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Bord  
Pleanála

## Inspector's Report ABP – 305892 – 19.

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<b>Development</b>	Construction of a single storey rear extension to 2-storey terrace dwelling together with all associated site works.
<b>Location</b>	No. 15 Carrick Court, Portmarnock, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F19B/0215.
<b>Applicant</b>	Anne Heeney.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant</b>	John Connolly.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	7 <sup>th</sup> day of February, 2020.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. No. 15 Carrick Court, the appeal site, has a stated site area of 0.246ha, and is comprised of a two-storey terrace dwelling house and its curtilage which consists of a front and rear garden area with separate access onto one of Carrick Court's residential estates cul-de-sac roads. It forms part of terrace group properties that originally would have formed part of a highly uniform in built-form, architectural expression, layout, through to palette of material suburban housing estate of semi-detached dwellings. It is located in the city suburb of Portmarnock and is accessed from Carrickhill Road Lower c116m from its junction with the R106 (Strand Road) and c13.5km to the north east of Dublin's city centre.
- 1.2. The immediate area is characterised by established residential development which front onto an estate road. Many of the properties have been altered and added to since their initial construction, including by way of rear extensions.
- 1.3. Photographs taken during inspection of the site and its setting are attached.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a single storey hipped roof rear extension to a 2-storey terrace dwelling with a stated 14m<sup>2</sup> gross floor area together with all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning **granted** permission subject to 5 no. standard in nature conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer's report reflects the decision of the Planning Authority, with the Planning Officer concluding that the proposed development would not result in any undue adverse impact on properties in its vicinity.

3.2.2. **Other Technical Reports:** None.

3.3. **Prescribed Bodies:** None.

3.4. **Third Party Submissions**

3.4.1. One 3<sup>rd</sup> Party submission was received by the Planning Authority to the proposed development by the appellant. The concerns raised are the same as those raised in their submission to the Board.

## 4.0 **Planning History**

4.1. **The Site**

- **P.A. Reg. Ref. No. F96B/0341:** Planning permission was **refused** for a development consisting of the extension of the living room and porch area to the front. The reasons for refusal related to visual amenity and encroachment of adjoining property concerns.
- **P.A. Reg. Ref. No. F95B/0266:** Planning permission was **granted** subject to conditions for a first-floor extension to the side alongside internal alterations.

4.2. **No. 14 Carrick Court**

- **P.A. Reg. Ref. No. F06B/0422:** Planning permission was **granted** for the construction of a single storey extension to the front and a single storey extension to the rear together with associated site works subject to conditions. It is noted that the original design was required to be set back by 1m from the rear boundary with the subject site.

4.3. **In the Vicinity**

4.3.1. I have reviewed a number of recent appeal cases decided by the Board in the general area of the appeal site. These by and large relate to residential extensions, but I consider none are similar to the current appeal case.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The policies and provisions of the Fingal County Development Plan, 2017 to 2023, are applicable to the site and its setting. The site lies within an area zoned 'RS' which aims to "*provide for residential development and protect and improve residential amenity*".
- 5.1.2. Chapter 3 of the Development Plan deals residential development with Section 3.4 recognising the need for people to extend and renovate their dwellings. It indicates that extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.
- 5.1.3. Chapter 12 of the Development Plan in relation to the matter of extensions to dwellings indicates that they will be supported where they have no significant negative impact on the surrounding area.
- 5.1.4. Objective PM46 of the Development Plan seeks to encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

### 5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located within or immediately adjacent to any Natura 2000 site but there are a number of such sites within a 15km radius of the site including:
- Circa 0.5km to the south of the site is Special Area of Conservation: Baldoyle Bay SAC (Site Code: 000199);
  - Circa 0.6km to the south of the site is Special Protection Area: Baldoyle Bay SPA (Site Code: 004016).

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature, scale and scope of the development sought, the appeal sites setting located in the suburban setting of Portmarnock, 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:

- The Board is requested to have regard to the precedent set under P.A. Reg. Ref. No. F06A/0422 which required a setback of 1m from the northern boundary wall.
- Concerns are raised in terms of the accuracy and clarity of the drawings submitted. It is contended that if constructed as per the drawings submitted and as per the Planning Authority's first condition attached to their grant of planning permission it would result in encroachment of an adjoining property in the absence of the adjoining property owners' consent.
- The proposed development will result in diminishment of their residential amenity.
- The proposed extension would be dominant by way of its scale and bulk as viewed from the rear of the appellants property.
- It is requested that the extension is setback by 1000mm from the boundary the appellant shares with No. 15 Carrick Court.

### **6.2. Planning Authority Response**

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

- A condition was attached to P.A. Reg. Ref. No. F06B/0422 to offset the rear extension by 1m from the northern boundary of No. 14 Carrick Court, the adjoining property. This was required as it was considered that the rear extension would unduly overshadow No. 15 Carrick Court. There is no need for such an offset in this instance given the orientation of the site and it is not considered that the proposed extension would give rise to any undue adverse residential amenity impact on the appellants property to the south by way of overshadowing.

- The proposed development will not detract from residential amenity in the vicinity.
- The Board is requested to uphold its decision; however, should the Board be minded to grant of permission it is requested that a Section 48 condition be imposed.

### 6.3. Applicant's Response

6.3.1. The applicant's response can be summarised as follows:

- The proposed development would be constructed entirely within the confines of their site.
- The appellant seems to be more concerned with a historic planning application granted over 15-years ago.
- The proposed development would not have impact on adjoining properties.
- There are no existing extensions to the rear of the subject property.

## 7.0 Assessment

### 7.1. Introduction

7.1.1. The main issues in this appeal case are those raised in the grounds of appeal and by the Planning Authority in their response to the grounds of appeal i.e. residential amenity impact of the proposed development on their adjacent property and concerns that the proposed development, if permitted as per the documentation submitted with this application, would result in encroachment of their property.

7.1.2. I am cognisant that the appellant raises concerns with regards to the adequacy of the documentation provided with this application. Notwithstanding, the appellants concerns in this regard, I consider that the documentation submitted with this application together with an inspection of the site setting are sufficient for the Board to make a determination of this case without the requirement for further information to be provided by the applicant.

7.1.3. I am satisfied that no other substantive issues arise; however, the matter of appropriate assessment also needs to be addressed.

### 7.2. Residential Amenity Impact

7.2.1. The proposed development is a modest in size single storey extension to the rear of No. 15 Carrick Court. It is positioned alongside the shared boundary but within the curtilage of No. 15 Carrick Court. At this location it provides ample lateral separation between it and the adjoining property No. 16 Carrick Court to the north for it so that it does not to unduly diminish the level of daylight reaching this property (Note: 5.1m) or result in any undue overshadowing. This situation is enhanced by the orientation of the subject property and properties to the north as well as south of it, i.e. a western facing principal façade addressing a semi-private front garden area; and, an eastern facing rear elevation addressing a decent in width (Note: 8.8m) and depth (Note: c12.5m) rear garden area. Further this setback from the shared rear northern boundary with No. 16 Carrick Court together with the modest overall built form of the proposed extension which are apparent from its principal dimensions which can be summarised as:

- A floor area of 14m<sup>2</sup>;
- A maximum ridge height of 3.57m for its hipped roof over with this ridge height extending for a measured c3.1m from the existing rear elevation;
- A maximum stated depth of 4.87m from the existing rear elevation;
- A width of 3.52m width

Ensures that it would not result in any significant overshadowing of the property to the north.

7.2.2. The appellants property adjoins the southern boundary of the appeal site. As such the proposed extension though positioned immediately alongside this shared boundary due to the orientation of the site as previously set out above will not result in any significant overshadowing and/or loss of daylighting of the appellants property when regard is had to the sun's path through the 12months of the year.

7.2.3. I acknowledge that permission was granted for a much larger single storey rear extension to the rear of the appellants property which I again note is located to the south of the subject site.

7.2.4. Under this grant of permission, a setback of 1m from the shared boundary with No. 15 Carrick Court, i.e. the subject site, was required. I consider that this setback was a reasonable requirement having regard to the orientation of these properties; the



minimal lateral separation distance proposed between the extension and No. 15 Carrick Court; the built form of the extension as in the absence of such a setback the proposed extension would have resulted in a significant diminishment to the established residential amenities of No. 15 Carrick Court.

- 7.2.5. The requested setback of 1m of the southern elevation of the proposed extension by the appellant in their submission to the Board in my view would not result in any improved residential amenity for the appellants property and would result in a much poorer residential amenity outcome for the subject property. If the same dimensions were maintained as that proposed under this application and the extension was moved in a northerly direction it would require significant reworking of the proposed extension with the rear elevation and internal space of the subject property. It could also potentially result in a loss of established amenity for the adjoining property to the north depending on where it was moved to.
- 7.2.6. In this case I concur with the Planning Authority that the proposed development, if permitted, would not result in any significant diminishment or serious injury to the residential amenities of properties in the vicinity, including the appellants property No. 14 Carrick Court. I also do not consider that the proposed extension to be visually overbearing in its context and it would not result in any visual overbearance of the appellants property but arguably would improve their existing level of privacy by diminishing the potential for overlooking from No. 15 Carrick Court.
- 7.2.7. For these reasons the proposed development is consistent with local planning policy provisions, in particular, the land use zoning for the site and its setting which seeks to protect and improve residential amenity. It is also consistent with Objective PM46 of the Development Plan which seeks to encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area. I therefore consider that the proposed development is consistent with the proper planning and sustainable development of the area.

### **7.3. Oversailing/Encroachment**

- 7.3.1. It would appear from the documentation provided that the proposed extension would be provided within the curtilage of the appeal site; however, I acknowledge that the appellant raises concern that this is not the case. They also indicate that they do not consent to any oversailing and/or encroachment of their property. I therefore

recommend the Board should they be minded to grant permission that an advisory note which sets out Section 34(13) of the Planning and Development Act, 2000, as amended, is attached. I note that this Section of the said Act states that “a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”.

#### **7.4. Appropriate Assessment**

- 7.4.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the modest nature and extent of the proposed development; the location of the site in a serviced urban area; and, the significant lateral separation distance between the site and nearest Natura 2000 site, I consider that no Appropriate Assessment issues arise and that 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.

### **8.0 Recommendation**

- 8.1. I recommend that permission be granted.

#### **REASONS AND CONSIDERATIONS**

Having regard to the residential zoning objective for the area and the pattern of development there, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity by reason of overshadowing, diminishment of daylight, visual overbearance or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **9.0 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 existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** To restrict the use of the extension in the interest of residential amenity.

3. The external finishes of the proposed extension shall match those of the existing dwelling in respect of colour and texture.

**Reason:** In the interest of visual amenity.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, protection of the public roads and public footpaths, and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

5. Site development and building works shall be carried out only between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 07.00 to 13.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

6. 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.

**Advisory Note:** Section 34(13) of the Planning and Development Act, 2000 as amended, indicates that “*a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development*”.

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Patricia-Marie Young  
Planning Inspector

11<sup>th</sup> day of February, 2020.