



An  
Bord  
Pleanála

## Inspector's Report ABP 307802-20

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<b>Development</b>	Construction of a two-storey extension to side and rear of existing end of terrace dwelling
<b>Location</b>	40 Oak Road, Donnycarney, Dublin 9
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	2518/20
<b>Applicant(s)</b>	Ciaran O Murchu & Aine Ni Ghloinn.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Sheila Kennedy.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	November 2020.
<b>Inspector</b>	Paul Caprani

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## 1.0 Site Location and Description

- 1.1. The appeal site is located at the end of a cul-de-sac off Oak Road, to the west of the Malahide Road near its junction with Collins Ave. The site forms part of a large inner suburban inter-war housing estate, dating from the late 1920's. No.40 is located at the northern end of a row of 4 terraced houses facing westwards at the end of the small cul-de-sac off Oak Road Donnycarney. No. 40 comprises of a relatively modest sized two-storey 3 bed dwelling, with all sleeping accommodation above ground floor level. The ground floor comprises of living room accommodation to the front of the house with an open plan kitchen/ dining area to the rear. It incorporates a relatively large triangular shaped garden to the side and rear of dwelling. A small shed is located in the north-eastern corner of the garden. The dwelling incorporates a small front garden with confined road frontage.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for an extension to the northern side of the dwelling. The two storey 'L' shaped extension is 48.1 sq.m in size, just less than 7m in length and between 4.8m and 3.94m in width. The extension is to accommodate additional living accommodation at ground floor level. At first floor level it is proposed to re-configure the upstairs of the house, reducing the existing 3 bedrooms to two larger bedrooms and providing two additional bedrooms in the first floor of the extension.
- 2.2. The proposed extension incorporates a boxed-shaped structure which is contemporary in style. It rises to a height of 5.84 m which is below the 7.14 ridge height of the existing dwelling. The ground floor is to comprise of a smooth render finish with aluclad double glazed windows. The upper floor is to incorporate selected ppc metal cladding on all the external finishes.
- 2.3. – A small extension to the family room to the rear at ground floor level infilling the area between the living room and the family room and breaking out the wall between both rooms.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Dublin City Council issued notification to grant permission subject to 8 standard conditions.

### **3.2. Planning Authority Assessment**

3.2.1. The application was lodged with Dublin City Council on 18<sup>th</sup> March 2020.

#### **3.2.2. Technical Reports**

Drainage Department – no objection subject to conditions.

### **3.3. Prescribed Bodies**

There are no reports from proscribed bodies on file.

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

One third party observation was received from the current appellants, the contents of which has been read and noticed.

#### **3.4.1. Planning Report**

3.4.2. The planners report sets the site location and description and the proposal and the policy provisions relating to the site and its surroundings. In terms of the extension, the reports states that the proposal constitutes a modern extension which is subordinate to the main house and will not have undue impacts on the visual amenity of the area. Concerns expressed in the third party observation submitted with regard to impact on residential amenity are not accepted. The proposal will not give rise to undue impacts on daylight, sunlight nor will it impact on adjoining houses in terms of overlooking and impinging on privacy.

## **4.0 Planning History**

4.1. There are no planning appeals files attached. The planners report states that there is no history associated with the site.

## 5.0 Policy Context

### 5.1. Development Plan

5.2. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The subject site is zoned Z1 – “to protect, provide and improve residential amenities”.

5.3. Section 16.10.12 of the development plan specifically relates to extensions and alterations to dwellings.

It states that the design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar finishes and windows. Extensions should be subordinate in terms scale to the main unit.

5.4. Applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:

- Not have an adverse impact on the scale and character of the dwelling.
- Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

5.5. Further details in relation to extensions and alterations to dwellings and roof profiles are contained in Appendix 17 of the development plan.

### 5.6. Natural Heritage Designations

5.6.1. There are no natural heritage designations near the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The decision of Dublin City Council was the subject of a third-party appeal by the owner of No. 38 Oak Road, the dwelling to the immediate south of the subject site.

The grounds of appeal are outlined below:

- The grounds of appeal note that early suburban residential estates such as the estate in which the appeal site is located were not built to cater for the private car and as such dwellings within cul-de-sacs experience significant parking and servicing problems. The appeal site has only provision for one off-street car park.
- The drawings submitted with the application to the planning authority are inaccurate, they indicate the rear extension on the appellant's property is higher than is actually the case on the ground.
- It is also argued that the rear ground floor extension was built without the benefit of planning permission as one of the windows on the ground floor extension is located less than 1 m from the boundary wall it faces, thereby contravening a condition and limitation of Class 1 of the Exempted Development Regulations.
- The new extension, when taken in conjunction with the existing extension results in a house of 136.8 sq.m or 266% of the floor area of the original house.
- Dublin City Council has refused planning permission for dwellings in-side gardens on sites in the vicinity. The size and scale of the proposal equates to a new dwelling in a side garden.
- The proposal will exacerbate the sense of enclosure in the appellant's rear garden. This could have implications for energy efficiency. It is noted that in the case of a development in Sandymount, Judicial Review proceedings have been initiated on the basis that a proposed extension would have negative implication on the energy efficiency of an adjoining house.

- The proposal contravenes policy statements in the development plan in relation to alterations and extensions to dwellings. The fact that condition no.8 requires that the 1<sup>st</sup> floor window on the western elevation requires to be fitted with opaque glazing, clearly demonstrates that the proposal is not appropriate.
- There have been drainage problems in the area, and Dublin City Council have failed to address these concerns in the report relating to the application.
- It is suggested that the development contribution amount has been miscalculated and the amount to be charged should be increased from €1,584.12 to €4,181.34.
- For the above reasons it is recommended that planning permission be refused for the development.

## 6.2. Applicants Response

O Neill Town Planning Consultants submitted the following response to the grounds of appeal on behalf of the applicant.

- The proposed extension is to cater for family needs comprising of two adults and three children living in the house.
- The family only have one car and therefore there will be no increase in the demand for car parking spaces.
- The proposal forms of balance between the protection of the established character of the area and the need to provide for residential expansion in accordance this family needs.
- The proposal is modest in size and incorporates appropriate set back from surrounding boundaries.
- References made to various statements contained in the development plan which it is argued what support an extension to the existing dwelling.



- Reference in the grounds of appeal comparing the proposed development to a second house is spurious and irrelevant as that is not what is proposed in this instance.
- It is not accepted but the proposed development can be considered piecemeal. The design including the height and materials will mitigate against any potential for overbearing impact.
- The proposed extension when built, will retain an area of private open space in excess of 145 sq.m. The footprint of the proposed extension is approximately half of that of the existing house. The proposal therefore is ancillary and subordinate to the main house. The proposal is fully in accordance with the standards set out in the development plan for extensions.
- Having regard to the modest size of the extension, and the residual open space provided in the side garden after development, it cannot be reasonably argued but the proposal constitutes a significant overdevelopment of the site as suggested in the grounds of appeal.
- The proposed extension will not impact and the quantity of daylight to the rear of the appellant's dwelling having regard to the orientation a layout of the existing houses and the modest height of proposed extension. Any impact on sunlight penetration to the appellants rear garden would be minuscule and negligible.
- Any reference to a judicial review application for a similar type development in Sandymount on the basis of impact on energy efficiency is irrelevant in the case of the current appeal as the proposal in this instance will not adversely affect daylight and sunlight penetration at the appellants property.
- With regard to the existing extension's non-compliance with the Exempted Development Regulations, it is stated that the applicants bought the dwelling subsequent to the extension being built, and the extension may have in fact been built prior to the enactment of the 2001 Regulations. Previous Exempted Development Regulations had no requirement to have ground floor windows 1 or more meters from any boundary wall. Furthermore, the window in question is not facing the boundary wall but is in fact at an angle to the boundary wall. The center of the window is 1.2 m from the boundary wall and

therefore is in compliance with the Exempted Development Regulations. The applicant would be willing to incorporate opaque glazing if necessary.

## 7.0 Assessment

7.1. I have read the entire content of the file and visited the subject site and its surroundings and have had particular regard to the issues raised in the 3<sup>rd</sup> party appeal. I consider that the Board can restrict its deliberations specifically to the issues raised in the grounds of appeal, namely:

- Over-development of the subject site.
- Daylight and sunlight issues.
- Car Parking and Servicing Issues.
- Contravention of standards in the development plan
- Other Issues.

### 7.2. Over Development of the Subject Site.

7.2.1. The grounds of appeal argue that the proposal constitutes an over-development of the subject site. It is contended that the proposal in conjunction with the existing extension to the rear constitutes a 266% increase in the size of the original dwelling and for all intents and purposes, the size and scale of the development constitutes a separate dwelling in a side garden.

7.2.2. In response to the above contention, the Board should note that the inter-war local authority houses as originally constructed were very modest in size. The acceptability or otherwise of the size or scale of any extension should be predicated on the potential impact on surrounding visual and residential amenity, and the reasonable need for families to adapt and up-size dwellings to cater for modern needs, rather than issues relating to the ratio of sizes between original GFA and proposed GFA. As pointed out in the response to the grounds of appeal, the proposal is subordinate in size and height to the main dwelling. It is stepped back from the front building line, it incorporates generous separation distances to

surrounding boundaries and provides for a residual private garden area of over 140 sq.m in size. The size and dimensions of the side garden make the site extremely suitable to accommodate a two-storey extension without having an overbearing impact on surrounding properties. For these reasons I do consider that the proposal constitutes an overdevelopment of the subject site.

- 7.2.3. I do not accept the appellants arguments that the proposal is akin to a separate house. It is 48 sq m in size, and as such is only 8 sqm above the exempted development provisions for an extension. More importantly, the proposed development seeks to provide additional living accommodation for the existing family residing at the dwelling. It is not intended to provide living accommodation for an additional family and all that entails with regard to private open space provision, car parking and additional services etc. I consider such a comparison suggested in the grounds of appeal to be flawed and should be dismissed by the Board. The applicant has indicated in his response that the family currently own one car and this is not intended to change on foot of the proposed extension.

### **7.3. Daylight and Sunlight Issues**

- 7.3.1. The grounds of appeal express concerns that the proposed development will exacerbate and further restrict daylight and sunlight penetration to the appellant's rear garden. It is acknowledged that the appellants rear garden is for the most part surrounded by structures which restricts the level of daylight and sunlight to the rear garden of No. 38. However, both existing extension and proposed extension are located to the north of the appellants rear garden and therefore will have a very modest effect on levels of daylight and sunlight currently experienced in the appellants rear garden. While the existing extension may have some impact, the proposed extension, despite being 2 storeys is located c 5 meters due north of the common boundary, and as such will have no material effect on daylight and sunlight levels experienced in the rear garden of the appellant.

### **7.4. Car Parking and Servicing Issues**

- 7.4.1. It is acknowledged that the streets within the estate, and particularly the cul-de-sac in question, incorporate modest road and footpath widths and this presents problems in

relation to driving, parking, servicing and general maneuvering of vehicles. While the provision of an additional house in the side garden might exacerbate issues in relation to parking and servicing, the provision of an extension to the side of an existing house does not in itself give rise to such issues. The applicant has clearly pointed out that the family currently own one car and this is not intended to change as a result of the proposed extension. I can only conclude therefore but the proposal will not exacerbate car parking and servicing issues.

## **7.5. Contravention of Development Plan**

- 7.5.1. The grounds appeal suggest that the proposed development contravenes section 16.2.2.3 in that it fails to respect the character of the street, is not located to the rear of the building and is not subordinate in terms of scale and design.
- 7.5.2. The proposed extension is contemporary in style and is located to the side of the existing dwelling house. Most importantly however, the building is stepped back from the front building line of the existing house and as such is less conspicuous when viewed from public vantage points along the roadway. The configuration of dwellings circled around the end of the cul-de-sac, will provide truncated views only of the extension to the side of the house. While the residential estate to the north of Donnycarney Road possesses a specific character, and provides a fine example of early Free State 'garden-city' style suburban development, the subject site is not located in a residential conservation area nor are there any protected structures in the vicinity. This should in my view afford the applicants greater flexibility in design parameters in respect of any extension. To refuse planning permission on the basis that the proposal is not located to the rear of the building would in my view disproportionate. There is already an extension to the rear of the building and therefore an extension to the side of the building, particularly having regard to the configuration of the side garden, is the most appropriate option in this instance. In relation to the scale and design of the extension, I have already stated that I consider the side extension to be a suitable contemporary design and is subordinate in size and scale when compared to the existing structure on site. I therefore do not consider but the proposal contravenes the development plan in respect of the guidelines set out for extensions to existing dwellings.

## 7.6. Other issues

- 7.6.1. A number of other issues were raised in the grounds of appeal and these are briefly comment upon below

### Drainage Issues

- 7.6.2. The grounds appeal suggest that drainage problems arose on foot of the construction of the existing extension to the rear. Concern is expressed that the planning report was silent on this matter. Reference is also made to Dublin City Council's Drainage Divisions concerns for a nearby development of a corner site at no. 47 Oak Road. I refer the Board to the report of the Drainage Division on file; it clearly states but there is no objection to the proposed development subject to the developer complying with the Regional Code of Practice. Concerns in relation to a development at No. 47 Oak Road is irrelevant on the basis that relates to a different site where clearly there was an issue in relation to building over the public sewer. It appears that no such issue arises in the case of the current application and appeal.

### Inaccurate Drawings

- 7.6.3. The grounds of appeal suggest that the drawings submitted are inaccurate as they fail to properly depict the roof height to the rear of the appellants dwelling. Any such inaccuracies or discrepancies are minor in nature and do not prevent or preclude the Board from deliberating or determining on the current application before it. Any such inaccuracies therefore cannot be considered fatal to the application.

### Issues of Enforcement and Unauthorised Development

- 7.6.4. The grounds of appeal suggest that the existing extension to the rear may in fact be unauthorized on the basis but one of the windows on the proposed extension contravenes condition and limitation 6(a) of Class 1 of the Exempt Development Regulations. The applicant refutes this and argues that the extension may have been constructed before the enactment of the said Regulations, and where this is not the case, the location of the window in the context of the boundary complies with condition 6(a) of Class 1. Any issues in relation to unauthorised development and /or enforcement proceedings, is a matter for the planning authority and not An Bord Pleanála. The Board should restrict its deliberations to the application currently before it and not matters pertaining to existing structures on site.

## Development Contribution Scheme

The grounds of appeal argue that the development contribution scheme should be increased from €1,584.12 to €4,181.34 on the basis that there was a previous extension carried out on site and this should be included for the purposes of calculating the development contribution scheme. Section 11 of the Dublin City Council Development Contribution Scheme set out waivers and reductions in development contributions for certain classes of development. It states that the first 40 square meters of extensions to residential development (subsequent extensions or extensions over and above 40 square meters, will be charged at the residential rate per sq.m). No rationale is set out in the planners report as to how the development contribution was arrived at. It is not altogether clear as to whether or not the previous extension was subject to a development contribution. It would appear unreasonable to me to double charge the applicant in this regard as the response to the grounds of appeal indicates that the applicants moved into the house subsequent to the original extension being completed. It would in my view therefore be more appropriate that the board would (a) retain the financial contribution specified by the planning authority or (b) calculate the development contribution on the basis of the 8 additional sqm to be provided over and above the 40 square meter threshold. If the board adopts the latter rationale, the financial contribution would amount to €746.

### **8.0 Recommendation**

- 8.1. Arising from my assessment above, I consider the proposed extension to be acceptable. I therefore recommend that the Board uphold the decision of the planning authority and grant planning permission for the development.

### **9.0 Appropriate Assessment**

- 9.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, 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.

## 10.0 EIA Screening Determination

10.1. The proposal does not fall within a class of development for which EIA is required.

## 11.0 Reasons and Considerations

Having regard to the residential zoning objective relating to the site, it is considered that the proposed development, subject to conditions set out below would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 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 the 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 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.

3 Site development and building works shall be carried out only between the hours of 7 a.m. to 6 p.m. Monday to Friday, 8 a.m. to 2 p.m. Saturday and not at all on Sundays or 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.

4 The external finishes of the proposed extension (including roof) shall be agreed with the planning authority prior to the commencement of development. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. 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

6. Prior to the commencement of development, the developer will comply with any requirements of the Roads and Traffic Planning Division.

**Reason:** In the interests of traffic safety.

7. The developer shall pay to the planning authority a financial contribution of €746 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 the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer, in default of such an agreement, the matter shall be referred to An Bord Pleanála to determine.

**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.



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Paul Caprani  
Senior Planning Inspector

9<sup>th</sup> November 2020