



An  
Bord  
Pleanála

## Inspector's Report

**ABP-304192-19**

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<b>Development</b>	1st storey extension with pitched roof and rear skylight and renovation of ground floor spaces including all associated ancillary works.
<b>Location</b>	35, St. Enda's Park, Rathfarnham, Dublin 14
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD18B/0462
<b>Applicants</b>	Mr & Mrs Andrew Harton
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party v Grant
<b>Appellants</b>	Mr & Mrs Jim & Paula Keeshan.
<b>Date of Site Inspection</b>	18 <sup>th</sup> , June 2019
<b>Inspector</b>	Paddy Keogh

## **1.0 Site Location and Description**

1.1. The site of the proposed development which has a stated area of 0.0372 ha. contains a two-storey end of terrace dwelling at the bottom of a cul-de-sac comprising similar 2 storey detached and semi-detached dwellings. The appeal site forms one end of a terrace of 4 dwellings. This terrace together with adjacent pairs of semi-detached dwellings on either side of the terrace form a crescent of houses enclosing a turning-circle at the bottom of the cul-de-sac.

## **2.0 Proposed Development**

2.1.1. The proposed development which has a stated floor area of 36.8 sq. m. involves the construction of a domestic extension to the side of the existing dwelling.

2.1.2. The proposed extension consists of:

- The renovation of an existing utility room and partially converted garage to family room accommodation and
- The construction of a pitched roof extension at first floor level (over the new family room) to provide new utility room and study accommodation.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. Notification of a decision to grant planning permission for the proposed development subject to 7 conditions was issued by the planning authority per Order dated 19<sup>th</sup>, March 2019.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

3.2.2. A report from the planning authority Senior Planner dated 19<sup>th</sup>, March 2019, following receipt of further information, includes:

- The Applicant has submitted a re-design of the proposed roof profile by way of further information. This provides for a hipped roof in place of the full gable elevation originally being proposed. It is considered that the revised design would be in character with the existing dwelling and more in keeping with the

character of the existing cul-de-sac. The overbearing impact associated with the original proposal for a full gable end wall has been substantially reduced.

- The Applicant has submitted a shadow study analysis by way of further information. This study demonstrates both the shadow impacts on the neighbouring properties from the existing and proposed developments. The study indicates that the proposed extension would not significantly reduce the daylight/sunlight on the properties to the west and east of the site.
- The site is contained within the 1 in 100 year flood zone on the Whitechurch Stream Catchment Flood Risk Assessment Map (CFRAM). An Engineering Report (prepared by POGA Consulting Engineers) assesses the impact of the proposed development in terms of flood risk. The report has been assessed by the Water Services Department and by Irish Water both of whom have indicated no objection to the proposed development subject to conditions.

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

### 3.2.3. **Other Technical Reports**

3.2.4. **Irish Water** – Report dated 6<sup>th</sup>, March 2019 (following the receipt of further information) indicates no objection to the proposed development subject to conditions.

3.2.5. **Water Services Department** - A report dated 4<sup>th</sup>, March 2019 (following the receipt of further information) indicates no objection to the proposed development subject to conditions.

### 3.3. **Third Party Observations**

Third party observations were received by the planning authority from residents of 3 houses on St. Enda's Park objecting to the proposed development. Grounds of objection include:

- Unacceptable precedent.
- Overshadowing.
- Overbearing Impact.
- Visual Impact on streetscape.
- Structural matters.

## 4.0 Planning History

There is no record of recent planning history on the subject site.

### ***Adjacent Sites:***

**Reg. Ref. SD08B/0603** – Planning permission for the material change of use of an existing outbuilding for use as bedroom accommodation on the adjoining site at No. 33 St. Enda's Park was refused by the planning authority per Order dated 14<sup>th</sup>, October 2008.

**Reg. Ref. SD13B/0004** – Planning permission for a part single storey and part two storey dwelling to the side of No. 36 St. Enda's Park to the side of the adjoining site at No. 36 St. Enda's Park was granted by the planning authority per Order dated 6<sup>th</sup>, March 2013.

## 5.0 Policy Context

### 5.1. South Dublin County Development Plan 2016 - 2023

- 5.1.1. Under the County Development Plan 2016 – 2022, the site is zoned 'RES: To protect and/or improve residential amenity'.
- 5.1.2. **H17 Objective 5** states 'To ensure that new development in established areas does not impact negatively on the amenities or character of an area'.
- 5.1.3. Policy H18 (Residential Extensions) states 'It is the policy of the Council to support the extension of existing dwellings subject to the protection of residential and visual amenities'.
- 5.1.4. Policy H18 (Objective 2) states 'To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and the standards set out in Chapter 11 'Implementation' and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010'.

### 5.2. Natural Heritage Designations

Glenasmole Valley SAC (Site Code 001209) is c. 4km south-west of the site.

Wicklow Mountain SAC (Site Code 002122) is c.6 km south of the site.

Wicklow Mountain SPA (Site Code 004040) is c. 6.4km south of the site.

### **5.3. EIA Screening**

- 5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment 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.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The submitted grounds of appeal include:

- The proposed development would set an undesirable precedent for similar development of St. Enda's Park. St. Enda's Park comprises a cul-de-sac containing dwellings arranged in a symmetrical fashion around a turning circle at the bottom of the cul-de-sac. A gap is provided between each terrace/pair of semi-detached dwellings. Many of the houses have been extended in the past. However, none have been extended so that the first floor is extended in line with the front elevation of the house.
- The proposed development, if permitted, would be a new departure being the first time that the 'filling of the gap' between the symmetrically arranged houses has been permitted. This would have a negative impact on the streetscape.
- It is not clear from the submitted documentation whether or not works are proposed along the party wall with the appellant's property. The submitted drawings are unclear.
- The proposed development has potential to cause structural damage to the appellant's property.
- Unauthorised works have previously been carried out to the appeal property.

### **6.2. Applicant Response**

- 6.2.1. A submission from the applicant's agent per letter dated 30<sup>th</sup>, April 2019, in response to the submitted grounds of appeal, includes:

- Concerns expressed in the three observations received by the planning authority from neighbouring property owners in St. Enda's Park objecting to the proposed development were addressed by way of amendments to the original design scheme incorporated into the further information submission lodged with the planning authority.
- The houses at St. Enda's Park are not Protected Structures and do not form part of a Conservation Area. There would appear to be no grounds under which the houses at the end of St. Enda's Park would warrant any special treatment as against houses elsewhere on St. Enda's Park.
- The grounds of appeal state that first floor extensions have been added to the side of houses on St. Enda's Park, but none have extensions in line with the front elevations of the houses. This is not true (see photographs attached to submission). In any event, the proposed extension will not be flush with the front elevation of the existing house, but will be stepped back 1.6m (in line with the setback of the existing garage to the side of the house at ground floor level.
- The submitted drawings clearly indicate that the proposed external wall at first floor level will be pulled back from the boundary of the property by 165mm. The ground floor wall will receive an insulated batten wall to the surface of the party wall. The design intent is not to violate the neighbour's property line. The proposed walls on the property line are not intended as weight bearing walls.
- The appellant's assertions concerning unauthorised development previously carried out to the appeal property are incorrect. The previous extension to the property was carried out within the statutory parameters of exempted development.

### **6.3. Planning Authority Response**

None

## **7.0 Assessment**

- 7.1.1. 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:

(1) Visual Impact

(2) Party Wall

(3) Unauthorized Development

(4) Appropriate Assessment

(1) Visual Impact

- 7.1.2. The submitted grounds of appeal argue that the proposed development will result in injury to the visual amenities of the area by reason of the partial 'infilling' of the space between No. 35 (the appeal site) and No. 33 (the appellant's property) which will impact negatively on the existing symmetrical crescent pattern of development at this end of St. Enda's Park. Furthermore, it is submitted that the proposed development will set an undesirable precedent for similar development throughout St. Enda's Park.
- 7.1.3. It has been pointed out on behalf of the applicant, in response, that St. Enda's Park does not form part of an Architectural Conservation Area and that none of the dwellings at this location are Protected Structures. It is submitted that the architectural character of the area is not such as to warrant any special protection. Furthermore, it is argued that the concerns of objectors (including the appellant) were addressed by way of amendments to the proposed design (the hipping back of the pitched roof covering the extension at first floor level) incorporated into the further information submission made to the planning authority.
- 7.1.4. In my opinion, St. Enda's Park is an attractive residential cul-de-sac. I agree with the appellant's assertion that the original layout provides for individual house that combine to create a unified symmetrical architectural form – particularly in the case of the crescent of houses surrounding the turning circle at the bottom of St. Enda's Park. This Crescent is formed by a terrace of 4 dwellings (Nos. 36, 38, 37 & 35) together with the pairs of semi-detached dwellings on either side of this terrace. The overall configuration of development is compact with garages to the side of individual

dwelling abutting each other. Permitting an extension at first floor level to the side of a dwelling as far as the property boundary means that no separation space will remain between the property and the boundary. If other property owners follow the precedent set by allowing such development the resulting configuration of development at the bottom of the cul-de-sac could be radically altered – the entire Crescent could read as a continuous visually uninterrupted terrace of development. I would share the opinion of the appellant that such a development would be out of character with the general pattern of development in the surrounding area and would be undesirable from in terms of its overall visually impact. However, as has been pointed out on behalf of the applicant, the current proposal is for a development which will be set back at first floor level (in line with the existing converted garage at ground floor level) from the main front building line established by the terrace of houses comprising Nos. 36, 38, 37 & 35 St. Enda's Park. This setting back will reduce the visual impact of the proposed development. Furthermore, the proposed development will provide for a staggering of the streetscape. In my opinion, the resulting pattern of development would not have a dramatically negative impact on the existing streetscape or result in serious injury to the visual amenities of the area. Accordingly, I consider that refusing planning permission for reasons relating to the visual impact of the proposed development would be unwarranted in this instance.

## (2) Party Wall

- 7.1.5. The submitted grounds of appeal highlight the potential for structural damage to the appellant's property as a consequence of the proposed construction work so close to the boundary with the appellant's property. The submitted grounds of appeal also suggest that the submitted drawings are unclear and it is difficult to ascertain whether or not it is proposed to carry out works along the party wall separating the applicant's property from the appellant's property.
- 7.1.6. The applicant has pointed out that the proposed external wall at first floor level will be setback 165mm from the boundary with the appellant's property. The external wall at ground floor level will receive an insulated batten wall to the surface of the party. It is stated that the applicant does not intend to 'violate the neighbours property line' along the party wall. The proposed wall is not intended to be weight bearing.
- 7.1.7. In my opinion, the construction of the proposed extension to the appeal property has potential to infringe upon the party wall with the appellant's property at least during



the construction phase and possibly in relation to the insulation of existing ground floor accommodation. However, the matter of obtaining any consent that may be necessary from the appellant in relation to works along the party wall constitute a civil matter between the parties and are not a matter for determination within the scope of planning and development legislation. In these circumstances, I consider that refusal of planning permission on grounds related to potential for infringement onto the appellant's property would be unwarranted.

### (3) Unauthorised Development

- 7.1.8. The submitted grounds of appeal state that unauthorised development has previously been carried out to the appeal property. This suggestion is refuted by the applicant who states that a previous (single storey) extension carried out at the rear of the property was undertaken within the statutory parameters of exempted development.
- 7.1.9. The report dated 19<sup>th</sup>, March 2019 prepared by the planning authority Senior Executive Planner refers to an Enforcement File (Enf. Ref. S5493) previously opened in relation to the property at No. 35 St. Edna's Park. However, this file has been closed and there is no record of any current enforcement action relating to the site.
- 7.1.10. In the circumstances outlined, I see no reason to consider refusing planning permission for the proposed development on grounds relating to unauthorised development that might previously have been undertaken at the site.

### (4) Appropriate Assessment

- 7.1.11. Having regard to the nature and scale of development proposed, the location of the site within an urban area connected to mains drainage and to the nature of the receiving environment, 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 any European site.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development and to the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of neighbouring houses by reason of overlooking or overshadowing, would not seriously injure the visual amenities of the area, would be acceptable in terms of its impact on the streetscape and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

- (1) The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 19<sup>th</sup> day of February 2019, 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 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.

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

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

- (4) Water supply and drainage arrangements including the 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) Site development and building works shall be carried out only between the hours of 0800 to 1900 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 residential amenities of property in the vicinity.

**Note:** The Applicant is advised re the provisions of S. 34(13) of the *Planning and Development Act, 2000, as amended*.

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Paddy Keogh  
Planning Inspector

1<sup>st</sup>, July 2019