



An
Bord
Pleanála

Inspector's Report

ABP-304380-19

Development	Retention of single storey porch and satellite dish, single storey extension to side and rear of dwelling and all associated site works.
Location	No. 38 Sheepmoor Avenue, Blanchardstown, Dublin 15.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW19B/0019
Applicants	Zhanming Cui & Xia Shen
Type of Application	Retention
Planning Authority Decision	Split decision
Type of Appeal	First Party
Appellants	Zhanming Cui & Xia Shen
Date of Site Inspection	19 July 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at No. 38 Sheepmoor Avenue, Blanchardstown, Dublin 15, where it is at the end of a terrace of similar two storey houses set almost at the rear building line of a similar terrace block to the north. The house was originally set back from the side boundary by a gap of 2.69m, where part of the extension is now located. There is a similar setback from the shared boundary to the end of terrace dwelling to the north. A satellite dish has been placed on the front of the building at first floor level. There are a few similar satellite dishes visible on front elevations in the vicinity and many can be seen attached to chimneys. A projecting sign for the National Lottery is attached to the front elevation to the dwelling at the southern end of the terrace.
- 1.1.2. The site is given as 0.0308 hectares.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the retention of a single storey porch and satellite dish both to the front of the dwelling, and a single storey extension to the side and rear of the dwelling and all associated site works. The side extension is set behind the front building line and is just over 2.5m wide where it runs along the side of the original house. At the rear of the original house it widens to over 4.6m. It extends 4.1m beyond the rear of the original house. There are gardens to the front and rear.
- 2.1.2. The existing floor area is given as 79.8m². The total floor area to be retained is given as 39.2m².

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided (9th April 2019) to grant permission for the single storey porch and to refuse permission for the single storey extension to side and rear and the satellite dish. The refusal reasons state:
- The side extension for retention by virtue of its height, length and proximity to the adjoining boundary overshadows and has an overbearing effect on the private open

space to the rear of the adjoining site. This impact is exacerbated by the siting and orientation of the side extension and neighbouring No 36 Sheepmoor Avenue, the latter being located forward, due north and at a lower level to No 38. The external finish is also visually unacceptable. The development results in loss of amenity of the adjoining site and contravenes the 'RS' zoning objective which seeks to provide for residential development and protect and improve residential amenity, in the Fingal Development Plan 2017-2023. The side extension for retention is seriously injurious to the amenity of the adjoining residential property and as such is contrary to the proper planning and sustainable development of the area.

- The side extension for retention incorporates the existing party wall that forms the boundary between No 36 Sheepmoor Avenue and neighbouring No 38. Given the nature of the development insufficient details have been submitted to fully ascertain whether or not the applicant has sufficient legal interest in the site. In light of such evidence the proposed structure is considered to impact unduly on the residential amenity of the adjoining property or occupants of the development and as such be contrary to the proper planning and sustainable development of the area.
- The satellite dish to the front wall of No 38 Sheepmoor Avenue, by reason of its prominent location, scale and design appears visually incongruous to the front elevation of this terraced property and such detrimental to the visual amenities of the dwellings and neighbouring properties. The development would therefore be contrary to the RS zoning objective which seeks to provide for residential development and protect and improve residential amenity, in the Fingal Development Plan 2017-2023. The satellite dish would be seriously injurious to the visual amenity of the property and of adjoining residential properties and set an undesirable precedent for similar development in the locality and as such is contrary to the proper planning and sustainable development of the area.

3.1.2. The decision was in accordance with the planning recommendation.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planning report, includes:

- Planning enforcement active file.

- The extension is 2.69m wide at the eastern end front and 5.02m wide at the western end. It has a concrete block finish. The side extension impacts unduly on the residential amenities through overshadowing and overbearing and in particular on the private open space of No 38.
- The satellite dish is set at first floor level and is c1m diameter and unduly impacts on the visual amenities of the property, neighbouring properties and the streetscape.
- The northern side wall is built up from the party wall and the planning authority's building control department reported that the works required are significant and without any details as to what works are planned, they would have concerns about this extension.
- A copy of the warning letter is attached to the report.

4.0 Planning History

An active planning enforcement file in relation to the subject address and specified development is referred to in the planning report and a copy of the warning letter has been provided.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Fingal Development Plan 2017-2023 is the operative plan. Relevant provisions include:

Zoned RS to provide for residential development and protect and improve residential amenity.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura site is South Dublin Bay and River Tolka Estuary SPA (site Code 004024) which is in excess of 11 km, straight line distance, from the subject site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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. Finnegan & Jackson have submitted this appeal on behalf of the applicant, against the planning authority's decision to refuse permission for part of the development the subject of the retention application, the grounds of includes:

- The proposal is not seriously injurious to the amenity of the adjoining residential property and is not contrary to the proper planning and sustainable development of the area.
- The proposed use of the party wall has been in use prior to the construction of the extension. The boundary wall has previously been extended upwards. Therefore it does not unduly impact on the adjoining property or occupants.
- The satellite dish is not seriously injurious to the visual amenity of the adjoining residential properties.
- The height is only 3.1m however the applicant is prepared to relocate the side wall inside the applicant's own property. A structural design will be prepared prior to any works for agreement with Fingal Co Co. It is proposed to support the existing roof and then remove the existing blockwork from on top of the original boundary wall. A new wall/structural timber frame will be constructed inside the applicant's own property and then remove the blockwork. The exterior of the new wall will be finished to match the existing finishes. It should be noted that the extension, at 3.2m, is significantly lower than an exempted garage that can be constructed to a gable height of 4m. A sketch of what is proposed is provided.
- This will eliminate concerns regarding sufficient legal interest.

- The satellite dish is similar to others in the vicinity and would not create a precedent.

6.2. Planning Authority Response

6.2.1. The Planning Authority have responded to the grounds of appeal, the response includes:

- The issues raised have been dealt with in the planner's report.
- The proposal to relocated the side wall is noted, however the reduced width and long galley kitchen arrangement appears to offer a somewhat cramped and poor space.

7.0 Assessment

7.1.1. This is an appeal against schedule 2, that is, it relates only to the part of the development which the planning authority decided to refuse and does not include the front porch, (Schedule 1 – permission).

7.1.2. The issues which arise in relation to this appeal are: appropriate assessment, visual amenity, residential amenity, and building on the boundary wall and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. Having regard to the nature and scale of the proposed development and 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 a European site.

7.3. Visual Amenity

7.3.1. The planning authority decided to grant permission for the front porch and this decision is not appealed.

7.3.2. Visual amenity is the reason for refusal in relation to the retention of the satellite dish. The satellite dish has been placed on the front of the building at first floor level. Some similar satellite dishes can be seen on front walls in the vicinity. Many more satellite dishes are attached to chimneys. Erecting a satellite dish on the front of the

house is clearly the easiest way to obtain a signal, but it is possible, if a little more difficult, to obtain the necessary disk orientation by erecting on a mounting above the rear wall of the building but concealed from the public road. I agree with the planning authority's assessment that the satellite dish detracts from the visual amenities of the area and having regard to the availability of a more acceptable solution, impact on visual amenities of the area is a reason for refusal of this element of the proposed retention. In light of the minor nature of this element of the development I consider that it should be omitted by condition.

7.3.3. In my opinion the front of the extension does not detract from the visual amenities of the area.

7.3.4. The extension is built in concrete blockwork and the blockwork is exposed on the northern elevation which is unplastered. In its current state this impacts on the visual amenity of the area.

7.4. Residential Amenity

7.4.1. The planning authority decided to refuse retention to the extension for reasons which include residential amenity; that by virtue of its height, length and proximity to the adjoining boundary, it overshadows and has an overbearing effect on the private open space to the rear of the adjoining site and is seriously injurious to the amenity of the adjoining residential property.

7.4.2. There is a small difference in level between the properties, with the subject site being slightly above that adjoining. The extension is relatively modest in scale. Due to the subject building being located nearly at the rear building line of that adjoining to the north, the entire extension runs along the boundary with the adjoining rear garden. Nevertheless the extension could not be said to be overbearing or to have a significantly overshadowing effect. I note that the grounds of appeal refers to the availability of an exemption for a garage of 4m height¹. The Board should note that this exemption limit, refers to a pitched roof; the relevant height limit for a flat roof is 3m; which the subject extension exceeds. The residential amenity of adjoining property should not be a reason to refuse permission.

¹ 'The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres'; condition no 5 of exemption per class 3 of part 1 of schedule 2 of the Planning and Development Regulations.

7.5. Boundary / Ownership

- 7.5.1. The planning authority decided to refuse retention to the extension for a second reason, that the side extension for retention incorporates the existing party wall which forms the boundary between No 36 Sheepmoor Avenue and neighbouring No 38.
- 7.5.2. In the grounds of appeal it is proposed to remove the existing side wall of the extension and to relocate this end wall within the subject site. The structural detailing of the wall to be agreed with Fingal County Council. The boundary wall will then be reduced in height to the level prior to construction of the extension.
- 7.5.3. In my opinion this is a satisfactory solution. The resulting extension, which is already narrow, will be further narrowed, however the available space determines the width. The extension will comprise functional domestic space whether for storage or other use.

8.0 Recommendation

- 8.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and subject to the following conditions.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the modest scale of the extension to be retained and subject to the revisions proposed as part of this appeal, it is considered that the extension, if carried out in accordance with the following conditions, would not have an overshadowing or overbearing effect on the adjoining property, or be seriously injurious to the residential amenities of the area; it is also considered that, subject to the removal of the satellite dish, the development would not be seriously injurious to the visual amenities of the area; the proposed development would accordingly 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
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	<p>further plans and particulars received by An Bord Pleanála on the 3rd day of May, 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.</p> <p>Reason: In the interest of clarity.</p>
2	<p>Within one month of the date of this permission, revised drawings and details, including structural design details and a method statement, for the removal of the side wall of the extension and its replacement with a wall, located within the applicants property, and the reinstatement of the boundary wall to its condition and height prior to the erection of the extension, shall be submitted to the planning authority for prior written agreement and the work as thereby agreed shall be completed within 6 months of the date of this permission.</p> <p>Reason: In the interest of clarity.</p>
3	<p>The wall referred to in condition no 2 shall be finished in plaster on its northern side.</p> <p>Reason: In the interest of visual amenity.</p>
4	<p>Within one month of the date of this permission, the satellite dish shall be removed. No satellite dish shall be erected on or within the curtilage of the house except in accordance with a further permission or which would constitute exempted development under class 4 of part 1 of schedule 2 of the Planning and Development Regulations.</p> <p>Reason: In the interest of visual amenity.</p>

5	<p>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.</p> <p>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.</p>
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Planning Inspector

25 July 2019

Appendices

Appendix 1 Photographs

Appendix 2 Fingal County Development Plan 2017-2023 extract.