



An
Bord
Pleanála

Inspector's Report ABP-304194-19

Development	Single and two-storey rear extensions to house to provide for ancillary family accommodation
Location	24 St. James' Avenue, Ballybough, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2126/19
Applicant(s)	Pat Gates & Irene Quinn
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First-Party v Condition
Appellant(s)	Pat Gates & Irene Quinn
Observer(s)	Xavier Ryan
Date of Site Inspection	18 th June 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located 1.5km northeast of Dublin city centre on St. James' Avenue, a residential street off Clonliffe Road in the Ballybough area.
- 1.2. The site is rectangular in shape and measures a stated 170sq.m. To the front it contains a mid-terrace split-level cottage containing three bedrooms, two of which are located in a two-storey rear return. The site features a rear yard and garden area, which back onto a hardsurfaced area containing a small timber shed. The external finishes to the front of the cottage include painted-red brick, roof slates and a timber-sash window with a decorative brick arch. The site opens onto a rear laneway, which is approximately 3m in width and terminates 10m to the south of the site. The gated access to this rear laneway is located to the north of the site at the end of the road which terminates at the Irish Handball Centre.
- 1.3. The surrounding area is generally characterised by single and two-storey terraced dwellings of varying styles. The adjacent property to the north, No.22, has been extended to include a two-storey mews house to the rear facing north onto the entrance road that terminates at the Irish Handball Centre. Ground levels in the vicinity are relatively flat with only a slight drop moving south.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - single and two-storey rear extensions with a stated gross floor area of 57sq.m to provide ancillary family accommodation for an elderly relative of the applicants' family.
- 2.2. In addition to the standard planning application documentation and drawings, the application was accompanied by a Planning Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission subject to eight conditions, most of which are of a standard nature, but also including the following condition no.2:

'The height of the rear extension shall be reduced in height to single storey only and shall have a height of a maximum of 3.5 meters when measured from ground level.

Revised plans shall be submitted for the written approval of the Planning Authority prior to the commencement of development.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (March 2019) reflects the decision of the Planning Authority. The Planning Officer notes the following in their report:

- the proposed two-storey element would be approximately 300mm higher than the adjoining two-storey extension to No.22;
- the two-storey element would not be subordinate to the host property, as required under the provisions of Section 16.10.12 of the Dublin City Development Plan 2016-2022;
- despite the precedent set by the adjoining extension to No.22, this does not provide sufficient rationale for permitting the proposed two-storey element;
- the two-storey element would have an overbearing impact on the neighbouring property to the south, No.26;
- open space provision (40sq.m) is acceptable and the development would comply with the provisions of Section 16.10.14 of the Development Plan, relating to 'ancillary family accommodation'.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water – no response;
- Irish Rail – no response.

3.4. Third-Party Submissions

3.4.1. None received.

4.0 Planning History

4.1. Subject Site

4.1.1. I am not aware of any other planning applications relating to the appeal site.

4.2. Surrounding Sites

4.2.1. Recent relevant planning applications relating to neighbouring properties, include the following:

- No.22 St. James' Avenue – Dublin City Council (DCC) Ref. WEB1433/18 – permission granted (January 2019) for the conversion of a two-storey garage into a granny flat;
- No.22 St. James' Avenue – DCC Ref. 5848/06 – permission granted (July 2006) for extensions to a house and a two-storey garage to the rear.

5.0 Policy & Context

5.1. Development Plan

5.1.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect, provide and improve residential amenities'.

5.1.2. Relevant planning policies for the proposed development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Under Section 16.10.12 of Volume 1 to the Development Plan, it

is stated that applications for planning permission to extend dwellings will only be granted where the Planning Authority is satisfied that the proposal would:

- 'not have an adverse impact on the scale and character of the dwelling;
- have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight'.

5.1.3. Matters to be considered in assessing proposals for subdivision of dwellings are outlined under Section 16.10.13 of the Plan. Section 16.10.14 of the Plan addresses 'ancillary family accommodation' and outlines that an extension to a family dwelling to accommodate a family member must comply with the following:

- a valid case is made with regard to the relationship with the applicant;
- it is directly connected to the main dwelling;
- the independent unit can be integrated into the dwelling once the family member no longer needs it.

5.1.4. BRE guidance addressing Site Layout Planning for Sunlight & Daylight (2011) is relevant in assessing the potential impacts of a development on light to neighbouring properties.

5.1.5. Appendix 17 (Volume 2) of the Development Plan provides guidance specifically relating to residential extensions. Section 17.8 of this appendix outlines that the subordinate approach to extending a house should be adhered to, meaning that an extension should play more of a 'supporting role' to the original house. In general, the extension should be no larger or higher than the host house.

5.2. **Environmental Impact Assessment - Preliminary Examination**

5.2.1. Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

6.1.1. A first-party appeal has been lodged only against condition no.2, which was attached to the Planning Authority's notification of a decision to grant planning permission.

The following grounds of appeal are raised:

- condition no.2 should be omitted from the decision, as it would negate the intended purpose of the proposed development as ancillary family accommodation;
- the floor area of the ancillary family accommodation element would be reduced from 38sq.m to 19sq.m and as the intended resident, it would deny the applicants' mother the minimum standards of accommodation based on the 'Sustainable Urban Housing Design Guidelines for New Apartments' (2018);
- the two-storey extension would be subordinate to the host house in terms of form, design, massing, floor area and footprint;
- the extension would be 0.25m higher than the host house and backs onto a 7m-high boundary wall with the rear laneway and the 11m-high Irish Handball Centre building;
- the two-storey element would be set off the boundary with No.26 to the south by 1.1m, while the existing two-storey extension to No.22 sits directly on the appeal site boundary;
- an overbearing impact, loss of light or overshadowing would not arise, given the set back from the boundary to No.22, and the Planning Officer has not expanded as to why they consider an overbearing impact would arise;
- there were no objections to the proposed development.

6.1.2. Additional shadow projection and three-dimensional block drawings, as well as a letter of support, stated to be from the adjoining resident of No.26 St. James' Avenue, are included with the grounds of appeal.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority did not respond to the grounds of appeal.

6.3. **Observations**

6.3.1. An observation was received from the resident of No.26 St. James' Avenue, adjoining to the south of the appeal site, stating that they have no objection to the proposed development.

7.0 **Assessment**

7.1. This is a first-party appeal only against condition no.2 attached to the Planning Authority's decision to grant permission. Condition no.2 requires the first-floor to the proposed ancillary accommodation extension element to be omitted.

7.2. Having regard to the nature and scale of the proposed development and the nature of condition no.2, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance, would not be warranted. Therefore, the Board should determine the matters raised in the appeal only in accordance with Section 139 of the Planning and Development Act 2000, as amended.

7.3. The grounds of appeal assert that substantive reasons for attaching the condition have not been provided by the Planning Authority and that the amendments required would result in the development providing for substandard accommodation for the stated future occupant. The grounds of appeal also assert that the proposed extension would follow the subordinate design approach and would not impact on the residential amenities enjoyed by residents of the neighbouring house to the south.

7.4. The Planning Authority's reason for attaching condition no.2 to their notification of a decision to grant permission is stated as being, 'in order to ensure a satisfactory standard of development, in the interests of residential amenity'. Within the Planning Authority's report assessing the proposed development it is submitted that the proposed two-storey element would not be subordinate to the host house, as it would be 300mm higher than the host house. It is also submitted in the Planning

Authority's report that the extension would potentially have an overbearing impact when viewed from the adjoining residence to the south, No.26.

- 7.5. Section 16.10.12 of the Dublin City Development Plan 2016-2022 states that applications for planning permission to extend dwellings will only be granted where the Planning Authority is satisfied that the proposal would not have an adverse impact on the scale and character of the host dwelling and where they would not have an unacceptable impact on the amenities of adjacent residences. Section 17.8 of Appendix 17 (in Volume 2) to the Development Plan outlines that residential extensions should be subordinate to the host house meaning that an extension should play more of a 'supporting role' to the original house and should be no larger or higher than the host house.
- 7.6. Adjoining to the north of the site is No.22 St. James' Avenue, which includes a two-storey granny flat to the rear with access from the entrance road terminating at the Irish Handball Centre. The proposed two-storey element would adjoin the two-storey granny flat to No.22 and given this context, the proposed extensions would not impact on the residential amenities enjoyed by the residents of the adjacent house to the north. The adjoining house to the south features a two-storey rear return, a single-storey extension onto this and a single-storey shed. A narrow yard extends along the northern boundary of No.26 with the appeal site. As the proposed two-storey extension would be to the north of No.26 potential for significant impacts arising from overshadowing would not arise. The proposed south-facing bedroom window at first-floor level would be fitted with obscure glazing, therefore, potential for excessive direct overlooking would not arise. The proposed extension would be set off the boundary with No.26 by 1.1m and given the 20m depth of the yard area to No.26, I am satisfied that the proposed extension would not have a significantly overbearing impact when viewed from this adjoining property.
- 7.7. In assessing the proposed development, the Planning Authority considered that the 'subordinate approach' outlined in Appendix 17.8 of the Dublin City Development Plan 2016-2022, would not be adhered to, as the extension would be 300mm higher than the ridge height of the host house. The appeal site is situated in an area that does not have any conservation status and backs onto a rear service lane separating the site from a 7m-high boundary wall and the 11m-high Irish Handball Centre building. The proposed extensions would be visible from a very limited area,

including the lane to the rear, which is gated, and the immediate neighbouring properties. The layout of the proposed development would follow that permitted on the adjacent property to the north and the proposed two-storey element would be 7.3m from the two-storey rear return to the host house. This separation distance between the host house and the proposed two-storey element would ensure that the extensions appear subsidiary to the host house, while the difference in building heights would not be significant. Given the inner-urban context, the existing adjacent granny-flat development, the restricted views of the proposed extensions and the form, scale and design of the extensions, I am satisfied that the proposed two-storey element would be acceptable in design terms and the requested reduction in the height of the extension would have negligible effect in reducing the overall impact of the proposed development on the visual amenities of the area.

- 7.8. In conclusion, I am satisfied that condition no.2, requiring a reduction in the height of the proposed two-storey element of the extensions to single-storey, would not be warranted, as the reduced height would not be necessary to safeguard the residential amenities of neighbouring properties and as the extensions would be acceptable in terms of design, form and layout.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development and to the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the 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. It is recommended that the Planning Authority be directed to omit condition number 2, for the reasons and considerations hereunder.

10.0 Reasons and Considerations

1. Having regard to the nature and scale of the proposed development, including the separation distance between the host house and the proposed two-storey element, the pattern of development in the area, including the scale, form, height and extent of extensions on the adjacent property at No.22 and the scale of development to the rear, and the restricted views of the property within an inner-urban context, it is considered that the modifications to the proposed development, as required by the planning authority in its imposition of condition number 2, was not warranted, and that the proposed development, with the omission of condition number 2, would not have a significant impact on the amenities of the area or on the residential amenities of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

19th June 2019