



An
Bord
Pleanála

Inspector's Report ABP 304825-19

Development	Extensions and alterations comprising: single storey extension with pitched roof to rear, first floor extension of existing flat roof extension to rear, revision to windows to front, side and rear, velux rooflight and site works.
Location	No 96 Orwell Road, Rathgar, Dublin 6.
Planning Authority	Dublin City Council.
P. A. Reg. Ref.	2743/19.
Applicant	Steve Cochrane and Fiona O'Regan.
Type of Application	Permission.
Decision	Grant Permission.
Type of Appeal	Third Party
Appellants	<ol style="list-style-type: none">1. Paddy and Sheila Marron2. Liam and Niamh O'Neill3. 3. Pierce and Ann O'Beirne,
Inspector	Jane Dennehy
Date of Inspection	15 th August, 2019.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.4. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Development Plan.....	4
6.0 The Appeal	4
6.1. Appeals.....	4
6.2. Applicant Response	7
6.3. Planning Authority Response	8
6.5. Further Responses.....	8
7.0 Assessment	9
8.0 Recommendation.....	11

1.0 Site Location and Description

1.1. No 96 Orwell Road is a two-storey house on a corner site with a stated area of 541.6 square metres which is located on the west side of Orwell Road close to the junction with Rostrevor Road at Rathgar. The original plot for this dwelling which had a side extension and large garden has been subdivided and construction of a two-storey dwelling a recent grant of permission, under P. A. Reg. Ref. 1237/17 was nearing completion at the time of the inspection on the newly formed site to the side.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for alterations and additions comprising:

- a single storey extension with pitched roof to rear,
- a first-floor extension over existing single storey flat roof extension to rear, revisions to window openings to front side and,
- velux rooflights to the rear roof slope and site works.

The existing dwelling has a stated are of 347.1 square metres and the proposed extensions have a stated floor are of 45.7 square metres

3.0 Planning Authority Decision

3.1. Decision

By order dated, 6th June, 2019 the planning authority decided to grant permission subject to conditions of a standard nature along with one additional requirement under Condition No 3 for first floor windows on the south elevation to be fitted with obscure glazing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer indicated satisfaction with the proposed development subject to the conditions attached to the decision to grant permission.

3.3. Third Party Observations

- 3.3.1. Observations were lodged by several parties including the two appellant parties indicate concerns about overshadowing, overlooking overdevelopment, proximity to boundaries and incompatibility with the existing house, omission of details from application drawings.

4.0 Planning History

P. A. Reg. Ref: WEB 1237/17: Permission was granted for a house on the site subdivided from the original plot of the house. There are also prior grants of permission for single storey extensions to the side and rear under P. A. Reg. Ref. 0195/03 and 2226/02

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 (CDP) according to which the site is subject to the zoning objective Z1: *“To protect, provide for and improve residential amenities.”*
- 5.1.2. Guidance and standards for extensions and alterations to dwellings are set out in section 16.10.12

6.0 The Appeal

6.1. Grounds of Appeal

There are three third party appeals each of which is outlined in brief below:

- 6.2. **Paddy and Sheila Marron, No 28 Rostrevor Road,**

It is requested that permission be refused on ground of adverse impact on amenities of properties in the vicinity and potential for undesirable precedent. According to the appeal:

- The proposed development will be intrusive in impact on the rear gardens at No 30 Rostrevor Road. On the northern side the building line will for the boundary with the permitted development on the adjoining site. On the west side the building line will within 600 mm of the boundary with No 30 Rostrevor Road. This is in conflict with section 6. 12.10 and Appendix 17 of the CDP
- The proposed development is excessive in scale, mass design and the south facing elevation would adversely affect daylight and would affect the functioning of the solar panels at the dwelling permitted for the adjoining site.
- The design of the extensions is incompatible with the existing house and dominates views from Nos 27 to 30 Rostrevor Road and would be incongruous in views from Orwell Road.

6.3. **Liam and Niamh O'Neill, No 29 Rostrevor Road,**

According to the appeal the proposed development does not accord with the CDP provisions. A development that is in accordance with the CDP would be acceptable to the appellants. It is submitted that:

- Drawing 19-1008 does not show contiguous details of existing extensions and extensions at Nos 29 and 30 Rostrevor Road which share the boundary with No 96 Orwell Road. (Section AA which would show finished floor levels is omitted.)
- The proposed extensions constitute a disproportionate development at the boundary with No 30 Rostrevor Road and that the first floor is within five metres of a common boundary. It is stated that it will overlook and adversely affect the residential amenities of that property. Under P. A. Reg. Ref. 1320/97 permission was refused for a first-floor extension for reasons of height and proximity to the adjoining boundary. It is requested that due consideration should be given to the reasons for refusal of permission that were attached.

- The proposed extension is 6.3 metres beyond the rear building line of the house and two metres beyond the front building line of the dwelling permitted under P. A> Reg. Ref 1237/17 resulting in overshadowing of the interior and rear garden at the new dwelling. The solar panels will be rendered redundant where Part L compliance is dependant on inclusion of the panels as part of the energy strategy. Ventilation and light are impeded by the proximity of the garden walls at ground floor level. NO solar gain to the bedrooms at the rear due to overhanging eaves of the new dwelling and overshadowing.
- The rear extension facing south has bedroom windows 6.5 metres from the boundary with and will overlook the rear garden and rear extension at No 29 Rostrevor Rod which is in conflict with section 16.10.2 as opposing windows should be eleven metres apart.
- The building line of the original house should be maintained to keep the ten metres separation distance from the boundary. No dimensions are shown on the drawings. The hipped roof and end walls of the extension will be overbearing in visual mass and will detract from the rear garden amenity.
- The development is not subordinate in scale to the main house. The extension at ground floor level is very large and breaks the building line of the house to the side. This ground floor extension should maintain the line of the existing extension. The 600mm setback does not allow for adequate access for maintenance of the extension or landscaping to mitigate impact.
- The impact of the combined developments of the extension and the new dwelling requires assessment and are excessive. Some remarks are made as to adequacy of the subdivision to accept an additional dwelling and extensions to the existing dwelling and intensification of development.

The rear building line issue affects the residential amenity due to overdevelopment and is an unwelcome precedent.

The combined foot print of the new dwelling and proposed extension accounts for 90 per cent site coverage of the rear garden between the existing house and boundary with No 30 Rostrevor road. It is overwhelming and disproportionate concentration of development in this part of the original site.

There is an “uneasy” junction between the new dwelling and extension in views from Orwell Road due to the setback from the front elevation at first floor level which pushes the rear of the building towards the rear boundary.

There is little or no landscaping at the rear of the house, or space for it to mitigate visual impact and provide screening.

6.4. **Pierce and Ann O’Beirne, 30 Rostrevor Road.**

According to the appeal:

- The combination of the permitted additional dwelling on the subdivided plot of the original house, and the proposed extensions constitutes significant overdevelopment resulting in overlooking and encroachment toward the appellant’s property. As a result, of this and the combined scale of the overall development will adversely diminish the residential amenities and property value of the appellant’s property It is requested that:
- New windows overlooking No 30 Rostrevor Rod should be omitted and velux windows should not non-invasive and frosted.
- The proximity, at 600 metres from the common boundary be addressed as it is too close. Access for maintenance and repair will prove difficult. The existing building line at the rear at the rear of the house should be maintained at 2.5 metres.
- Existing boundary wall treatment and height should be raised at ground level to prevent window and doors overlooking directly into the house ant gardens at No 30 Rostrevor Road.

6.5. **Applicant Response**

- 6.5.1. A submission was received from the applicant on 24th June, 2019 according to which the application plans did not include details of the applicant’s proposals for landscaping and planting to provide for screening of the development. It is stated that wall fencing to a height that shields views of the ground floor extension from the adjoining rear gardens will be erected along the boundary and mature hedging is to be planted which will add to the screening provided by the mature trees in the rear

gardens of Nos 29 and 30 Rostrevor Road to screen off views of the first-floor extension.

The rear gardens of Nos 29 and 30 Rostrevor Road are already overlooked from the three first floor windows in the existing dwelling whereas only windows are proposed for the first-floor extension proposed which is to be screened off. A view into the garden of No 30 Rostrevor Road will be possible from only one window.

Some of the information about the existing dwelling is inaccurate in the appeals is inaccurate. The additional floor area to the existing ground floor to be provided has an area of twenty square metres. It re-uses the existing ground floor footprint on the north elevation with the first-floor extension being built directly over it. It does not extend north at ground or first floor levels.

Also included in the submission are some observations which relate to the new dwelling under construction to the side. They include a statement that solar panels will not be installed on the flat roof of the new dwelling under construction. The first-floor bedroom window on the west elevation of the new dwelling has privacy louvres preventing sunlight access and that there are no windows at ground floor level in the west elevation.

6.6. Planning Authority Response

6.6.1. There is no submission from the planning authority.

6.7. Further Responses

6.7.1. **Paddy and Sheila Marron, No 30 Rostrevor Road.**

A further submission was received on 28th August, 2019 from Paddy and Sheila Marron on their own behalf. They state that the proposal for fencing and planting along the boundary with No 29 and No 30 Rostrevor Road would fail to minimise the overbearing massing and dominance in effect on these properties and that fencing could exacerbate their concern. They also do not accept the claim that the proposed extension does not break the northern building line of the existing house because they consider that from Orwell Road, the views of the roofline and building line are significant.

6.7.2. Liam and Niamh O’Neill, No 29 Rostrevor Road,

A further submission was received on 28th August, 2019 from Liam and Niamh O’Neill on their own behalf. They state that they remain of the view that their concerns about the presentation of the new house on the adjoining subdivided plot rear elevation, the louvres, and car-table have not been addressed and it is claimed that the proposed extension to the existing dwelling exacerbates the negative impacts. The claims as to conflict with the CDP and as overlooking are reiterated. In addition, they state they are unwilling to consent to any works on the common boundary and that the planting proposals in the applicant’s submission lack clarity.

6.7.3. Pierce and Ann O’Beirne, 30 Rostrevor Road.

A further submission was received on 27th August, 2019 Pierce and Ann O’Beirne on their own behalf. In their submission they reiterate their claim that the proposed development is describable as a two-storey extension, which is much higher than the existing single story extension and which is a significant addition when considered along with the additional house which has been constructed. They also query the details of the fencing the applicant intends to erect and claim that a fence does not mitigate the impact of the proposed extension.

7.0 Assessment

7.1. There are appeals from three third parties who are the owners and/or occupiers of the three properties on Rostrevor Road to the rear of the original plot of the existing dwelling subject of the application. It was subdivided to provide for the additional permitted dwelling to the side the construction of which was close to completion at the time of inspection. (P. A. Reg. Ref: WEB 1237/17 refers.)

7.2. At the outset, for the purposes of clarification, the following assessment of the application and the appeal is confined to that of the proposed extension to the existing house, within the confines of the reconfigured application site further to the subdivision providing for a site for the permitted dwelling under construction to the side because it is a separate planning unit and entity and is not open to further planning review. However, any effect on it, from a planning perspective which would be attributable to the proposed development is open to consideration in a *de novo* consideration further to the appeals. Therefore, some of the comments on the

permitted development which have been raised in one of the appeals have been disregarded in the assessment.

7.3. Having regard to the remainder of issues raised in one or more of the three appeals, the issues central to the determination of a decision are considered under the subcategories below:

Fenestration

Footprint/ site coverage,

Boundary Treatment

Design and Integration with existing development

Environmental Impact Assessment.

Appropriate Assessment.

7.3.1. **Fenestration**

7.3.2. At first floor level there is no increase at first floor north elevation fenestration directly facing towards the properties on Rostrevor Road. The velux rooflights would not give rise to overlooking owing to the design, position above finished floor level over habitable rooms and roof slope. The south facing side elevation window for the proposed first floor bedroom in the extension due to the orientation would not give rise to direct overlooking of internal accommodation or the rear private open space of the properties on Rostrevor Road. However, the inclusion of the requirement, under Condition No 2 attached to the planning authority decision for opaque glazing for this window is supported because this window would give rise to overlooking towards the rear of adjoining properties on Orwell Road. It is recommended that the glazing be top only openings only be permitted so as to ensure the privacy of the adjoining dwellings at all times. It is noted that a rooflight is also included in the rear, west facing roof slope for this room providing for alternative daylight and sunlight access and ventilation.

7.3.3. **Footprint/ site coverage**

With regard to the footprint, it is accepted that the overall site coverage on the reduced site of the dwelling (further to the subdivision) is relatively significant given

the established low-density development pattern and layout in the area. Habitable accommodation built up to the boundary also gives rise to perceptions of intrusiveness especially in the absence of a permanent structure at the boundary for screening purposes. It is therefore recommended that an increase in separation distance to two metres at ground floor level between the proposed and the boundary with the properties on Rostrevor Road is warranted.

7.3.4. Boundary Treatment

There is no potential for undue overlooking or overshadowing of the adjoining properties if a permanent and reliable screening arrangement is provided. To this end, appropriate screening in the form of a two metres high capped wall, constructed on the inner side of the common boundary is required. It appears based on inspection that encroachment onto or disturbance to trees at the adjoining properties would occur and there would be sufficient space for access for maintenance and some planting. The undertaking in the submission of the applicant to erect timber fencing and supplementary planting is not regarded as fully reliable for screening on an indefinite basis and in this regard, the proximity between the rear building lines and the extensions on the application site property and those of the adjoining properties as well as the modest sized private open space at the rear of all the properties is a consideration. This relatively minor modification can be addressed through compliance with a condition.

7.3.5. Design and Integration with existing development

The overall form, design for the proposed extension, is regarded as fully compatible with the existing dwelling which remains the principal element when considered in conjunction with the extension. It is not agreed that the proposed extension is at variance with the recommendations and standards for extensions and alterations to dwelling in section 16.10.12 of the CDP and Appendix 17 thereof.

7.3.6. Environmental Impact Assessment.

Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental

impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.3.7. **Appropriate Assessment Screening.**

Having regard to the small-scale nature of the proposed development and, to the serviced inner suburban location, no Appropriate Assessment issues proposed development would not 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. In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld subject to the additional requirement for a reduction in depth of the proposed extension at ground floor level, walling along the inner side of the rear boundary and a minor modification to the glazing of the south facing first floor bedroom window in the proposed extension. Draft Reasons and Considerations and Conditions follow.

9.0 **Reasons and Considerations**

Having regard to the site layout and to the design, form and scale, height, materials and external finishes for the proposed extension it is considered that, subject to compliance with the conditions set out below, the proposed extension, in conjunction with the existing dwelling to be extended would satisfactorily integrate with the adjoining dwellings and the established pattern and character of development in the area, would not be seriously injurious the residential amenities of adjoining properties, would not devalue properties within the vicinity and, would be consistent with the standards and guidance for extensions and alterations to dwellings as provided for in section 16.12.10 and Appendix 17 of the Dublin City Development Plan, 2016-2022 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, 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 footprint of the proposed extension to the rear shall be reduced in depth so that provision is made for a minimum separation distance of two metre the rear boundary with the properties on Rostrevor Terrace. A two metres' high block stone wall, fully capped and rendered shall be constructed on the inner side of the boundary prior to occupation of the extension. Revised site plan and ground floor plan drawings shall be submitted to and agreed in writing with the planning authority prior to the commencement of the development.

Reason: In the interests of the residential amenities of the adjoining properties.

3. The first floor south facing window for the proposed extension shall be fitted with obscure glazing and shall be top opening only.

Reason: In the interest of the residential amenities of adjoining properties.

4. All external finishes shall match those of the existing house.

Reason: In the interest of the visual and residential amenities of the area.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. 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.

Jane Dennehy,
Senior Planning Inspector
1st September 2019.