to be exempt and also confines application of levy to a net increase in floor space. In this case the existing study (11.4 sq.m) is to be removed and effectively incorporated in a rebuild which reduces the net increase to around 31sq.m. Accordingly, the cumulative increase to the original house is about 55sq.m of which 15 sq.m., rather than the 4.25 sq.m. used by the planning authority, is liable to a levy. I recommend that a levy of €1296 (15 x €86.40) be applied or the condition be worded without a fixed cost. As this is a domestic extension and not an addition residential unit, a levy under the Supplementary Development Contribution Scheme (under Section 49, Planning & Development Act, 2000 as amended) does not apply.

7.3 **Appropriate Assessment:**

7.3.1 Having regard to the nature and scale of the proposed development and its 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.

9.0 **Recommendation**

9.1. I recommend a grant of permission subject to the following conditions.

Reasons and Considerations

Having regard to the design and scale of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of adjoining property, would not increase the risk of flooding in the area and would be acceptable in terms

of public health. The proposed development 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, 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 side access gate shall not open outwards onto the street.

Reason: In the interest of public safety.

3. 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. All such works shall be designed, supervised and certified by a competent chartered engineer.

Reason: In the interest of public health.

4. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviation from these times shall 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.

5. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Suzanne Kehely

Senior Planning Inspector

10th June 2019