



An
Bord
Pleanála

Inspector's Report 307817-20

Development	Single-storey & 2-storey extension to the rear & side; extension of existing attic conversion with new velux windows & new dormer window; associated demolitions, alterations, drainage and landscaping
Location	95 Blackheath Park, Clontarf, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB1222/20
Applicant(s)	David & Jan Killen
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First Party v. Conditions
Appellant(s)	David & Jan Killen
Observer(s)	None
Date of Site Inspection	9 th October 2020
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 516 m² and is located at No. 95 Blackheath Park, Clontarf, Dublin 3. The existing property is a 2-storey, semi-detached dwelling with an attached garage to the side and off-street, car parking to the front. There is an existing single-storey extension to the rear, with a raised patio area leading to the rear garden, which extends to approx. 24 in length. The rear boundary of the site fronts onto a residential access road within Castilla Park to the south.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single-storey and 2-storey extension to the rear and side of the house and the extension of an existing attic conversion, incorporating new velux windows and a new dormer window to the rear main roof. The total ground floor extension area is 32 m², the total 1st floor extension area is 45 m² and the total attic floor extension is 7 m².
- 2.2. The development includes associated demolitions, alterations, drainage and landscaping within the curtilage of the site.
- 2.3. The proposed ground floor extension will accommodate a kitchen/dining/living room, which wraps around an external courtyard of 10.2 m² adjacent to the shared boundary with No. 97 Blackheath Park. The courtyard has a depth of 2.979 m, beyond which, the single-storey extension extends for 7 m along the eastern site boundary. At the shared western boundary with No. 93 Blackheath Park, the ground floor extension has a depth of c. 8.2 m beyond the existing rear building line. The overall height of the ground floor extension is 3.8 m.
- 2.4. At 1st floor level, it is proposed to extend the existing 3rd bedroom over the ground floor garage. Additional storage space is proposed at attic level above.
- 2.5. The 1st floor extension to the rear will accommodate a master bedroom with en-suite. The extension projects 5.8 m from the existing rear building line and is set-back by 0.9 m from the shared boundary with No. 93 Blackheath Park and by 3.2 m from that with No. 97 Blackheath Park.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Notification of the Decision to Grant Permission subject to 8 no. conditions issued on 8th July 2020.

3.1.2. Condition no. 2 requires the payment of a development contribution of €9,829.83 to the Planning Authority.

3.1.3. Condition no. 3 states the following:

“The proposed development shall be amended as follows:

- (a) The first floor level extension to the side shall be set-back from the front building line by 1 m and the ground floor may be set-back likewise as required as a result of the above.
- (b) The single-storey extension to the rear shall be set back by 1m from the eastern boundary with No. 97 Blackheath Park.
- (c) The window at first floor level within the extension to the side shall be permanently fitted with opaque glazing.
- (d) The roof of any extension shall not be used as a balcony or roof garden or any other amenity use.
- (e) The dormer extension to the rear shall be fully disaggregated from the 2-storey extension to the rear providing a separation distance of 0.75 m (when measured in plan view) between the dormer extension and the 2-storey extension so as to be clearly visually separated in elevational view.
- (f) The rear dormer extension shall have a maximum width of 4 m and shall be positioned centrally within the rear roof plane as much as possible.
- (g) The window within the rear dormer shall be no taller or wider than the largest existing rear 1st floor below.
- (h) The external finish to all the walls of the rear dormer hereby approved shall be either in tiles/slate to match the existing roof or in a dark render or zinc treatment similar in colour to the main roof tile finish.

- (i) The rear dormer's fascia/soffits; any rainwater goods; window frames; and glazing bars shall be finished in a dark colour so as to blend with the existing roof finish. White uPVC shall not be used.

Reason: In the interests of residential and visual amenity”.

- 3.1.4. All other conditions are generally standard in nature.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports (7th July 2020)**

- 3.2.2. Basis of Planning Authority's decision.

- 3.2.3. Dublin City Council's Planning Officer considered that the 1st floor side extension should be set-back by 1 m from the front building line to ensure it remains subordinate to the main dwelling and to avoid terracing with neighbouring dwellings.

- 3.2.4. The Planning Officer considered that the proposed single-storey, rear extension may have an overbearing appearance for the occupants of No. 97 Blackheath Park. As such, it was recommended that the extension be set-back by 1 m from the shared boundary.

- 3.2.5. The Planning Officer also had concerns regarding the form and scale of the dormer extension and its integration with the 2-storey, rear extension. It was considered that the dormer should be physically disaggregated from the extension and set back from it by 0.75 m.

- 3.2.6. The Planning Officer further considered that the width of the dormer should be reduced to 4 m and that the window size should be reduced to match the existing 1st floor level windows, in order to avoid overlooking of neighbouring properties.

3.2.7. **Other Technical Reports**

- 3.2.8. **Engineering Department Drainage Division:** No objection subject to conditions.

3.3. **Prescribed Bodies**

- 3.3.1. **Irish Water:** None received.

3.4. **Third Party Observations**

- 3.4.1. None.

4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. 3082/10:** Planning permission granted on 30th September 2010 to widen the existing front vehicular entrance and driveway, internal alterations to the existing attic floor layout, installation of 2 no. rooflights to the front of the house, installation of a new dormer window to the rear of the house and the installation of a new pedestrian gate, with access to Castilla Park to the rear of the property.
- 4.2. Condition nos. 2(b)(i) and (ii) of this permission required the width and depth of the rear dormer structure to be reduced by 500 mm.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Land Use Zoning

- 5.2.1. The site is subject to land use zoning "Z1" (Sustainable Residential Neighbourhoods) which has the objective "to protect, provide and improve residential amenities".

5.3. Alterations and Extensions

- 5.3.1. The policy regarding extensions and alterations to dwellings is set out in Sections 16.2.2.3 and 16.10.12 and Appendix 17 of the development plan. In general, applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied the proposal will: (1) not have an adverse impact on the scale and character of the dwelling, and (2) not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.
- 5.3.2. Further guidance in relation to dormer extensions is set out in Section 17.11 of Appendix 17. When extending the roof, the following principles should be applied:
- The design of the dormer should reflect the character of the area, the surrounding buildings and the age and appearance of the existing building;
 - Dormer windows should be visually subordinate to the roof slope, enabling a large proportion of the original roof to remain visible;

- Any new window should relate to the shape, size, position and design of the existing doors and windows on the lower floors;
- Roof materials should be covered in materials that match or complement the main building;
- Dormer windows should be set back from the eaves level to minimise their visual impact and reduce the potential for overlooking of adjoining properties.

5.4. Natural Heritage Designations

5.4.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal has been lodged by Future Analytics on behalf of the applicants. The appeal relates to condition nos. 2 and 3 of the Planning Authority's Notification of the Decision to Grant Permission and can be summarised as follows:

- The proposed side extension above the garage is already positioned behind the front building line. This set-back will avoid the terracing affect referenced by Dublin City Council's Planning Officer;
- It is inappropriate for the extension to be set back by 1 m as required under Condition No. 3 (a). This set back would be excessive, disruptive to the design and would result in the loss of space within the proposed bedroom;
- Notwithstanding the foregoing, an alternative design with a set-back of 750 mm has been prepared for the consideration of An Bord Pleanála;
- The proposed single-storey, rear extension does not give rise to any negative impact on No. 97 Blackheath Park and the required 1 m set-back from the eastern site boundary is unnecessary;
- No objections to the proposed development have been raised by any third party;

- The rear gardens of Nos. 95 and 97 Blackheath Park are south-facing and no sunlight or shadow issues arise;
- The massing of the extension is broken up by the inclusion of the courtyard feature;
- Notwithstanding the foregoing, revised plans have been prepared for the consideration of An Bord Pleanála, which reduce the parapet height of the single-storey, rear extension by 655 mm to address potential overbearing concerns in relation to No. 97 Blackheath Park;
- Notwithstanding the revised proposals, it is submitted that this amendment is unnecessary given the considerable precedents on Blackheath Park and throughout Clontarf for single-storey extensions of this nature, with the Planning Authority considered to be inconsistent with their established practice in this area;
- The proposed rear dormer extension provides for the modernisation and improvement of the attic level, without any negative impact on residential amenity;
- There is no clear rationale for the amendments which are required to the dormer structure, as the elevational view is a rear view, which is not visible from the public realm. There is no impact on the residential land use zoning objective or residential amenity and no overlooking of property directly to the rear;
- Notwithstanding the foregoing, an alternative design proposal for the dormer structure has been prepared for the consideration of An Bord Pleanála. The dormer has been reduced in width by 750 mm and in depth by 500 mm and the windows have been reduced in size. The dormer structure appears physically separated from the 2-storey extension in northerly views of the rear elevation;
- Similar precedent cases have been granted planning permission in the local area, including Planning Authority Reg. Ref. 3059/10 (ABP Ref. PL29N.237556) at No. 97 Blackheath Park, Planning Authority Reg. Ref. 3808/19 (ABP Ref. 305851-19) at No. 64 Blackheath Park, Planning Authority

Reg. Ref. 2752/06 at No. 71 Blackheath Park, Planning Authority Reg. Ref. 2354/14 at No. 79 Blackheath Park, Planning Authority Reg. Ref. 2934/13 at No. 61 Blackheath Park, Planning Authority Reg. Ref. 3126/18 at No. 1 Blackheath Court, Planning Authority Reg. Ref. 2880/18 at No. 13 Blackheath Park and Planning Authority Reg. Ref. WEB1293/13 (ABP Ref. PL29S.243157) at the rear of No. 164 Quinn Avenue, Mount Brown, Kilmainham, Dublin 8;

- The development contribution payable in this instance has been miscalculated by Dublin City Council. Based on a proposed floorspace increase of 80 m² and a domestic levy of €92.10, a contribution of €7,368 should be payable, rather than €9,829.83 as required under Condition No. 2.

6.2. Planning Authority Response

- 6.2.1. A response was received from the Planning Authority in relation to Condition No. 3 on 14th September 2020. Dublin City Council's Planning Officer considers that the rationale for the amendments which are required under this condition, are clearly set out in their report of 7th July 2020.
- 6.2.2. The Planning Officer considers that the amendments which are proposed to the ground floor level rear extension by way of the applicant's appeal submission, will reduce the impact of the development on the neighbouring property at No. 97 Blackheath Park. It is also considered that the amendments which are proposed to the dormer structure, will reduce its scale and ensure it remains visually subordinate to the rear roof plane as required under the development plan.
- 6.2.3. Two responses in relation to Condition No. 2 were received from the Planning Authority on 16th October 2020 and 19th October 2020.
- 6.2.4. The Planning Authority submits that the development contribution was correctly applied as per the Dublin City Council Development Contribution Scheme 2020-2023. The Planning Authority notes that the reduction in the permitted floor area was not taken into consideration when the development contribution was applied. Following the expiration of the appeal period, the contribution would have been recalculated and reflected in the Final Grant of Permission.

6.3. **Observations**

6.3.1. None.

6.4. **Further Responses**

6.4.1. None.

7.0 **Assessment**

7.1. This is a first party appeal against Condition Nos. 2 and 3 as attached to the Planning Authority's Notification of the Decision to Grant Planning Permission. Condition No. 2 relates to the development contribution payable on foot of the proposed development. Condition No. 3 requires certain amendments to be undertaken to the permitted development as set out in Section 3.1.3 above. Condition no. 3 also restricts the use of the roof of the permitted extensions as an amenity space, in addition to specifying materials and finishes to be used within the proposed development.

7.2. Following my examination of the planning file and grounds of appeal, I consider it appropriate that the appeal should be confined to Condition Nos. 2 and 3 only. Accordingly, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and that the Board should determine the matters raised in the appeal only in accordance with Section 139 of the Planning and Development Act 2000, as amended.

7.3. **Condition No. 2**

7.3.1. Condition No. 2 of the Planning Authority's Notification of the Decision to Grant Permission requires the payment of a S. 48 development contribution in the amount of €9,829.83. The appellants' agent submits that the contribution has been incorrectly calculated and should be in the amount of €7,368 based on a floorspace increase of 80 m².

7.3.2. I considering this issue, I note that a S. 48 development contribution rate of €92.10 per gross square metre of residential development applies under the Dublin City Council Development Contribution Scheme 2020 – 2023. While the appellants' agent submits that an 80 m² increase in floorspace is proposed, I note that a figure of 84 m² is referenced on Question 10 (c) of the planning application form, within the

development description set out in the statutory notices and on the planning application drawings.

- 7.3.3. Section 11 of the Development Contribution Scheme identifies certain circumstances where no contribution or a reduced contribution will apply. These include the first 40 m² of extensions to a residential development, with subsequent extensions or extensions over and above 40 m² being charged at the residential rate per m². The proposed development has a stated floor area of 84 m², and as such, I consider that a reduced contribution does not apply in this instance.
- 7.3.4. In my opinion, the Planning Authority did not correctly apply the adopted development contribution scheme. Based on the proposed additional residential floor area of 84 m², I consider that the S. 48 development contribution payable in this instance is €7,736.40.
- 7.3.5. As such, I recommend that the Planning Authority be directed to amend Condition No. 2 of the Notification of the Decision to Grant Permission accordingly.

7.4. **Condition No. 3**

- 7.4.1. Condition no. 3 requires various amendments to be made to the proposed development as summarised in Section 3.1.3 above. Each of the required amendments is addressed in turn below.
- **Setting Back of 1st Floor Side Extension**
- 7.4.2. Dublin City Council's Planning Officer considered that the 1st floor extension over the garage should be set-back by 1 m from the front building line to avoid a terracing effect with neighbouring dwellings.
- 7.4.3. The appellants' agent submits that the extension is already positioned behind the front building line, and that a 1 m set-back would be disruptive to the design and result in unnecessary loss of space within proposed bedroom no. 3. In the event An Bord Pleanála shares the Planning Officer's concerns, a revised proposal been prepared, which illustrates a set-back of 750 mm from the front building line.
- 7.4.4. In reviewing the drawings which accompany the planning application, I note that the proposed extension steps back from the front building line by 0.5 m as highlighted by the appellants' agent (Drawing No. PL-02: Existing and Proposed Plans refers). This

set-back is illustrated further on the Proposed (West) Side Elevation (Drawing No. PL-04).

- 7.4.5. In my opinion, the proposed 0.5 m set-back as originally proposed, would provide sufficient articulation to the 1st floor extension, which would clearly read as a new addition to the existing building form. In reviewing the proposed front elevation drawing (incorrectly labelled as the “Existing Front Elevation” on Drawing No. PL-04), I note that the existing façade treatment over the garage will be extended in the location of the proposed setback, which in my opinion, will further serve to demarcate the new 1st floor level extension above.
- 7.4.6. I have reviewed the appellants’ proposal to increase the 1st floor set-back by 750 mm as illustrated on the planning drawings which accompany the appeal. In my opinion, this amendment is not warranted, and I consider that the design and form of the extension as originally submitted is acceptable, with no undue terracing effect arising in the context of neighbouring properties.
- 7.4.7. In conclusion, I consider that the requirement to set-back the side extension at 1st floor level by 1 m is unnecessary and unreasonable in this instance and that the Planning Authority should be directed to omit Condition No. 3 (a) of the Notification of the Decision to Grant Permission.

- **Setting Back of Rear Single-Storey Extension**

- 7.4.8. Dublin City Council’s Planning Officer considered that the rear, single-storey extension should be set back by 1m from the shared boundary with No. 97 Blackheath Park. This amendment was deemed necessary to avoid overbearing impacts on the occupants of this neighbouring property.
- 7.4.9. The appellants’ agent submits that this amendment is unnecessary and that no such impacts will arise. It is further submitted that the rear gardens of both properties are south-facing, and that no sunlight or shadow issues arise. It is also considered that the inclusion of the ground floor courtyard breaks up the massing of the extension.
- 7.4.10. In the event An Bord Pleanála shares the Planning Authority’s concerns, a revised proposal is included with the appeal, which reduces the parapet height of the single-storey extension by 655 mm adjacent to the shared boundary with No. 97 Blackheath Park.

7.4.11. In considering this issue, I note that the ground floor extension as originally proposed has an overall height of 3.8 m. The extension projects 1.35 m above the shared boundary with No. 97 Blackheath Park for a depth 7 m. In my opinion, a single-storey extension of this scale would not be unreasonable in this urban context, having regard to the width, length and orientation of both rear gardens. I also consider that an extension of this scale, would have no undue overbearing impacts on the occupants of No. 97 Blackheath Park. I note that no objections have been raised by the occupants of this dwelling in relation to the proposed development. As such, I consider that the revised proposal to decrease the parapet height of the rear extension by 655 mm is unnecessary in this instance.

7.4.12. In conclusion, I consider that the requirement to set-back the single-storey extension by 1 m from the eastern boundary as required under Condition No. 3 (b) is unwarranted in this instance and that the Planning Authority should be directed to omit this condition.

- **Amendments to Proposed Dormer Extension**

7.4.13. Dublin City Council's Planning Officer considered that the dormer extension had a dominant and visually obtrusive appearance on the rear roof plane. The Planning Officer also expressed concerns regarding the integration of the dormer structure with the 2-storey, rear extension and potential overlooking of neighbouring properties from the proposed 1.8 m high windows.

7.4.14. The appellants' agent submits that the proposed dormer extension will allow for the modernisation of the attic and that there is no clear rationale for the proposed amendments. It is further submitted that the rear view of the property is not visible from the public realm, with no direct overlooking of any property to the rear.

7.4.15. In seeking to address the Planning Officer's concerns, an alternative design proposal for the dormer extension has been prepared for the consideration of the Board. The width and depth of the dormer structure have been reduced by 750 mm and 500mm respectively, while the windows have been reduced in height to 1.5 m. It is also proposed to separate the dormer from the proposed 2-storey extension.

7.4.16. The development plan policy in relation to dormer extensions states that this form of development should be subordinate to the roof slope, enabling a large proportion of the original roof to remain visible. Dormer windows should be set back from the

eaves level to reduce their visual impact and the potential for overlooking. In addition, the design of the dormer should reflect the character of the area and subject building, while the window, roof materials and design should complement that of the existing.

7.4.17. In my opinion, the dormer extension as originally proposed is acceptable. I consider that a significant portion of the rear roof slope will remain visible as required under development plan policy, and I note that the structure is set-back from the eaves, notwithstanding its relationship to the proposed 2-storey extension. I further note that no direct overlooking of any neighbouring property would occur on foot of the proposed development, given that there is no directly opposing dwelling at this location.

7.4.18. While the revised proposals for the dormer extension which accompany the appeal have been considered, in my opinion, the development as originally proposed is acceptable and would enable an improved standard of accommodation to be provided on the site, with no significant negative visual or residential amenity impacts arising.

7.4.19. As such, I consider that the Planning Authority should be directed to omit Condition No. 3 (e), (f) and (g) of the Notification of the Decision to Grant Permission.

- **Other Requirements under Condition No. 3**

7.4.20. Condition No. 3 (c) requires the window at 1st floor level within the extension to the side to be permanently fitted with opaque glazing. I note that this matter is already clarified on the “Existing & Proposed Elevations” drawing (No. PL-04) which notes that a “frosted window” will be provided in this location. As such, I consider that the attachment of this condition is unnecessary.

7.4.21. Condition No. 3 (d) requires that the roof of any extension shall not be used as a balcony or roof garden or any other amenity use. In my opinion, this requirement is reasonable and should continue to be attached to the permission by way of an amended condition.

7.4.22. Condition No. 3 (h) requires the external walls to the rear dormer to be either tiles/slate to match the existing roof or a dark render or zinc treatment similar in colour to the main roof tile finish. The “Existing & Proposed Elevations” drawing (No.

PL-04) and “Existing & Proposed Elevations & Sections” drawing (No. PL-05) which accompany the planning application already confirm that a zinc finished is proposed to the rear dormer structure. Thus, in my opinion, the attachment of this condition is unnecessary.

7.4.23. Condition No. 3 (i) requires that the dormer fascia/soffits, any rainwater goods, window frames and glazing bars to be finished in a dark colour to blend with the existing roof finish. White uPVC shall not be used. In considering the requirements of this condition, I note that the proposed window design and configuration is generally sympathetic to that of the existing fenestration. Having regard to the nature and scale of the development, comprising a residential extension on Z1 zoned land, I consider that the attachment of this condition is unwarranted.

- **Conclusion**

7.4.24. In my opinion, the development as originally proposed would be acceptable at this location and would have no negative impact on the character of the existing dwelling or streetscape or the residential amenity of any neighbouring property. As such, I consider that the requirements of the Planning Authority, in its imposition of Condition No. 3 (a), (b), (e), (f) and (g) are unwarranted and should be omitted.

7.4.25. I consider that Condition No. 3 (c), (h) and (i) are unnecessary in this instance and should be omitted.

7.4.26. I consider that the requirements of Condition No. 3 (d) are reasonable and should continue to be attached to the permission by way of an amended condition.

7.5. Appropriate Assessment

7.5.1. Having regard to the nature and scale of the proposed development and the distance to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that the Planning Authority be directed to amend **Condition No. 2** as follows:

2. "The developer shall pay the sum of € 7,736.40 to the Planning Authority as a contribution towards expenditure that was and/or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority in accordance with Dublin City Council's Section 48 Development Contribution Scheme. The contribution is payable on commencement of development. If prior to commencement of development an indexation increase is applied to the current Development Contribution Scheme or if a new Section 48 Development Contribution Scheme is made by the City Council, the amount of the contribution payable will be adjusted accordingly.

Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development.

Reason: It is considered reasonable that the payment of a development contribution should be made in respect of the public infrastructure and facilities benefitting development in the administrative area of the Local Authority".

8.2. I recommend that the Planning Authority be directed to remove **Condition No. 3** and attach an amended Condition No. 3 as follows:

3. "The roof of the ground and 1st floor rear extensions hereby permitted, shall not be used as a balcony, roof garden or any other amenity space.

Reason: To prevent overlooking of adjoining residential properties".

9.0 Reasons and Considerations

Condition No. 2

- 9.1. The planning authority did not correctly apply the terms of the Dublin City Council Development Contribution Scheme 2020-2023 based on the inaccurate calculation of the floorspace of the proposed development.

Condition No. 3

- 9.2. Having regard to the residential land use zoning of the site, and the nature and scale of the proposed development, it is considered that the modifications and requirements of the Planning Authority, in its imposition of Condition No. 3, are not warranted, and that the proposed development, with the omission of this condition and the attachment of an amended condition, would have no significant negative impact on the character of the dwelling or the streetscape and would have no significant negative impact on the residential amenity of any neighbouring property. Thus, the proposed development would be in accordance with the proper planning and sustainable development of the area.

Louise Treacy
Planning Inspector

19th November 2020