



An
Bord
Pleanála

Inspector's Report

ABP-308452-20

Development	Demolition of side garage and rear single storey extension and construction of two storey side extension.
Location	12, Merlyn Park, Ballsbridge, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	Web1519/20
Applicant(s)	Paraic McKeogh
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Brian & Catherine O' Flynn
Observer(s)	None
Date of Site Inspection	14/12/20.
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The appeal site is located c. 4km to the south east of Dublin City centre at No. 12 Merlyn Park, Ballsbridge, Dublin 4. The site has a stated area of 610 sq.m.
- 1.2. The site is located on the northern side of Merlyn Park a one way road serving an established residential estate. The site is located c 130m east of the junction with Merrion Road and 270m north west of the junction with Ailesbury Road.
- 1.3. The residential area is generally characterised with two-storey semi-detached houses with hipped roofs and curved bay windows over two floors. No. 12 adjoins the house to the south west number 10 which has an attached yet independent side garage.
- 1.4. The house is part finished in red brick at ground level, dash plaster at first floor and a slated roof. The dwelling also has an open porch style feature with columns.
- 1.5. At the time of the inspection it was noted that the site was surrounded to the public road by hoarding and that development works are underway at the site.

2.0 Proposed Development

- 2.1. The proposed development comprises-
 - Demolition of side garages, rear structures and rear extension (25 sq.m)
 - Construction of a two storey side extension and single storey rear extension (107 sq.m),
 - Attic conversion with dormer extension (35 sq.m, 4m wide)
 - total floor area will be 263 sq. m,
 - Widening of vehicular entrance to 3.5m,
 - Solar panels to front elevation

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 24/09/20, subject to eight conditions of a standard nature.

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officer (23/09/20) reflects the decision of the Planning Authority. The following is noted from the report:

- The application is considered sufficiently different from the previous application in that the applicants are now proposing a two storey side extension as opposed to a single storey extension.
- The two storey side extension will be hipped and set down from original roof and set back 1.65m from the front façade of the main house. The ground floor is the same as was previously applied for, and the attic dormer has been reduced to 4m in width to reflect the Planning Authority's condition for the previous permission.
- There is a 1m set back from the shared boundary as per previous ground floor extension.
- A 1m wide passageway is to remain to the side of the property for access to rear garden. Alterations to the front elevation are considered acceptable and do not distract from the streetscape so as to warrant a change in design.

4.2. Other Technical Reports

- Drainage Division- No objection subject to condition
- Transportation Division- No objection subject to condition

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

One submissions was received. The issues raised are also included in the third party appeal and are set out in the Grounds of Appeal in section 7.1 of this report.

5.0 Planning History

5.1. This site-

- Web1139/20, ABP-307706-20, single storey extension to side and rear, dormer extension and widening entrance. Grant 30/10/20. Condition 2 required the dormer extension to be reduced to four metres in width.

6.0 Policy Context

6.1. Dublin City Development Plan 2016-2022

- 6.1.1. The appeal site has a zoning objective 'Z2 - Residential Neighbourhoods (Conservation Areas)' within the Dublin City Development Plan 2016-2022, with a stated objective *'To protect and/or improve the amenities of residential conservation areas.'*
- 6.1.2. Relevant planning policies and objectives for residential development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Appendix 17 of Volume 2 of the Development Plan provides guidance specifically relating to residential extensions.
- 6.1.3. The following sections are of particular relevance:

Section 11.1.5.4- Architectural Conservation Areas and Conservation Areas.

The policy mechanisms used to conserve and protect areas of special historic and architectural interest include:

- Land-use zonings: Residential Conservation Areas (land-use zoning Z2)....

The policy to ensure the conservation and protection of the areas of special historic and architectural interest is as follows-

It is the Policy of Dublin City Council:

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement opportunities may include:

- 1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting*
- 2. Re-instatement of missing architectural detail or other important features*
- 3. Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns*
- 4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area*
- 5. The repair and retention of shop- and pub-fronts of architectural interest.*

It is the Policy of Dublin City Council:

Development will not:

- 1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area*
- 2. Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail*
- 3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors*
- 4. Harm the setting of a Conservation Area*
- 5. Constitute a visually obtrusive or dominant form.*

Section 16.2.2.3- Extensions and Alterations to Dwellings-

.... alterations and extensions should:

- Respect any existing uniformity of the street, together with significant patterns, rhythms or groupings of buildings*
- Retain a significant proportion of the garden space, yard or other enclosure*
- Not result in the loss of, obscure, or otherwise detract from, architectural features which contribute to the quality of the existing building*
- Retain characteristic townscape spaces or gaps between buildings*
- Not involve the infilling, enclosure or harmful alteration of front lightwells.*

Furthermore, extensions should:

- Be confined to the rear in most cases*
- Be clearly subordinate to the existing building in scale and design*
- Incorporate a high standard of thermal performance and appropriate sustainable design features.*

Section 16.10.12 Extensions and Alterations to Dwellings:

‘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.’*

Appendix 17 Guidance for Residential Extensions

- Section 17.3 Residential Amenity Issues

- Section 17.4 Privacy
- Section 17.5 Relationship Between Dwellings and Extensions
- Section 17.6 Daylight and Sunlight
- Section 17.7 Appearance
- Section 17.8 Subordinate Approach
- Section 17.10 Contemporary Extensions
- Section 17.11 Roof Extensions: *When extending in the roof, the following principles should be observed:*
 - *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.*

6.2. Natural Heritage Designations

- 6.2.1. The site is located c. 650m west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).
- 6.2.2. The site is located c. 650m west of the South Dublin Bay pNHA.

7.0 The Appeal

7.1. Grounds of Appeal

One third party appeal was received from Brian and Catherine O' Flynn of 14 Merlyn Park (neighbouring property to east). The grounds of appeal can be summarised as follows-

- The application is invalid as it does not show any regard or consideration of the third party observations made and no reasons or comments are stated in the decision to grant permission to show the observations were considered.
- The decision contradicts zoning, policy and section 16.10.12 of the Dublin City Development Plan. The proposal has an adverse effect on daylight, sunlight, scale and character of numbers 12 and 14.
- There are six windows on the side gable of each house (12 & 14) and the development will impact negatively on light to the side of 14. The height, size, proximity and imposition of the proposed extension will have a detrimental effect on No. 14 and create a negative precedent that compromises the unique design of the side aspect and of similar houses in Meryln Park. The appeal then comments on a number of comparisons quoted in the application.
- The houses have unique art deco heritage in their design dating from the 1930's and which residents have struggled to preserve for many years
- The subject application for a two storey extension is more inappropriate than the first application on the site.
- The proposed extension impacts negatively on residential amenity by effectively introducing a new dwelling into the open space between both houses.
- The altered roof pitch will impact negatively on the overall appearance of No. 10 and the streetscape and will clash with the original design and harmony of the houses in Meryln Park.

- Attic conversion with dormer extension, and rear first floor window closer to the boundary will affect privacy of No. 14 by way of overlooking and create an unwarranted precedent.
- The proposal does not include detail of the treatment to the shared party wall.
- The proposed side entrance door will impact negatively the privacy and enjoyment of No. 14. Windows are shown with obscure glazing but there is no such indication for the new door.
- The imposition of an additional building in the open space between two houses is wholly unacceptable and unnecessary. There is adequate space for an extension to the side at rear and to the rear of the house.

7.2. Applicant Response

The applicants response to the grounds of appeal can be summarised as follows-

- The planning application has been validated by DCC.
- The applicant considers that the proposal complies with guidelines set in Appendix 17 of the Development Plan.
- Numbers 10 and 12 are a pair of semi-detached houses and not No. 12 and 14 as incorrectly described by the appellant.
- The 6 windows referenced by appellants are to ancillary spaces/stairs landing. The proposed development has a minimal impact on the nature of these spaces. There are numerous precedents for double height extensions to the side and rear of the properties in this estate.
- The proposed development will be similar to No.2 Meryln Park (save the side dormer extension which subject application will not have).
- The roof alteration will not distract from the streetscape.
- The proposed dormer extension is granted for under ABP-307706-20 & DCC WEB1139/20.
- There will be no changes to the common boundary except to plaster No.14's gable wall of garage. It is intended to demolish the garage, shed and sun

house at No.12 and plaster No. 14's garage gable wall. This is granted under ABP-307706-20 & DCC WEB1139/20.

- The space between the two houses is in fact the driveway which opens to the public street. Obscure glazing to the utility door can be conditioned.
- The two storey extension is designed to match the existing building and to fit into the streetscape. The rear single storey extension and dormer roof is designed in contrast as a contemporary style providing a blend of traditional and modern extensions to suit the context and orientation.
- The majority of the appellants issues were considered under ABP-307706-20 culminating with an approval. The issues raised in this appeal are almost identical to those already ruled upon.

7.3. Planning Authority Response

- None received.

7.4. Observations

- None

8.0 Assessment

8.1. Main Issues

8.1.1. I have examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance. I consider that the main issues for this appeal are as follows-

- Zoning
- Conservation and Visual Impact
- Residential Amenity
- Other Matters

- Appropriate Assessment

8.2. Zoning

- 8.2.1. The subject site is located within an area with a zoning objective 'Z2- Residential Neighbourhoods (Conservation Areas)' within the Dublin City Development Plan 2016-2022, with a stated objective *'To protect and/or improve the amenities of residential conservation areas'*.
- 8.2.2. The proposed development seeks to provide a residential extension to the existing dwelling in a designated Residential Neighbourhoods (Conservation Area). The proposed development is, therefore, acceptable in principle, provided it does not negatively impact on the conservation status, visual or residential amenities of the area.

8.3. Conservation and Visual Impact

- 8.3.1. As identified in section 8.2 above No. 12 Merlyn Park is located in a designated Residential Neighbourhoods (Conservation Area). However, the site is not located within an Architectural Conservation Area nor is it a Protected Structure. In this regard the site is not afforded further statutory protection based on its conservation merits.
- 8.3.2. Policy CHC4 as set out in the Development Plan seeks to protect the special interest and character of all Dublin's Conservation Areas including areas zoned Z2. In this regard it goes on to detail that development *'must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible'*. It also states that Development will not *'Harm the setting of a Conservation Area'*.
- 8.3.3. The appellants have based their appeal generally around the design and layout of numbers 12 and 14 Merlyn Park. In particular, they refer to the relationship and spacing to the side and between these dwellings and the in-situ 'motor house/garage' and other structures which contribute to what the appellants describe as an open bright curtilage at the side, from which both houses benefit mutually. The design and symmetry of these dwellings and their ancillary structures is evident, as is their layout orientated around the curvature of the road they front.

- 8.3.4. The application proposes the demolition of the side garages and rear structures to facilitate the erection of a side and rear extension. The side extension will be setback c. 1.05m from the boundary with No. 14, will extend forward c. 7m from the front building line of the existing 'motor house/garage' and will have a stated eaves height of 5.25m and ridge height of 8.3m when viewed from the front elevation. The main ridge height is indicated as 8.375m. The front and side elevation will be finished in brick to match the existing dwelling. The single storey extension proposed to the rear and side remains very similar to that permitted under ABP-307706-20 & DCC WEB1139/20 with a slight level difference shown to the rear. This difference of 75 mm is considered insignificant. I am satisfied the proposed two storey side and single storey rear extension are generally subordinate to the existing dwelling in scale and design. As such the proposal will not materially impact on the streetscape or setting of the dwelling to such an extent that will harm the overall Z2 Conservation Area.
- 8.3.5. The application includes an attic level dormer extension to the rear of the dwelling. This structure is proposed at 4.0m wide and 2 metres high and will be finished in zinc cladding. It is set back 2.115m from the boundary with number 10 Merlyn Park. This extension and conversion will provide a fifth bedroom to the dwelling. This dormer extension is in keeping with the one permitted under ABP-307706-20 & DCC WEB1139/20 and as such it is considered acceptable.
- 8.3.6. Overall, I consider that the proposed development will contribute positively to the character and distinctiveness of the area and as such is in accordance with policy CHC4, Sections 16.2.2.3 & 16.10.12 and the 'Z2' Zoning Objective of the Development Plan.

8.4. Residential Amenity

- 8.4.1. The appellants have raised a number of concerns in relation to negative impacts on residential amenity from the proposed development that can be summarised as follows-
- Loss of daylight and sunlight
 - Loss of light to six gable windows

- Overbearing impact from proximity and imposition of the structure
- Overlooking and Privacy

8.4.2. The proposed development includes a two storey extension to the side and a single storey extension to the rear of the existing dwelling. The drawings show the two storey extension will have an eaves height of 5.25m for most of its length and the single storey extension will be 4.05m high at the rear. The extensions will be set back at least 1.052m from the side boundary with No. 14 and will be slightly wider at the rear. The side extension will be located c.3.5m at its closest point to No. 14 increasing in setback to c.8m from the rear of the extension. The existing boundary wall and garage structures to No. 14 will be located between the proposed extension and the dwelling of No.14.

The extension will provide a bathroom and utility to the side of the dwelling and a large open plan family room to the rear and side of the dwelling. At first floor there will be a bedroom and a landing area. There will be one side door and one high level window to the utility along the side elevation of the extension.

The proposed door to the utility is at ground level and as such does not require obscure glazing. The first floor side gable window to the landing is shown as obscure glazing.

I am satisfied that the two storey and single storey extension will not lead to a detrimental loss of daylight or sunlight to any area of private open space or to the six gable windows of No.14. I also consider the development would not be overbearing and would not cause overlooking of No.14 and as such, the extension will not impact negatively on residential amenity.

8.4.3. The proposed development also includes an attic conversion and dormer extension. The dormer window faces north west over the rear garden and is set back c.31 metres from the rear boundary. It is not orientated towards No's. 10 or 14 Merlyn Park. The development also includes a roof light on the existing rear roof over the en-suite bathroom. A second rooflight is proposed to the front elevation over the stairwell to the attic space. I am satisfied that the proposed development will not lead to overlooking or loss of privacy and as such, will not impact negatively on residential amenity.

- 8.4.4. The proposed single storey extension includes a large flat sedum roof area (green roof). There are no doors or other openings providing easy access to the roof space which could suggest it may be used as roof garden, balcony or terrace. Notwithstanding this, and in the interest of residential amenity it is considered appropriate to apply a condition restricting the use of this roof space from that of a balcony / terrace/ roof garden.
- 8.4.5. Overall, the proposed development will not have any negative impacts on residential amenity and subject to conditions, permission should be granted.

8.5. Other Matters

- 8.5.1. The appellants contend the application is invalid as it does not show any regard or consideration of the third party observations made and no reasons or comments are stated in the decision to grant permission to show the observations were considered.
- 8.5.2. Having reviewed the Planning Authority's report, I am satisfied the third party observations have been considered in the Planning Authority's assessment of the application. Notwithstanding this, the validity of the application in this regard is not considered a matter for the Bord to be concerned about.
- 8.5.3. The Board should, however, be aware that at the time of the site inspection it was noted that works have started (presumably) under the recently permitted planning application ABP-307706-20 & DCC WEB1139/20. In this regard the existing side garage and other structures as shown in the submitted drawings and as described in the development description to be demolished, have in fact, already been demolished.
- 8.5.4. Article 26 (4) of the Planning and Development Regulations 2001 (as amended) states-

Where, on inspection of the land to which the application relates, the planning authority considers that the requirements of articles 17(1)(b), 19 or 20 have not been met, or the information submitted in the planning application is substantially incorrect or substantial information has been omitted, the planning application shall, notwithstanding the fact that an acknowledgement has been sent to an applicant in accordance with subarticle (2), be invalid.

8.5.5. Notwithstanding the commencement of works under a separate planning permission and having regard to the likely condition of the site at the time of lodging the application and third party appeal (where these matters have not been raised) I am satisfied that in this context the information submitted with the application cannot be considered as '*substantially incorrect*' or that '*substantial information has been omitted*'.

8.6. **Appropriate Assessment**

8.6.1. Having regard to the nature and scale of the proposed development and the distance from 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.

9.0 **Recommendation**

9.1. I recommend a grant of permission subject to the following condition.

10.0 **Reasons and Considerations**

10.1.1. Having regard to the design and scale of the proposed development, it is considered that the proposal, subject to compliance with the conditions set out below, would not seriously injure the visual and residential amenities of properties in the area. The proposed development would, therefore, be in accordance with the zoning objective of the Dublin City Council Development Plan and 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, 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 proposed extensions (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of visual amenity.

3. No part of the roof of the extensions hereby permitted shall be used as a balcony / terrace/ roof garden.

Reason: In the interest of residential and visual amenity

4. The existing dwelling and proposed extensions shall be jointly occupied as a single residential unit and the extensions 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.

5. 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.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.

7. The developer shall pay to the planning authority a financial contribution 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 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

Adrian Ormsby
Planning Inspector

21st December 2020