



An  
Bord  
Pleanála

## Inspector's Report ABP-304810-19

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<b>Development</b>	Extension to side and 2 rooflights; extension of porch and canopy to front; conversion and extension of attic.
<b>Location</b>	No. 20 Charnwood Gardens, Clonsilla, Dublin 15.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	FW19B/0053
<b>Applicant</b>	Chu Fong Lam.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Chu Fong Lam.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	3 <sup>rd</sup> day of September, 2019.
<b>Inspector</b>	Patricia-Marie Young.



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## 1.0 Site Location and Description

- 1.1. No. 20 Charnwood Gardens, is a rectangular shaped site with a stated 0.02678ha area. It is located in the 'Charnwood' residential development, in the city suburb of Clonsilla, to the north west of Dublin's city centre. The site is located on the western side of Charnwood Gardens towards the southern end of this cul-de-sac which is addressed on either side by matching pairs of semi-detached dwellings and it lies c73m to the south of Charnwood Gardens junction with Charnwood Avenue.
- 1.2. It contains a 2-storey semi-detached dwelling house that is setback from the roadside boundary by a hard-surfaced area which accommodates off-street car parking.
- 1.3. To the rear this dwelling has been extended by way of a single storey extension. The rear garden area contains a single storey shed structure that appears to share part of the southern party boundary wall and it is located in close proximity to the western (rear) boundary of the site.
- 1.4. The subject site forms part of a highly coherent and uniform in character and design residential setting.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for a single storey granny flat extension to the side with flat roof over; 2 no. upstand rooflights; extension of existing porch and canopy to the front elevation; conversion and extension of attic involving alterations to the roof structure so that its modified to be gable ended to the side with a dormer window to the rear; replacement of existing pitched roof external store to the rear new flat roofed external store; together with all associated site works and services.
- 2.2. According to the accompanying planning application form the existing gross floor space of existing buildings on site is stated to 129.8m<sup>2</sup> (existing dwelling house) and 11m<sup>2</sup> (Store). The stated gross floor space of works is stated to be 221m<sup>2</sup> and the gross floor space of demolition is 11m<sup>2</sup>.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority decided to refuse planning permission for the following stated reasons:

- “1. *The proposed development, in the form of the dominant dormer structure to the rear roof pitch and conversion of the roof profile from hip to gable, is visually out of character with the existing houses in the area, in terms of style, and roof profile. The proposed development would, therefore, materially contravene Objectives PM46 and DMS41 of the Fingal Development Plan 2017-2023, would seriously injure the visual amenities of the area, and of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed family flat by way of side extension is considered not to be compliant with the provisions of Table 12.3 of the Fingal Development Plan 2017-2023 which seeks to ensure an acceptable standard of residential accommodation of future occupants and is therefore contrary to the provisions of DMS24 of the Fingal Development Plan 2017-2023.*
3. *Taking particular account of the extent of the proposed development and the development of the full width of the site, insufficient information has been presented to ensure that impacts on surface and waste water collection and disposal have been provided for in the design.”*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officers report is the basis of the Planning Authority’s decision.

#### 3.2.2. Other Technical Reports

None on file.

### 3.3. **Prescribed Bodies**

3.3.1. None on file.

### 3.4. **Third Party Observations**

3.4.1. The Planning Authority received one objection from the owners of No. 22 Charnwood Gardens, which can be summarised as follows:

- This application seeks removal of a party wall without their consent.
- The proposal would have substantial ramifications on their property.
- The applicants have not consulted with them in relation to the development sought.
- The Site Notice was not placed in a conspicuous position and its view was blocked by cars.
- The general removal or interference with the party wall is objected to and, if permitted, by the Planning Authority several safeguards are sought.

## 4.0 **Planning History**

4.1. None relevant.

## 5.0 **Policy and Context**

### 5.1. **National Policy**

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide, (DEHLG 2009).
- Project Ireland 2040 National Planning Framework (2018).

## 5.2. Local Planning Context

- 5.2.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned 'RS' which has an aim to: *"provide for residential development and protect and improve residential amenity"*.
- 5.2.2. Chapter 3 of the Development Plan deals residential development.
- 5.2.3. Objective DMS44 of the Development Plan states that the Planning Authority will seek to: *"protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character."*
- 5.2.4. Chapter 12 on the matter of residential ground floor extensions states that these will be considered *"in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space. Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation), and impacts on residential amenity"*; and, on the matter of roof alterations/additions it states that these will be assessed against a number of criteria including:
- Consideration and regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.
  - Existing roof variations on the streetscape.
  - Distance/contrast/visibility of proposed roof end.
  - Harmony with the rest of the structure, adjacent structures and prominence.
- 5.2.5. Chapter 12 on the matter of dormer extensions to existing roofs states that they *"will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions (whether for functional roof space or light access) shall generally not form a dominant part of a roof. Consideration may be given to dormer extensions proposed up to the ridge level of a house, but in all cases no dormer extension shall be higher than the existing ridge height of the house. The proposed quality of materials/finishes for dormers will be considered carefully as this can greatly improve*

*their appearance. The level and type of glazing within a dormer structure should have regard to existing window treatments and fenestration of the dwelling*". The following objectives are relevant to this type of development:

Objective DMS41 which states: "*dormer extensions to roofs will only be considered where there is no negative impact on the existing character and form, and the privacy of adjacent properties. Dormer extensions shall not form a dominant part of a roof. Consideration may be given to dormer extensions proposed up to the ridge level of a house and shall not be higher than the existing ridge height of the house*".

Objective DMS42 which states that the Planning Authority will seek to: "*encourage more innovative design approaches for domestic extensions.*"

5.2.6. Chapter 12 of the Development Plan on the matter of 'Family Flats' states that: "*Family flats (often known as granny flats) are a way of providing additional accommodation with a level of independence for an undefined temporary period of time. Family flats allow for semi-independent accommodation for an immediate family member (dependent on the main occupants of the dwelling). Applications for family flats will be considered favourably subject to criteria set out in Objective DMS43*". This objective indicates that the Planning Authority will seek to ensure that family flats meet the following criteria:

- Are for a member of the family with a demonstrated need.
- Are linked directly to the existing dwelling via an internal access door and do not have a separate front door.
- When no longer required for the identified family member, are incorporated as part of the main unit on site.
- Do not exceed 60m<sup>2</sup> in floor area.
- Comply with the design criteria for extensions set out in the Development Plan.

### 5.3. **Natural Heritage Designations**

5.3.1. None relevant.



## **5.4. EIA Screening**

5.4.1. Having regard to the nature, scale and scope of the proposed development within the mature and built-up residential setting of the Dublin city suburb of Clonsilla, the nature of the receiving environment, the serviced nature of the site and its surroundings, I consider that 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. The grounds of appeal can be summarised as follows:

- Reference is made to what is cited as a precedent for a similar development in the area and it is contended that the only difference is the narrower dormer window which the appellant would have no objection to providing by way of a condition.
- The granny flat is for the existing occupant's client's mother.
- The granny flat is for extra accommodation and will be for occasional use.
- It is not accepted that the proposed granny flat is substandard.
- Clarification is provided to allay the Planning Authority's surface water drainage concerns.
- The appellant is willing to sign a party wall agreement with the adjoining owner and allow the adjoining owner the use of the boundary wall in future development. If no party wall agreement is reached the appellant would build inside the existing boundary wall which would in their view only result in the loss of a few inches.
- The proposed development is not out of character with its setting.
- It is requested that the decision of the Planning Authority be overturned.

## 6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- To permit the proposed development would be visually out of character with the predominant design, style and roof profile within Charnwood Gardens and for this reason would materially contravene objectives DMS41 and DMS44 of the Development Plan.
- Notwithstanding the overall area of the proposed side and rear extension the Planning Authority raise serious concerns regarding the width of the internal accommodation proposed under this application. It is noted that the appellant is willing to enter into a party wall agreement with the adjoining owner; however, given the restricted width of the site, the internal accommodation would be substandard and contrary to the provisions of Objective DMS24 of the Development Plan.
- Each application must be judged on its own merits.
- There are clear policies and objectives in the current Development Plan against which this proposal is assessed, particularly regarding dormer extensions and habitable room sizes. These are implemented in a consistent manner by the Planning Authority.
- The appellant has adequately addressed their drainage concerns.
- The Board is requested to uphold the Planning Authority's decision; however, should permission be granted it is requested that a Section 48 condition be imposed by way of condition.

## 7.0 Assessment

### 7.1. Introduction

7.1.1. I consider that the main issues in this appeal are those raised in the grounds of appeal and by the Planning Authority. I am satisfied that no other substantive planning issues arise. I have dealt with the issues under the following broad headings:

- Principle of the Development

- Legal Interest
- Visual Amenity Impact
- Residential Amenity Impact
- Material Contravention

7.1.2. The issue of appropriate assessment also needs to be addressed.

7.1.3. The appellant as part of their submission to the Board has submitted clarification on the matter of surface water drainage which overcomes concerns raised by Planning Authority in their reasons for refusal, i.e. Refusal Reason 3. Given the minor nature of this clarification I do not consider that revised public notices are required, and I note that the Planning Authority in their response to the grounds of appeal appear to be satisfied with this documentation subject to safeguards. In this case I consider it appropriate that the information provided on the matter of surface water can be accepted as part of the grounds of appeal. I therefore propose to assess this application *de novo* on the basis of the proposed development as submitted to the Planning Authority 17<sup>th</sup> day of April, 2019, and having regard to the additional clarity submitted by the appellant to the Board in their submission. I also concur with the Planning Authority that subject to safeguards that this component of the proposed development is acceptable, and it is standard practice for a condition to be provided on such matters as a precaution in the event of a grant of permission for this type of development.

## 7.2. Principle of the Development

7.2.1. The site is situated within an area of suburban land zoned 'RS' which aims to: "*provide for residential development and protect and improve residential amenity*" under the Fingal County Development Plan, 2017-2023. The zoning objective for such land is to provide for residential development alongside protecting and improving residential amenity. In general, the principle of residential development on 'RS' zoned land is deemed to be acceptable, subject to safeguards.

## 7.3. Legal Interest

7.3.1. I raise a concern that this application has not been accompanied by the written consent of the adjoining landowner to the south, i.e. No. 22 Charnwood Gardens. Having examined the documentation attached to file which indicates the following:

- 1) That part of the proposed development will be constructed on the party wall shared with No. 22 Charnwood Gardens and the granny flat component of the proposed development as proposed in the submitted drawings would require encroachment beyond this party wall for its construction;
- 2) I observed during my site inspection that the existing shed structure in the rear garden of the subject site is not fully within the confines of the site area of No. 20 Charnwood Gardens and that it over-sails into the confines of the site area associated with No. 22 Charnwood Gardens. Whereas the documentation submitted does not indicate this fact. The existing shed is shown in the submitted documentation as being confined within the subject site area and relative to the footprint of the proposed granny flat extension it does not extend as far in a southerly direction. The submitted drawings would therefore appear to suggest that the southernmost side of the proposed granny flat would extend further south than the existing shed and if that was assumed to be what is proposed it would over-sail and encroach onto the confines of the site area of No. 22 Charnwood.

7.3.2. Having regard to the adjoining properties submission to the Planning Authority in relation to the proposed development they clearly object to the proposed development in the form proposed and they have not provided written consent for such interference with the party boundary or indeed any encroachment or oversailing of their property.

7.3.3. In addition, the appellant as part of their submission to the Board was unable to demonstrate that they benefit from the written consent of the legal owners of No. 22 Charnwood Gardens to remove or make any amendment to the party wall between them and the appellants. Further, the appellant has not demonstrated that they have their written consent to encroach or oversail No. 22 Charnwood Gardens. Moreover, there is no written consent from the legal owners of No. 22 Charnwood Gardens to enter onto this property either for construction or for future maintenance of the southern wall of the proposed granny flat.

- 7.3.4. While I am cognisant that Section 34(13) of the Planning Act, as amended, states that a person is not entitled solely by reason of a grant of planning permission to carry out any development in this instance as the southern wall requires setting back away from the party wall between No. 22 and 20 Charnwood Gardens to a sufficient degree to allow for its construction within the entirety of No. 20 Charnwood Gardens as well as in a manner that allows it to be maintained into the future by occupants of No. 20 Charnwood Gardens without requiring access onto adjoining properties I consider that an advisory note would not be sufficient should the Board be minded to grant permission for the development sought under this application. I therefore recommend that the Board either seek by way of further information the setback of the southern wall of the granny flat or include an appropriate worded condition.
- 7.3.5. Notwithstanding, I concur with the Planning Authority in this instance that either approach would not be appropriate having regard to the fact that the proposed granny flat fails to comply with Objective DMS43 of the Development Plan on two of the required criteria for this type of development.
- 7.3.6. Firstly, the failure of the appellants to provide a demonstrated 'need' for this type of additional accommodation that includes with it a level of independence from the main dwelling. On this point, the appellant has failed to demonstrate that they have a need as opposed to a desire for a granny flat.
- 7.3.7. I acknowledge that the appellants refer to a relative living with them who may need the same, but this is not substantiated by any evidentiary proof that there is a need for an additional accommodation that includes a level of independence at the subject dwelling.
- 7.3.8. Further, the appellants also indicate that the granny flat is also required for extra accommodation for occasional uses. This also does not qualify as a need as opposed to a desire for this type of accommodation which provides a level of independence from the main dwelling house itself.
- 7.3.9. Secondly, Objective DMS43 of the Development Plan requires such developments to comply with the design criteria for extensions as set out in the Development Plan. Most notably is the fact that if the proposed development were to be permitted it would result in a serious substandard level of private amenity space for occupants of this dwelling, i.e. c45m<sup>2</sup>. The Development Plan requires all residential units to be

provided with qualitative and quantitative private open space. In this regard, Objective DMS87 of the Development Plan sets out a minimum requirement of 75m<sup>2</sup> for a dwelling house with 4 or more bedrooms. On this point I note that the proposed development would result in a 6-bedroom dwelling house.

7.3.10. In addition, Objective DMS85 of the Development Plan seeks for all residential unit types that their private open space amenity be not unduly overshadowed. Having regard, to the orientation of the site, the location and dimensions of the proposed granny flat together with the existing shed structure the remaining private open space in my view would be diminished in terms of its quality by way of overshadowing. This would in my view further diminish the quality of the substandard level of private open space remaining and would support that the proposed development, if permitted, would result in the overdevelopment of the subject site.

7.3.11. Based on the above considerations, the proposed development would conflict with the Development Plan Objectives DMS85 and DMS87. This in itself is reason to refuse the 'granny flat' component of the proposed development sought under this application.

#### **7.4. Visual Amenity Impact**

7.4.1. I consider that as part of the streetscape scene that the proposed single storey granny flat due to its modest single storey scale would have limited impact on the visual amenities of its setting as appreciated from the public domain. However, in terms of the visual amenity impact of the proposed interventions and additions at roof level I do not consider this to be the case.

7.4.2. In reaching this conclusion I have considered the example cited as precedent in the appellants appeal submission, I have had regard to the planning history in the vicinity of the subject site as cited by the Planning Authority's Planning Officer in their report, and I have carried out an inspection of the site and its setting.

7.4.3. On the matter of planning precedent for or against such developments it is appropriate and in accordance with proper planning that each application should be considered on its individual merits. In the case of the roof interventions and additions these are subject to compliance with policies and provisions set out in the

Development Plan, in particular, Objective DMS41 and DMS44, which deem dormer extensions acceptable where they give rise to no negative impact on the existing character and form of the existing dwelling as well as where new developments respect the identifiable residential character of an area.

- 7.4.4. I consider that the proposed development would negatively impact on the existing character and built form of No. 20 Charnwood Gardens, which is one of in a pair of matching 2-storey semi-detached dwellings which forms part of a streetscape scene whose design and layout is defined by groups of these dwellings which address either side of Charnwood Gardens. It is also a built form that is reiterated in a coherent manner throughout the Charnwood Gardens residential scheme.
- 7.4.5. I observed that one of defining built characteristics of these semi-detached pairs is its roof structure which has a hipped shape. Within the streetscape scene of No. 20 Charnwood Gardens, I found no examples of significant interventions to the shape of the hipped roof over its semi-detached pairs and as such the integrity of this built feature has remained an undiminished component of the original design intent and construction of this residential scheme.
- 7.4.6. In terms of No. 20 Charnwood Gardens its roof structure has a limited ridge of 1m with the roof structure sloping downwards to the wall plate to the south, east and west elevations. The overall stated height of the dwelling is 8.35m and its main 2-storey element having a width of c6m and a depth of c10 along its existing southern elevation.
- 7.4.7. Having regard to the dimensions of the proposed intervention to the roof structure of No. 20 Charnwood Gardens the insertion a gable end would in my view result in the ridge height being extended by c5.1m and, if permitted, it would result in an asymmetrical shaped roof form over the semi-detached pair it forms part of. This would be at odds with its original design intent and it would also be at odds with the other semi-detached dwellings that make up the streetscape scene the site forms part of.
- 7.4.8. In addition, having regards to the size of the rear dormer window which has a measured average width of 4.1m with a slightly larger roof structure over and 2.2m height at its highest point together with the lateral separation distance between No. 20 and 22 Charnwood Gardens (c5.2m) I consider that not only would the provision

of a gable ended roof be highly visible and incongruous as appreciated from the public domain, so too would the dormer window be, as a result of the combination of its excessive width, height and the inclusion of a rendered element above the original second floor eaves height. The latter is a building material that is not present above eaves height with existing chimney stacks being finished in brick.

7.4.9. Of further concern, the rear roof structure would be dominated not only by the significant extension of the ridge level to the side elevation of the subject property but also the more expansive sloping roof that would result would contain an overtly large dormer window structure which would visually unbalance and obscure the limited remaining original hipped roof structure over this semi-detached pair. In addition to this the height and the width of the dormer window is larger than the existing rear windows at first floor level. This adds to the dormer windows visual overbearance when viewed in its visual setting.

7.4.10. Based on the above concerns and having regard to the specific requirements for dormer windows, in particular, the requirements of Objective DMS41 of the Development Plan, which states that: "*dormer extensions to roofs will only be considered where there is no negative impact on the existing character and form, and privacy of adjacent properties*"; and, that: "*dormer extensions shall not form a dominant part of a roof*" it is my view that to permit the proposed alterations and additions put forward for the roof structure of No. 20 Charnwood Gardens would conflict with the said Development Plan objective requirements.

7.4.11. I am also of the view that to permit the proposed alterations to the roof structure of No. 20 Charnwood Gardens would be contrary to Objective DMS44 which states that the Planning Authority will seek to: "*protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character*". As discussed above one of the defining features of Charnwood Gardens is its uniform built-form and appearance of the semi-detached dwellings that it contains. As appreciated from the public domain these are highly intact and there is no precedent for such alterations and additions above eaves height level. To permit the proposed alterations and additions above eaves level would conflict with this Development Plan objective by way of it diminishing the integrity of the original design concept of this suburban residential street that forms



part of a larger highly coherent residential scheme. In doing so the proposed development would not be respectful of the distinctive character of its setting and it would dilute Charnwood Garden's sense of visual identity and place. In turn, if permitted, it has the potential to give rise to undesirable precedent for other similar developments that cumulatively would diminish the character of this area in an adverse and *ad hoc* manner.

7.4.12. Based on the concerns raised above I consider that to permit the proposed development would conflict with Objective PM46 of the Development Plan which requires extensions to dwellings to be sensitively designed and which do not negatively impact on the environment or on adjoining properties. Moreover, if permitted the proposed development would seriously injure the visual amenities of its streetscape scene and wider setting.

#### **7.5. Residential Amenity Impact**

7.5.1. As previously discussed in this assessment the proposed development, if permitted, would give rise to a substandard level of future private open space amenity for occupants in a manner that is in conflict with Development Plan objectives DMS43; DMS87 and DMS85.

7.5.2. I also raise a concern that in this area the design concept included easy access to the rear of the dwelling house and it would appear that refuse storage may be to the rear or side of the dwelling house. It does however appear that the design concept for the Charnwood residential scheme didn't include a refuse storage area to the front of each dwelling house. There is no existing provision for refuse storage to the front of the said dwelling and none proposed under this proposal which, if permitted, would limit access to the rear garden area from the rear of the dwelling house. I therefore raise a concern that the proposed development, if permitted, in terms of qualitative and quantitative private open space could potentially be further reduced by the provision of a storage of refuse containers. However, on this point I acknowledge that it would not be very practical to move such containers through the dwelling house itself and should the Board be minded to grant permission for the proposed development sought under this application I recommend that a condition be imposed requiring an appropriately designed refuse storage space which includes suitable screening so its visual incongruity from the public domain is minimised.

- 7.5.3. In relation to internal amenity of the proposed granny flat I share the Planning Authorities concerns that if permitted it would result in a level of additional poor quality accommodation for future occupants with the Living Room/Dining Area which flows into a limited kitchen not being well proportioned in terms of its overall dimensions, i.e. being long and very narrow.
- 7.5.4. On this matter I refer to the Quality Housing for Sustainable Communities document published by the Department of the Environment, Heritage and Local Government, 2007, which indicates that such living spaces have an unobstructed width of 3.3m and that they are designed in a manner that allows for a reasonable freedom of circulation appropriate to the living activities of such areas. It also advises that the space should be adequate to accommodate appropriate furniture and so forth without such items obstructing circulation.
- 7.5.5. More recent guidance is provided in the Sustainable Design Standards for New Apartments, Guidelines for Planning Authorities, Department of the Environment, Heritage and Local Government, 2015, which also indicates that a one-bedroom residential unit should have a minimum width of 3.3m.
- 7.5.6. In terms of local planning provisions, I note that Table 12.3 also sets out a minimum width of 3.3m for one-bedroom dwelling units. I further note that it is a requirement of the Development Plan for such interventions to meet the requirements set out in this table and as such to permit the proposed development with such a minimal width would conflict with Objective DMS24 of the Development Plan.
- 7.5.7. Whilst I am cognisant that this application seeks permission for a granny flat also known as family flats in the Development Plan such units are considered as a way of providing additional accommodation with a level of independence for an undefined temporary period of time. It is not unreasonable to expect that these flats provide living spaces that are internally substandard.
- 7.5.8. The submitted drawings indicate that the width of the living, dining area, kitchen and part of the bedroom would be 2.39m.
- 7.5.9. Notwithstanding as discussed previously in this assessment, it would appear from the documentation on file that there is no written consent to build on the party wall; for any of the development to encroach or over-sail No. 22 Charnwood Gardens; and, it would also appear from the submission made to the Planning Authority by the

owners of No. 22 Charnwood Gardens that they do not consent for the appellants to enter onto their property, in particular to carry out construction through to maintenance. With this being the case the internal width dimension of 2.39m over most of the depth of the granny flat can not be achieved. Therefore, any extension to the side of the subject property in the absence of such agreements would have a much lesser width than the 2.39m stated and it is my view that it would not be just a couple of inches as contended in the appellants appeal submission.

- 7.5.10. Of further concern the submitted drawings appear to indicate that the dormer window structure at its highest point would be just fractionally below the centre ridge tile. It also indicates a restricted in-depth roof structure over this insertion. I therefore question how within this limited space that adequate structural provisions and insulation can be provided without either resulting in a diminishment in floor-to-ceiling height or an increase in height which would result in the dormer window structure exceeding the ridge height.
- 7.5.11. Should the first scenario be implemented this would result in a floor-to ceiling height that would fail to meet the minimum requirements of habitable floor space as set out under Building Regulations. Should the second scenario be implemented this would result in a further conflict with Objective DMS41 of the Development Plan as such dormer extensions are not permitted to exceed the ridge height.
- 7.5.12. Based on the above, I consider that the proposed development would not give rise to qualitative or quantitative level of additional habitable space for occupants of No. 20 Charnwood Gardens.
- 7.5.13. In relation to residential amenity impact I consider that the proposed intervention to the roof structure of No. 20 Charnwood Gardens would result in properties in its immediate having their established levels of residential amenity diminished by way of additional perception of being overlooked.
- 7.5.14. Whilst I acknowledge that overlooking is a factor of living in such suburban settings this residential scheme consists of 2-storey semi-detached pairs with windows above ground floor level being more subservient in their dimensions to that proposed for the dormer window under this application. Outside of this concern I am of the view that the proposed development would not give rise to any other serious injury to the residential amenity of properties in its vicinity.

## 7.6. **Material Contravention**

- 7.6.1. I note that the first reason for refusal considers that to permit the proposed development would materially contravene Objectives PM46 and DMS41 of the Development Plan by way of it seriously injuring the visual amenities of the area and property in the vicinity. I therefore advise the Board should they be minded to permit this component of the development sought, that they have regard to Section 37(2) of the Planning and Development Act, 2000, as amended.
- 7.6.2. This Section of the said Act sets out that if the Board on appeal, decide to refuse permission on the grounds that a proposed development materially contravenes the Development Plan, the Board may only grant permission in certain circumstances.
- 7.6.3. While I am cognisant that section 34(10) of the said Act requires that in all cases the main reasons and considerations on which the decision on an application is based must be stated, this is particularly important in terms of setting out the reasons as for why it is considered that the development would contravene the provisions of the Development Plan.
- 7.6.4. As set out in the previous sections of this assessment it is my view that to permit the proposed development would conflict with the said objectives and I do not necessarily consider that in this instance it would materially contravene with these Development Plan objectives.

## 7.7. **Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, namely an urban and fully serviced location, 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.

## 8.0 **Recommendation**

- 8.1. I recommend that permission be **refused** for the following stated reasons and considerations.

## 9.0 Reasons and Considerations

1. Based on the documentation submitted with the planning application and the appeal, the Board is not satisfied that the applicant has demonstrated compliance with Objective DMS43 of the Fingal Development Plan, 2017-2023. This objective requires applications for family flats, also known as granny flats, subject to demonstrating that they meet the requirements set out in this Development Plan objective which includes but is not limited to demonstrating a need and compliance with the design criteria for extensions which includes but is not limited to Objective DMS41. The documentation submitted fails to demonstrate compliance with these criteria. Furthermore, having regard to the coherent and uniform character of Charnwood Gardens and the wider Charnwood residential schemes design and layout, the Board was not satisfied based on the plans and particulars submitted with the application that the proposed interventions to the existing roof structure would respect and harmonise with its setting in a manner that would be consistent with Objective DMS41 and DMS44 of the said Development Plan which only permits such dormer extensions where no negative visual impact arises. For these reasons, the proposed development would seriously injure the visual amenities of the area; it would establish an undesirable precedent for similar developments in its setting; and, it would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the design of the proposed family flat, its cramped and poor standard of internal living space, the relationship with the adjoining property (No. 22 Charnwood), the inadequate remaining private open space in both quantitative and qualitative terms for a 6-bedroom dwelling house, it is considered that the proposed development would give rise to overdevelopment of the site and would give rise to substandard residential amenity for future occupiers. The proposed development, would, therefore, seriously injure the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young

Planning Inspector

5<sup>th</sup> day of September, 2019.