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Bord  
Pleanála

## Inspector's Report ABP-308649-20.

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<b>Development</b>	Demolish shed and construct house.
<b>Location</b>	86 Captains Avenue, Crumlin, Dublin 12.
<b>Planning Authority</b>	Dublin City Council South.
<b>Planning Authority Reg. Ref.</b>	3051/20.
<b>Applicant(s)</b>	Mourneview Construction Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Mourneview Construction Ltd.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	18/02/2021.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the south west of Dublin City Centre, and to the east of the village of Crumlin at No. 86 Captains Avenue, Dublin 12. Captains Avenue is accessed off Stannaway Avenue, and the houses in the vicinity of the site all front onto a large green area. The site comprises the side garden of an existing end of terrace house within an established residential area. Captains Avenue comprises blocks of terraced houses with hipped roofs and the property to the immediate north west has developed the side garden in the past to provide for two additional houses in this area.
- 1.2. The site has a stated area of 0.0373 hectares and the submitted site area includes the existing house on the overall site. The existing end of terrace, two storey house has an overall floor area of approximately 80m<sup>2</sup> and includes a living / dining and kitchen at ground floor level with two bedrooms and a bathroom at first floor level. To the rear of the house, there is an extensive garden together with a side garden area. Access to the rear of the site is walled with a pedestrian gate. The site levels rise from the public road towards the house. Along the footpath, the existing house enjoys both a pedestrian access as well as a vehicular access with provision to park 1 car on the site.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the demolition of existing storage shed; construction of an adjoining 2 storey 3-bedroom dwelling, to existing dwelling; modifications to existing vehicular access to provide separate vehicular and pedestrian access to proposed dwelling and the removal and replacement of existing windows to No. 86. All with associated site works all at 86, Captain's Avenue, Crumlin, Dublin 12.
- 2.2. The application included a number of supporting documents including as follows;
  - Plans, particulars and completed planning application form.
  - Design Statement.
  - Letter of consent from the landowners

- 2.3. The Design Statement is presented under a number of headings relating to planning and includes 3D Visualisations and a Shadow Analysis. The proposed new house will be set back from the established building line and will extend into the rear garden area of the site. The proposed house has a stated floor area of 102.2m<sup>2</sup>
- 2.4. Following a request for further information, the applicant submitted revised drawings which resulted in the floor area of the house increasing to 110m<sup>2</sup>. The house was also brought forward on the site in order to increase the distance between the proposed rear wall of the house and the rear boundary of the site.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 9 conditions including the following condition 3:

Prior to the commencement of development on site, revised drawings shall be submitted and approved in writing by the Planning Authority to show the following amendments:

- a) The first-floor rear extension to bedroom 3 shall be set back by 1.45m approximately so it is in line with the first-floor bathroom wall.
- b) Two bedrooms only shall be permitted at this level and any windows to bedrooms to the rear shall be angled windows only.
- c) The first-floor rear bathroom window shall be fitted with obscure glazing only.

**Reason:** In the interests of visual and residential amenities.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes a section relating to Appropriate Assessment Screening and EIA.

The initial Planning Report concludes that further information is required in relation to the development in terms of the proposal to provide 2 windows at first floor level in the rear elevation and within 3.4m of the rear boundaries of nos. 29 and 31 Stannaway Avenue. The report notes no objection in principle to the proposed development other than this issue which is considered to give rise to overlooking of the existing residential properties. It is further questioned as to why the proposed house has been set back from the building line so much.

Following the submission of a response to the FI request, the final planning report concludes that proposed development is acceptable, subject to the amendments recommended. The Planning Officer recommends that permission be granted for the proposed development, subject to 9 conditions, including Condition 3.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

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

**Drainage Division:** No objection subject to compliance with conditions.

Following the submission of a response to the FI request, no additional comments were included.

**Roads, Streets & Traffic Department:** No objection subject to compliance with conditions.

### 3.2.3. **Prescribed Bodies**

None.

### 3.2.4. **Third Party Submissions**

None.

## 4.0 **Planning History**

The following is the relevant planning history pertaining to the subject site:

**PA ref: 3636/14:** Permission granted for the construction of a two storey, 2-bedroom dwelling with an attached single storey kitchen/dining area, additional vehicular and pedestrian access, revised vehicular and pedestrian access and associated works at 86 Captains Avenue, Crumlin, Dublin 12.

## 5.0 Policy and Context

### 5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
- National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

### 5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

- 5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.
- 5.2.3. Section 5.9 deals with Inner suburban / infill sites and notes that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the revitalising areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division of dwellings.

### 5.3. Development Plan

- 5.3.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is located in an area which is afforded the zoning objective: Z1 Sustainable Residential Neighbourhoods, where it is the stated objective to “to protect, provide for and or improve residential amenities”.
- 5.3.2. Chapter 16 of the Plan deals with Development Standards and the following Sections are considered relevant:
- 16.5: Plot Ratio                      Indicative Plot Ratio for the site is 0.5-2.0
  - 16.6: Site Coverage                Indicative Site Coverage for the site 45-60%
  - 16.10.2: Residential Quality Standards – Houses
  - 16.10.8: Backland Development
  - 16.10.10: Infill Housing
- 5.3.3. Of particular relevance is Section 16.10.9, which relates to Corner / Side Garden Sites. The Plan notes that “The development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites and to a high standard of design, can constitute valuable additions to the residential building stock of an area and will generally be allowed for by the planning authority on suitable large sites.”

5.3.4. In addition, the Plan notes that the “planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:

- The character of the street.
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.
- Impact on the residential amenities of adjoining sites.
- Open space standards and refuse standards for both existing and proposed dwellings.
- The provision of appropriate car parking facilities, and a safe means of access to and egress from the site.
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
- The maintenance of the front and side building lines, where appropriate.

#### 5.4. **Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 6.7km to the east of the site.

The Grand Canal pNHA, (Site Code 002104), is located approximately 1.9km to the north east of the site.

#### 5.5. **EIA Screening**

Having regard to nature and scale of the development, together with the brownfield nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a First party appeal against the decision of the Planning Authority to include Condition 3 in the decision to grant planning permission for the proposed development. This condition requires the omission of a bedroom and the setting back of the rear extension wall to be in line with the first-floor bathroom wall. The issues raised are summarised as follows:

- Following a request for further information, the house was brought forward to give greater distance to the rear boundary.
- Angled windows are proposed at first floor levels to ensure no direct overlooking of properties on Stannaway Avenue.
- The line of view will not change as seemingly proposed by way of compliance with condition 3.
- In terms of the number of bedrooms, the PA did not request any changes to the quantity of bedrooms at FI stage. This precluded the applicant from addressing and/or responding to this item at that stage.
- Part c) of condition 3 is noted and will be carried out.
- Other permitted development has been constructed close to boundaries.
- The PA has previously permitted the development of the site.
- There are no objections.
- The proposed development utilises existing services and amenities in the area and should be welcomed.

It is requested that permission be granted for a 3-bed unit. There are a number of enclosures with the appeal.

### 6.2. Planning Authority Response

None.



### 6.3. Observations

None.

## 7.0 Assessment

7.1. Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted, and proposed development, the Board will note that the appeal relates solely to the inclusion of condition 3 in the grant of permission. I am satisfied that the principle of the proposed development is acceptable given the location of the site and the zoning afforded to the area. In addition, I note the planning history of the site. As such, I consider it reasonable to treat this case under Section 139 of the Planning and Development Act, 2000 as amended and the merits of the inclusion of the condition should only be considered.

7.2. Condition 3 of the grant of permission states as follows:

Prior to the commencement of development on site, revised drawings shall be submitted and approved in writing by the Planning Authority to show the following amendments:

- a) The first-floor rear extension to bedroom 3 shall be set back by 1.45m approximately so it is in line with the first-floor bathroom wall.
- b) Two bedrooms only shall be permitted at this level and any windows to bedrooms to the rear shall be angled windows only.
- c) The first-floor rear bathroom window shall be fitted with obscure glazing only.

**Reason:** In the interests of visual and residential amenities.

7.3. Planning permission was previously granted for a two-bedroom house on the site on a footprint similar to that currently proposed. The primary difference between the two proposals, other than the roof design, is the section including the kitchen area was a single storey rather than the two-storey currently proposed. I would note that the Planning Officer raised concerns in relation to the set back of the proposed front wall of the house, which is similar to that previously permitted. I note that the applicant submits that the reason for the set-back was to maintain the sightlines of no. 84B. I would have no objections in principle to the layout as proposed.

- 7.4. The first party submits that the imposition of condition 3 is unnecessary as the setback required by the condition, will not alter the level of overlooking arising. The subject site is a large corner site which backs onto the houses onto Stannaway Avenue. The rear gardens of the Stannaway Avenue houses extend to between 16 and 18 metres in length, while the existing garden of the subject site extends to approximately 12m from the rear of the existing house. The proposed development will result in the existing site being divided and the new house, as amended, on the site, will have a separation distance of approximately 5-6m from the rear boundary.
- 7.5. In the context of the subject site and having regard to the permitted development in the vicinity, together with the long gardens associated with the adjacent houses, I would agree that the principle of the development is fully acceptable. In terms of Condition 3, I would consider that the amendments required by the condition are unnecessary given the nominal difference in distances to the boundary achieved. In addition, given the proposed angled windows, I am satisfied that the development is acceptable as proposed and will not exacerbate any potential overlooking.
- 7.5.1. The site is located within an area zoned Z1 Sustainable Residential Neighbourhoods, where it is the stated objective to “to protect, provide for and or improve residential amenities”. Section 16.10.9, which relates to Corner / Side Garden Sites supports the development of side garden plots as ‘a means of making the most efficient use of serviced residential lands’. In terms of the criteria used in assessing proposals for the development of corner/side garden sites, the following is relevant:
- The character of the street:  
I am satisfied that the proposed development is acceptable in this regard.
  - Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings:  
Other than building line, I am satisfied that the proposed development is acceptable in this regard.
  - Impact on the residential amenities of adjoining sites:  
Having considered the content of both the appeal and the planning

authority report, I am satisfied that the proposed development is acceptable in this regard.

- Open space standards and refuse standards for both existing and proposed dwellings.

I am satisfied that the proposed development is acceptable in this regard.

- The provision of appropriate car parking facilities, and a safe means of access to and egress from the site.

I am satisfied that the proposed development is acceptable in this regard.

- The provision of landscaping and boundary treatments which are in keeping with other properties in the area.

I am satisfied that the proposed development is acceptable in this regard.

- The maintenance of the front and side building lines, where appropriate: While I acknowledge the proposed house will be set back from the established front building line, having regard to the context of the site, and the presence of a similar type development on the adjacent site to the east, I am satisfied that the set-back can be considered acceptable in this instance.

Overall, I am satisfied that condition 3a) and 3b) are unnecessary.

- 7.6. In terms of Appropriate Assessment, given the location of the subject site within an established and mature residential area, together with the nature of the proposed development, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

## 8.0 Recommendation

I recommend that planning authority be directed, in accordance with Section 139, Subsection (1) of the Planning & Development Act, 2000-2011, to AMEND condition 3 of the grant of planning permission to remove sections a) and b) for the following stated reasons and considerations.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the pattern of development in the area, the zoning objective associated with the site and the planning history, it is considered that the inclusion of Conditions 3a) and 3b) as written are unnecessary and would not result in any additional protection of residential amenity as indicated. The amended proposed development, including the increased set back from the rear site boundary and the inclusion of angled windows at first floor levels are appropriate and acceptable, would not seriously injure the visual or residential amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

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A. Considine

Planning Inspector

22<sup>nd</sup> February 2021