



An
Bord
Pleanála

Inspector's Report ABP-304830-18

Development	Demolish a single-storey side garage and construct a single-storey side extension
Location	1 Malachi Road, Stoneybatter, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2421/19
Applicant(s)	Dominic Leonard
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Brian Carroll
Observer(s)	1.) Cllr. Joe Costello 2.) Tony Brennan
Date of Site Inspection	4 th September 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on the southeastern end of Malachi Road, at the junction with Ivar Street, in the Stoneybatter area, approximately 2km west of Dublin city centre. The surrounding area is generally characterised by a grid network of single and two-storey terraced dwellings of similar styles dating from the late-19th and early-20th century.
- 1.2. The site contains a single-storey two-bedroom end of terrace cottage fronting directly onto the back edge of the public footpath. The house on site features a single-storey flat-roof rear projection. To the side of the house is a single-storey flat-roof garage backing onto a rear yard area and opening to the front onto a vehicular access off Malachi Road. The external finishes to the house include painted render to the walls, natural roof slates and aluminium windows with decorative arches. The southern side boundary with Ivar Street is marked by an iron railing set into a concrete plinth.
- 1.3. The adjoining property to the north, No.2 Malachi Road, features a single-storey rear extension extending along the side boundary with the appeal site. A two-storey end of terrace house to the west, No.59 Harold Road, backs onto the appeal site and features a single-storey extension to the rear boundary with a single-storey detached shed to the side of this. Ground levels in the vicinity drop gradually moving southwards.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - the demolition of an attached single-storey side garage with a stated gross floor area (GFA) of 18sq.m;
 - the construction of a single-storey side extension with a stated GFA of 40sq.m, the reconfiguration of the internal layout to the house and the installation of sliding sash windows and painted hardwood front door.
- 2.2. In response to a request for further information, the GFA of the proposed single-storey side extension was reduced to a stated 36sq.m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission subject to seven conditions of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (April 2019) noted the following:

- the design of the proposed extension reflects the scale and uniformity of terraced housing along the adjoining Malachi Road;
- positioning the side extension onto the boundary with the public footpath would result in overdevelopment of the site, while the removal of the existing iron railings would compromise the character of the historical streetscape;
- permission was recently granted under Dublin City Council (DCC) Ref. WEB1013/19 for side and rear extensions to the end of terrace cottage opposite the site at No.41 Malachi Road, with iron railings along the southern boundary with Ivar Street to be reinstated as part of the development;
- the height of the rear element of the extension would result in a loss of residential amenity for adjoining residents and would also set a precedent for similar development;
- further information should be requested to address the Planning Authority's concerns in relation to the overdevelopment of the site, the loss of the boundary railings and the height of the rear element of the extension;
- the context does not readily allow for the standard provision of private open space or separation distances between windows to be achieved.

The final report of the Planning Officer (May 2019) reflects the decision of the Planning Authority. The Planning Officer was satisfied that their previous concerns had been fully addressed in the revised proposals submitted.

3.2.2. Other Technical Reports

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

3.3. Prescribed Bodies

- Irish Water – no response;
- National Transport Authority (NTA) - no response;
- Transport Infrastructure Ireland (TII) – Section 49 (Luas Cross City) supplementary contributions may apply.

3.4. Third-Party Submissions

- 3.4.1. During consideration of the application by the Planning Authority, one third-party made submissions. The issues raised in their submissions are covered within the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The Planning Authority refer to the following planning application relating to the appeal site:
- DCC Ref. 4319/03 – permission granted in December 2003 for a single-storey side extension and a rear rooflight.

4.2. Surrounding Sites

- 4.2.1. Reflective of the surrounding inner-urban residential context, planning applications in the area primarily relate to proposals for domestic extensions. Recent applications in the immediate vicinity include the following:
- DCC Ref. WEB1013/19 – permission was granted in April 2019 for single-storey side and rear extensions to No.41 Malachi Road, opposite the appeal site 11m to the east;

- DCC Ref. 4127/18 – retention permission was granted in January 2019 for a single-storey rear extension to No.2 Malachi Road, adjoining the appeal site to the north.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site is situated in an area identified within the Dublin City Development Plan 2016-2022 as having a land-use zoning objective 'Z2 – Residential Neighbourhood (Conservation Areas)' with a stated objective 'to protect and/or improve the amenities of residential conservation areas'. The general objective for these neighbouring lands is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.
- 5.1.2. Relevant planning policies and objectives for residential development are set out in Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Policy CHC4, which aims to protect the special interest and character of Dublin's conservation areas, is relevant. Appendix 17 (Volume 2) of the Development Plan provides guidance specifically relating to residential extensions, including the need to follow the subordinate approach (section 17.8) when designing extensions.

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. One third-party appeal has been lodged by a neighbouring resident of No.59 Harold Road, which is adjoining to the west of the appeal site. The grounds of appeal, which were accompanied by photographs of the site and the immediate area, can be summarised as follows:

- the height of the proposed extension at 3.3m, constructed with a flat roof onto the rear boundary with the appellant's property, would be overbearing when viewed from the appellant's kitchen window and it would also restrict daylight into this window and other openings along the rear elevation;
- the height of the proposed extension would be considerably higher than other extensions along the rear of properties on Malachi Road;
- the proposed development would be contrary to principles set out in the Dublin City Development Plan 2016-2022;
- the rear element of the extension should be no higher than the existing projection to the rear of the house and should be at a minimum 2m from the rear boundary with no rooflights or use as a balcony;
- the permitted development at No.41 Malachi Road (DCC Ref. WEB1013/19) should not be used as precedent for the subject proposals, as the Planning Officer considering this neighbouring development was satisfied from the outset that it would not impact on neighbouring residential amenities;
- the drawings submitted do not accurately portray the scale and height of the development on site, and as a result it is not possible to accurately consider the impact of the proposed development on neighbouring amenities.

6.2. Applicant's Response

6.2.1. The applicant's response to the grounds of appeal can be summarised as follows:

- the revised proposals, as submitted in response to the Planning Authority's further information request, substantially reduced the height of the proposed

extension and increased the distance of the extension from the rear of the appellant's house, while maintaining the boundary rail feature and increasing the amenity area;

- access to light on the appellant's property would already be severely impacted by virtue of the orientation and layout of the property, and the appellant's two-storey house results in a greater loss of light to the applicant's cottage, than the proposed extensions would have on the appellant's house;
- the assertions of the appellant regarding the impact on residential amenity are excessive, particularly considering the urban context consisting of a dense urban grain, and the precedent set by neighbouring extensions, including the scale of those already existing within the appellant's house;
- the height of the extension is required to meet contemporary building standards and the positioning and area of the extension makes for a sustainable use of inner-urban land;
- the existing manhole on site to the combined sewer would be upgraded and maintained for access and maintenance purposes;
- the design of the proposed extension, including materials, would accord with the provisions of the Development Plan, including policy CHC4, and has been undertaken based on discussions with the appellant, the need to address the streetscape and the desire to best harness natural light.

6.3. Observations

6.3.1. Two observations were received, one from a local-elected representative and another from a resident of No.58 Harold Road, which is adjacent to the west of the appeal site. Both observations can be summarised as follows:

- the proposed extension would be constructed over a sewage inspection chamber, which is situated under a manhole to the rear of the appeal site. Access to this manhole needs to be maintained, otherwise the proposed development would pose a risk to public health.

6.4. Planning Authority Response

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

6.5. Further Submissions

6.5.1. In response to the observations and the applicant's response, the comments from the appellant reaffirms matters raised in their grounds of appeal and other matters that can be summarised as follows:

- the applicant advised the appellant that they would not be willing to increase the setback of the extension from the rear boundary, as this would result in the extension having to be constructed over a manhole (photographs included);
- the existing extensions along Malachi Road do not provide precedent for the subject proposals, given the additional height of the proposed extension. A reduced height for the proposed extension would not substantially address the loss of light;
- an accurate portrayal of the potential situation was provided in the grounds of appeal;
- the Development Plan includes extensive policy to cater for the existing amenity of residents;
- the proposals would restrict the potential to maintain the drainage services running along the rear of the site, which would not be in the interests of public health.

6.5.2. In response to the observations, the comments from the applicant can be summarised as follows:

- there are two manholes on site within 3.5m of each other, one in the area designated for an extension and one in the existing rear yard area. The manhole in the rear yard area would have its cover replaced and would remain in situ following the development;
- the public records drainage sheet clearly shows the mains sewage combined system running down the centre of Malachi Road;

- the Drainage Division of the Planning Authority did not object to the proposed development.

6.5.3. In response to the observations, the comments from the Planning Authority can be summarised as follows:

- the proposals to build over a private sewage inspection/rodding point is a private drainage matter that falls under Part H of the Building Regulations 2010.

7.0 Assessment

7.1. Introduction

7.1.1. The Dublin City Development Plan 2016-2022 sets out general principles for consideration when extending dwellings, such as residential amenity issues, privacy, relationship between dwellings and extensions, daylight and sunlight, appearance, the subordinate design approach and materials. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal relate to the following:

- Impact on Local Amenities;
- Drainage.

7.2. Impact on Local Amenities

7.2.1. It is proposed to demolish the single-storey side garage extension on the appeal site and construct an extension the entire depth of the site (11m), which would form an enclosed courtyard space to the rear of the house. The extension would comprise two main structural elements. The front element would feature a pitch roof and would continue the scale, front building line and design of the host house and the original terrace of cottages to the north. This element would be set off the south side boundary to Ivar Street by between 0.4m to 1.4m. The Planning Authority consider the existing iron rail set onto a concrete plinth along the Ivar Street boundary to be a feature characteristic of the surrounding Stoneybatter residential conservation area and sought that this feature be maintained as part of the proposed development. By setting the front element of the proposed side extension off the southern boundary,

this would allow for a 6.5m length of the rail boundary to be maintained. The second element of the extensions is a flat roof structure, to the rear of the rear building line and extending for a depth of approximately 4.1m to the rear boundary with No.59 Harold Road, which is the appellant's residence. This element of the proposed extension would necessitate the removal of a 4.5m stretch of the aforementioned rail boundary. I note that not all end of terrace properties within the conservation area feature this type of rail boundary, including the property opposite the site at No.41 Malachi Road. In assessing the proposed development, the Planning Authority referred to a recent permission to construct side and rear extensions to No.41 Malachi Road (DCC Ref. WEB1013/19), which proposed the reinstatement of an iron railing to the boundary of this neighbouring property. I am satisfied that the appearance of the extensions would complement the scale and design of the host house and would be in keeping with the character and setting of the surrounding 'Z2' residential conservation area.

7.2.2. The grounds of appeal largely focus on the impact of the proposed development on the residential amenities of the appellant's house to the rear, in particular the potential for an overbearing impact to arise and the potential for excessive loss of natural light. In response, the applicant outlines that the site context and constraints, as well as the need to meet contemporary building standards has largely dictated the scale, layout, height and design of the proposed extensions.

7.2.3. The boundary between the appeal site and the appellant's property is formed by a c.1.8m-high timber trellis fence on posts and a flat-roof rear projection on the appeal site. The appellant's two-storey house features a single-storey rear extension accommodating a kitchen with northeast and southeast facing windows onto a small courtyard space. There is also a single-storey galvanised steel shed to the side of the appellant's house situated along the rear boundary with the appeal site. The existing rear projection on the appeal site abutting the appellant's property would remain as part of the proposed development. It is the rear element of the proposed side extension that would have the greatest potential to impact on the amenities enjoyed by residents of the appellant's property. This flat-roof element of the proposed extension would be approximately 3m to 5m directly to the east of the rear ground-floor windows and back door to No.59 and would back onto the boundary adjacent to the shed on the appellant's property. The existing rear projection, which

is c.2.4m in height, is approximately 1m from the nearest rear-facing window in the appellant's house. Considering this existing context and the position and scale of the proposed extensions on the appeal site, the potential to substantially restrict light to No.59 or for the extension to have an overbearing impact when viewed from No.59, would be very limited when compared with the present situation.

Consequently, I am satisfied that significant potential to undermine the amenities enjoyed by residents of No.59 by reason of excessive loss of light or due to an overbearing impact would not arise. Furthermore, considering the inner-urban context, including a densely developed urban grain and the existing provision of open space on site, I am satisfied that sufficient rear amenity space (c.11sq.m) would be available for future residents of the extended cottage.

- 7.2.4. In conclusion, the proposed development would not give rise to an unacceptable impact on the residential or visual amenities of the area and, accordingly, permission should not be refused for reasons relating to the impact on local amenities. I also note that domestic extensions, such as that proposed, are exempt from payment of contributions under the Supplementary Development Contribution Scheme for the Luas Cross City project.

7.3. Drainage

- 7.3.1. Two observers to the appeal assert that the proposed extension would be constructed over a sewage inspection chamber, which is situated under a manhole to the rear of the appeal site. The sewer is stated to run along the rear of properties on Malachi Road, the vast majority of which feature extensions extending to their rear boundaries. The Drainage Design maps, originally submitted with the planning application, identifying the drainage services in the immediate area of the appeal site, do not identify this sewer. Drawing No.P-02 originally submitted with the planning application identified the route of a 'combined drainage main' in the rear yard area on the appeal site and photographs of two manholes associated with this drain are included in the appellant's response to the observations. It was initially intended not to build over part of the route for the combined drain, but the revised proposals, as contained on the further information drawing no.P-02 Revision A, extended the footprint of the proposed extension to sit over this combined drain. The proposed extension would cover one of the manholes to the combined mains, while

the second manhole would be situated in the rear yard space. The applicant states that this existing manhole would be upgraded and maintained for access and maintenance purposes, as part of the proposed development. Following consultation, Irish Water did not comment on the planning application. The Drainage Division of the Planning Authority do not object to the proposed development and in response to the observations they advised that proposals to build over a private sewage inspection/rodding point are a private drainage matter that falls under Part H of the Building Regulations 2010.

- 7.3.2. In conclusion, considering the existing situation along Malachi Road, the layout of the proposed development and the applicant's stated intention to upgrade and maintain access to a manhole on site, I am satisfied that the design and layout of the proposed development is sufficiently considerate of the location of drainage services and the proposed development would not pose a risk to public health. Accordingly, the proposed development should not be refused permission for reasons relating to drainage.

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. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations, as set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature and scale of the proposed development, and to the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not

be out of character with development in the area, would not seriously injure the residential and visual amenities of the area or of property in the vicinity, and would not pose a risk to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 14th 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.

Reason: In the interest of clarity.

2. The external finishes of the extensions, including roof slates, shall harmonise with those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health and to ensure a proper standard of development.

4. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400

hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

Colm McLoughlin
Planning Inspector

9th September 2019