



An  
Bord  
Pleanála

## Inspector's Report ABP 304907-19.

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<b>Development</b>	Single Storey extension to rear and all site, landscape and services works.
<b>Location</b>	No 26 Malone Gardens, Dublin 4.
<b>Planning Authority</b>	Dublin City Council
<b>P. A. Reg. Ref.</b>	2825/19.
<b>Applicant</b>	Deirdre O'Mahoney and Tomas O'Dubhda
<b>Type of Application</b>	Permission.
<b>Planning Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Deirdre O'Mahoney and Tomas O'Dubhda
<b>Date of Site Inspection</b>	11 <sup>th</sup> October, 2019
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

1.1. The site has a stated area of 108 square metres and is that of a mid-terrace two storey house with a kitchen extension, to the rear adjacent to the eastern boundary and front and rear gardens at the end of a *cul de sac* off Bath Avenue. The total stated floor area of the existing house is sixty-three square metres. It is adjoined to the rear by a site occupied by ESB Networks.

## 2.0 Proposed Development.

2.1. The application lodged with the planning authority is a repeat application in which the applicant seeks to overcome the decision to refuse permission for a prior proposal under P. A. Reg. Ref. 3282/18 details of which are set out under Section 5 below. It indicates proposals for a single storey extension within the rear garden the footprint of which is interlinked with the existing kitchen extension and infills the space, stated to be 4980 mm between it and the rear boundary and a width stated to be 4180 mm across the site. The plans indicate proposals for a flat roof with a parapet height of 3150 mm.

2.2. Included with the application is a copy of a Utility Locating Survey prepared on behalf of the applicant in which it is indicated that there are no services within the application site.

## 2.3. Planning Authority Decision

### Decision

The planning authority decided to refuse permission based on two reasons:

According to reason No 1 the extent of footprint and lack of private amenity space is substandard for the location and as a result the proposed development is overdevelopment which is seriously injurious to the residential amenities for occupants and which sets undesirable precedent for similar development.

According to reason No 2 the location within or over a 1030 mm diam combined sewer across the rear garden and is unacceptable due to detrimental impact on the sewer and as a result the proposed development is prejudicial to public health.

## 2.4. **Planning Authority Reports**

- 2.4.1. The report of the **planning officer** indicates a recommendation to refuse permission based on the reasons attached to the decision.
- 2.4.2. According to the report of **Irish Water** the proposed development would have detrimental impact on an Irish Water asset, namely the 1030 mm diam sewer stated to traverse through the rear of the property. It is stated that the proposed development is therefore not in accordance with Irish Water Standard Details and Code of Practice in respect of separation distance which is three metres from any foul sewer. It is recommended that a revised site layout indicating compliance with these standards be provided by the applicant and it is advised that contact can be made with Irish Water to establish confirmation of details of any such infrastructure.
- 2.4.3. According to the report of the **Drainage Division** permission should be withheld pending resolution of issues relating to management of surface water management which it is stated was indicated in the report on the previous application under P. A. Reg. Ref. 3282/18. The details required includes submission of a flood risk assessment report to identify appropriate design solutions to address and provide for no increase in flooding risk, (relative to the predevelopment situation) in accordance with statutory guidance.

### 3.0 Planning History

**P. A. Reg. Ref 3282/18:** Permission was refused for a single storey extension for reasons similar to Reason 2 attached to the decision to refuse permission for the current proposal. It relates to the location within or over a 1030 mm diam combined sewer across the rear garden and is unacceptable due to detrimental impact on the sewer and as a result the proposed development is prejudicial to public health.

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### 4.0 Policy Context

#### 4.1. Development Plan

- 4.1.1. The operative development plan is the **Dublin City Development Plan, 2016-2022** according to which the site location is within an area subject to the zoning objective: *Z1: "To protect, provide for and improve residential amenities."*

Guidance and standards on extensions and alterations are set out in section 16.10.12 and Appendix 17.

### 5.0 The Appeal

#### 5.1. Grounds of Appeal

- 5.2. An appeal was received from F + D Studio on behalf of the applicant on 15<sup>th</sup> July, 2019 attached to which is a copy of the Utility Locating Survey prepared on behalf of the applicant and originally lodged with the application, in which it is indicated that there are no services within the application site. The appeal includes a detailed outline of the planning history and context and discussion of the assessment by the planning authority.

- 5.3. With regard to Reason 1 for the decision to refuse permission it is submitted that:

- The house has the benefit of a front garden which it is submitted has intrinsic amenity value and should be taken into consideration in reviewing private open space provision for the dwelling with the proposed extension *in situ*.
- The private open space amounting to an area of ten square metres that is provided for in the proposed development is of high quality and provides light to the internal accommodation which is arranged around it.
- There are several public amenity spaces within each reach of the site location which should be taken into consideration and which include Sean Moore Park, O'Casey Park, Herbert Park, Sandymount Green and Beach and the public walkway along the Dodder River.
- According to "*Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities*" (2018) a three-bedroom apartment should be provided with nine square metres of private open space.
- There is relevant precedent for acceptance of the quantum of private open space proposed. P. A. Reg. Ref. WEB1074/11, (No 28 Home Villas); P. A. Reg. Ref. 2317/18, ( No 7 de Vere Terrace); P. A. Reg. Ref. WEB1174/14, (No 57 Pembroke Cottages); P. A. Reg. Ref. WEB1258/15, ( NO 56 Pembroke Cottages) refer.
- With regard to the planning officer observations it is submitted that the planning officer did not consider these precedents and that they should not be dismissed. These precedents are relevant and are not irrelevant as contended in the planning officer report. Development with the shortfall is permitted at locations not only outside the canals but further from the city centre than the application site and at locations without front gardens.
- The applicant is willing to accept a condition stipulating that the proposed bedroom not be utilised as a 'permanent' bedroom, but it is submitted that such a requirement would be unwarranted.
- Contrary to the statement by the planning officer it is submitted that the site area is 108 square metres, coverage is 52.5 % It should be borne mind that site coverage and plot ratios set out in section 16.6 of the CDP are indicative rather than absolute; that the standards in section 16.10.2 of the CDP are for

new houses only and that as regards section 16.2.2.3 of the CDP the proposed development does retain significant proportions of garden space or, other enclosure in that the private open space provision is proportionate to the size and layout and appropriate to the design allowing access from all ground floor rooms.

- 5.3.1. With regard to Reason 2 of the decision to refuse permission it is stated that the purpose of the repeat application was to address the reason for refusal of permission for the proposed development under P. A. Reg. Ref. 3282/18, so the Utility Locating Survey was commissioned and included with the application

#### 5.4. **Planning Authority Response**

There s no submission from the planning authority on file.

### 6.0 **Assessment**

- 6.1. There are two reasons attached to the decision to refuse permission attached to the planning authority decision, reason relating to the proposed extension and reason 2 relating to the possible presence of a 1032 mm diam sewer within the site. The two reasons are addressed separately below followed by Environmental Impact Assessment and Appropriate Assessment Screening.
- 6.2. **Reason One – the proposed extension.**
- 6.2.1. With regard to first reason for refusal of permission, it was noted during the course of the inspection that the site is enclosed at the rear boundary by the structure on the adjoining lands the height of which is circa four metres. The existing rear private open space, with the existing kitchen extension in situ is confined and has relatively restricted access to sunlight notwithstanding the incorporation of patio doors in the rear elevation and a large east facing window for the extension. Infill of the site with the proposed extension leaves a narrow and confined open space of approximately ten square metres the amenity potential of which would be substandard. It would be enclosed by the east boundary wall, rear façade of the existing house, the kitchen

extension and part of the proposed extension and would have severely restricted access to sunlight.

6.2.2. This space by reason of the configuration of the site and the existing and proposed development would not be comparable in quality and amenity potential to terraces and balconies that are provided at apartment developments due to the enclosed and lack of amenity potential. In this regard, it is not accepted that it would be comparable to or arguably acceptable, as contended in the appeal, having regard to the standards set out in *Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities* (2018)

6.2.3. While it is argued in the application and appeal submissions that there is precedent for the limited quantum of private open space at other permitted developments, (for which details have been provided) it is considered that each development proposal should be considered on its own merits with regard to qualitative standards. The proposed development in conjunction with the existing development on the confined site clearly amounts to overdevelopment and substandard development and results in serious injury to the amenities of current and/or future occupants. It is therefore concluded that the first reason for refusal of permission attached to the planning authority decision should be upheld.

### 6.3. **1032 mm diam sewer.**

6.3.1. With regard to the second reason for refusal over permission, while it is noted that it has been shown in the Utility Locating Survey commissioned by the applicant that there is no evidence of a 1030 mm diam sewer traversing the site. In the event of possible favourable consideration of the proposed development it is recommended that Irish Water be notified of the availability of Utility Locating Survey and that its observations be requested in advance of determination of a decision, in the event of positive consideration of the proposed development in all other respects.

### 6.4. **Environmental Impact Assessment.**

Having regard to the minor nature of the proposed development and its location in a serviced inner 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.



## 6.5. **Appropriate Assessment.**

Having regard to the scale and nature of the proposed development and to the serviced inner urban location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 7.0 **Recommendation**

- 7.1.1. In view of the foregoing, it is recommended that the decision to refuse permission be upheld based on substandard overdevelopment resulting in substandard attainable residential amenity for the occupants, as provided for under Reason 1 of the planning authority's decision.
- 7.1.2. Draft Reasons and Considerations follow.

## 8.0 **Reasons and Considerations**

Having regard to the restricted site size and configuration, it is considered that the proposed extension, in addition to the existing extension is overdevelopment resulting in a deficient quantum and quality of private open space provision lacking in access to sunlight. As a result, the proposed development would be substandard having regard to attainable residential potential and would seriously injure the residential amenities of the dwelling for its occupants. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

**Jane Dennehy**  
**Senior Planning Inspector**  
11<sup>th</sup> October, 2019.