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## Inspector's Report ABP 308496-20.

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<b>Development</b>	Extension to the side at first floor level and associated alterations to front elevation.
<b>Location</b>	No 35 Victoria Street, Dublin 8.
<b>Planning Authority</b>	Dublin City Council
<b>P. A. Reg. Ref.</b>	3185/20
<b>Applicant</b>	Justin Hintze.
<b>Type of Application</b>	Permission.
<b>Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Lynda and Michael McBreen
<b>Observer.</b>	Pauline Atkinson
<b>Date of Site Inspection</b>	6 <sup>th</sup> February, 2021.
<b>Inspector</b>	Jane Dennehy

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## **1.0 Site Location and Description**

- 1.1. The site of No 35 Victoria Street along with that of the adjoining property at No 36 Victoria Street are that of a shallow depth nineteenth century two storey building which has no private open space at the rear. The houses are set behind railed front gardens on the east side of Victoria Street at the corner with Florence Street in Portobello.
- 1.2. There is a single storey flat roofed extension with rooflights containing a living room with a small WC permitted under P. A. Reg. Ref. 2949/13, details of which are set out under Section 4 below. This extension infills space to the side of No 35 and has a brick finished front elevation with hardwood door along the front building line to the south side adjoining No 34. A hedgerow is located along the party boundary between the two front gardens.

## **2.0 Proposed Development**

- 2.1. The application lodged with the planning authority indicates proposals for construction of a first-floor extension providing for a home office over the living room element of the existing ground floor extension. The eaves and front pitched roof slope to the front of the existing house is shown extended across to the extension.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated, 29th September, 2020, the planning authority decided to grant permission subject to conditions of a standard nature which include a requirement under Condition No 2 for written agreement with the planning authority on sample materials colours and external finishes.

### **3.2. Planning Authority Reports**

- 3.2.1. The report of the planning officer indicates satisfaction the proposed development as being sensitive to the existing buildings in design, materials and form and would not

be out of place in the existing streetscape, would not overlook, overshadow or be overbearing towards the adjoining property.

## 4.0 Planning History

**P. A. Reg. Ref. 2949/13:** Permission was granted for construction of the flat roof extension to side of dwelling, incorporating rooflights and alterations to existing yard wall to front of dwelling which has been constructed and includes the walling along the front building, increased in the permitted development to 865 mm in height.

## 5.0 Policy Context

### 5.1. Development Plan

5.2. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective Z2: *to protect and/or improve the amenities of residential conservation areas.*

According to section 14.8.2 the overall quality of the area in design and layout requires special care with regard to applications affecting structures, protected and not protected.

Policy Objective CHC 4 in conjunction with section 11.1.5.4 provides for preservation and protection of the special interest and character of the city's conservation areas and encourages development that enhances and protects the character and settings of these areas where possible.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. An appeal was lodged by the Lynda and Michael McBreen on their own behalf who state that they own Nos. 33 and 34 Victoria Street and that they reside at No 33 and let No 34 which is the property adjacent to the application site. Drawings and photographs are included in the appeal submission. It is submitted that:

- The proposed development would encroach on their property at No 34 Victoria Street. The existing ground floor extension was constructed with encroachment beyond the site boundary into that of No 34 with the current proposal exacerbating the encroachment over the boundary. The extension would be flush to the gable end of No 34 affecting the 'old style' gutters along the gable end.
- The proposed development constitutes overdevelopment for the site which is too restricted for it. Light to the existing ground floor would be affected by the addition of a first-floor extension. No 35 and 36 Victoria Street were constructed as extensions to the adjoining houses facing onto Florence Street and as a result there are no rear elevation windows or gardens. No 34 would be overlooked and overshadowed by the proposed development.
- Sunlight to the rear garden and gable end windows to a bathroom at first floor level and a kitchen at ground level at No 34 would be severely obstructed by the first-floor extension as proposed.
- The proposed development would be contrary to the 'Z2' (residential conservation area) zoning objective for the area. The insertion of the extension creates a terrace along the Victoria Street frontage not envisaged in the original design. The gable end of No 34 would no longer be visible with the extension in place
- The proposed development would devalue the appellant party's property.

## 6.2. Applicant Response

A response to the appeal was received from the applicant agent, Mccarchitects on 25<sup>th</sup> November, 2020.

- The contentions as to encroachment onto the adjoining property are unfounded and are not appropriate. Any determination on the matter would be a legal matter. There were no objections from the appellant party, owner of the adjoining property with regard to the contentions as to encroachment at the time of preparation and lodgement of the application for single storey

extension by the prior owner of the application site property. existing single storey extension.

- The proposed extension would not have significant impacts during construction on No 34 Victoria Street and the applicant is willing to consider suggestion as to an appropriate and weathertight solution with regard to rainwater goods.
- There is lack of clarity with regard to the assertions in the appeal that No 34 Victoria Street was constructed as a semi-detached house and that Nos 35 and 36 are extension to the properties on Florence Street. No 34 has been attached at ground level to No 35 for many years and is part of a terrace of various house styles within a diverse streetscape. There is no uniform design approach to parapets, eaves, levels openings and materials.
- Due to the north facing orientation of the ground floor and upper floor gable end windows at No 34 which serve non habitable windows, significant sunlight is not possible at present so the contention as to obstruction of light to is exaggerated. Sunlight to the rear garden at No 34 will not be affected given the size and massing of the dwelling at no 34.
- The extension would not result in overdevelopment of the site and does not include additional bedrooms. The shallow depth and the maintenance of the rear building line minimises impact on the gable end window at No 34. It is likely that the existing house was constructed as infill, without private open space to the rear and it benefits from amenities of the private open space at the front which will be enhanced by the incorporation of a glazed patio door increasing connectivity.
- The development accords with the Z2 zoning objective and positively contributes to the character and quality of the house and to the streetscape in that it is sensitively designed to be subordinate to respect the existing house.
- The proposed development accords with Policies CHC1 and CHC4 and Sections 16.2.2.3, 16.10.12 and Appendix 17 (17.2) of the CDP.

### 6.3. **Planning Authority Response**

There is no submission from the planning authority on file.

### 6.4. **Observers**

- 6.4.1. A submission was received from Pauline Atkinson of No 1 Kingsland Parade on her own behalf on 23<sup>rd</sup> October, 2020. She states that the proposed development would result in a reduction of access to light to the rear towards properties thus affecting the residential amenities of the houses and gardens in the vicinity. She also claims that the proposed development is contrary to the protection and preservation of the conservation of the area.

## 7.0 **Assessment**

- 7.1. The issues central to the determination of a decision are considered below under the following subheadings.

Impact on Amenities of adjoining properties.

Impact on the character and integrity of the residential conservation area.

Encroachment on third party property.

Environmental Impact Assessment Screening.

Appropriate Assessment.

### 7.2. **Impact on Amenities of adjoining properties.**

- 7.2.1. The infill at first floor and roof level would result obstruction of light from the west between Nos 34 and 35 at first floor and roof level from the west. However, the houses and rear private open space for the houses at Kingsland Parade to the east are in excess of thirty metres from the application site and there is no projection forward of the rear building line of the house. Other than some obstruction of light from the west to the gable end window to No 34, (which is not for a habitable room), the proposed development would not cause undue adverse impact on amenities of adjoining properties. It is agreed that issues would arise, as indicated in the appeal with regard to the rainwater goods located on the gable end wall of No 34 Victoria Street.

### **7.3. Impact on the character and integrity of the residential conservation area.**

- 7.3.1. The infill at first floor and roof level of the gap between No 35 and No 34 Victoria Street by the proposed extension creates an unbroken continuity along the streetscape would interfere with the integrity of the separation and break formed by the house at No 34 Victoria Street and continuity across similar plot configurations southwards along the east side of the street. The infill creating an unbroken terrace amalgamating two houses of distinctly different typologies would diminish the legibility with respect to the corner at Florence Street and established character of the streetscape. As a result, the proposed development would have significant negative impact as opposed to contributing to enhancement of the special interest and character and setting of the of the conservation area as provided for under Policy CHC4 and Section 11.1.5.4 of the CDP. The appellant and observer party's contentions in this regard along with the contention that the appellant's property would be devalued are considered reasonable.
- 7.3.2. If a setback from the front building line and/or from the gable end of No 34 were to be considered, some ameliorative impact would be achieved but these options are not feasible as the internal area and configuration of habitable space that would be available would be insufficient and substandard.

### **7.4. Encroachment on third party property**

- 7.4.1. With regard to encroachment or absailing over the party boundary between the two properties, it is noted that there is no documentary evidence available to confirm the claims of either party although the appellant party has indicated an assumed boundary line in figures 1 and 2 of the appeal submission. It would appear, based on review of the OS map (2012) that the area over which the appellant party indicates its claim may have come within a narrow rear access lane serving properties on Florence Street and No 34 and 33 Victoria Street but has not been confirmed. Resolution of this dispute is a legal matter which is outside the scope of the planning remit and, according to section 34 (13) of the Planning and Development Act, 2000 as amended a grant of permission does not include provision for entitlement to implement a development, as indicated in the planning officer's report.



## **7.5. Environmental Impact Assessment Screening.**

7.5.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **7.6. Appropriate Assessment Screening.**

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

## **8.0 Recommendation**

Notwithstanding the modest size and shallow depth of the proposed first floor extension it is recommended that the concerns discussed the planning authority decision should be refused based on the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

Having regard to the Dublin City Development Plan, 2016-2022 according to which the area in which the site is located is subject to the zoning objective Z2: to protect and/or improve the amenities of residential conservation areas it is considered that the proposed infilling by the extension at first floor level between the existing house and the adjoining house adversely affect the distinct separation between the two houses and would interfere with and seriously detract from and injure their integrity, character and setting within the streetscape close to the junction of Florence Street and Victoria Street at Portobello and would be contrary to the zoning objective and would be contrary to the Dublin City Development Plan and to the proper planning and sustainable development of the area.

**Jane Dennehy**  
Senior Planning Inspector  
26<sup>th</sup> February, 2021