



An
Bord
Pleanála

Inspector's Report ABP-308727-20.

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| Development | Demolition of garage and extension and construction of 2-storey extension and garage. |
| Location | 130 Howth Road, Dublin 3. |
| Planning Authority | Dublin City Council |
| Planning Authority Reg. Ref. | WEB1209/20. |
| Applicant | Garret Molloy. |
| Type of Application | Permission |
| Planning Authority Decision | Grant with conditions. |
| Type of Appeal | Third Party |
| Appellants | Willie Costello Dierdre and Des McIlroy |
| Observers | None. |
| Date of Site Inspection | 4 th March 2021. |
| Inspector | Philip Davis. |

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1.0 Introduction

This appeal is by two adjoining neighbours against the decision of the planning authority to grant permission for a 2 storey with attic level extension and garage to the rear and side of a large detached dwelling on the Howth Road in Clontarf, Dublin. The grounds of appeal relate mostly to design and amenity issues.

2.0 Site Location and Description

The appeal site is a large detached dwelling on the Howth Road in Clontarf, approximately 500 metres northwest from where the Dart line crosses over the Howth Road next to Harry Byrnes public house. The area is characterised by large late 19th and early 20th Century houses on substantial sites, along with some higher density infill developments from more recent periods.

The appeal site is a large site with a 2 bay 2 storey hipped roof dwelling in a style typical of the period on the north side of Howth Road with a garage on either side. The dwelling appears to have been constructed in the first decade of the 20th Century. The total site area is given as just under 3,500m², with the floor space of the dwelling given as 345 m². It is bounded on all sides by mature and semi-mature trees, and the rear garden extends to the Dart line, with Clontarf Golf Club opposite. The house appears to have been vacant for some time. There are similar substantial detached dwellings from the same period on either side, and the lower end of the rear garden adjoins a small housing development named 'Ashbrook'.

3.0 Proposed Development

The proposed development is described on the site notice as follows:

A) The demolition of i) the existing single storey side garages, ii) the single storey rear extension and iii) the removal of the sloped roof, north side chimney and part of the existing rear return,

B) The construction of a part single, part two-storey extension to the existing two-storey house consisting of

i) a two-storey pitched roof side extension to the East of the house,

ii) a single storey flat roof rear extension with associated two roof lights and solar panels to the North West, and

iii) a two-storey plus attic pitched roof rear extension with associated dormer window, two roof lights, solar panels and screened first floor terrace to the North West,

D) The construction of a new single storey pitched roof garage to the South of the house and external plant room,

E) The widening of the existing entrance gateway from Howth Road and set back of the vehicular entrance with new electric gates, wing walls and pedestrian entrance,

F) All associated ancillary landscaping and site works.

(I note that 'C' is omitted from the site notice, this appears to have been an error).

Following a request by the planning authority, a number of revisions were made to the design, including a reduction in size and height of the side extension and the set back of the rear extension, and the removal of a terrace.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 10 standard conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The site is zoned Z1, for the protection of residential amenities. Relevant policy set out in Sections 16.2.2.3 and 16.10.12 and 16.10.14 of the Development Plan.
- Two observations from the adjoining neighbours noted.
- It is stated that while the building does not have any protective status, it does have historic architectural character – it is considered that the proposed extension respects the overall character of the building.

- Following the guidelines set out in the BRE 2011 on daylight and sunlight, it is not considered that there would be excessive overshadowing or a reduction in direct sunlight.
- It is generally concluded that the overall impact on direct or indirect light on the adjoining properties, and the properties in Ashbrook (the development west of the site) would be excessive, but additional information is considered necessary to provide a more comprehensive assessment.
- It is considered that the proposed dormer window is architecturally appropriate, and it is concluded that it would not overlook the adjoining property to an unacceptable degree.
- An appropriate assessment screening concluded that no stage II AA was required.
- Further information is requested on a number of issues relating to daylight and the site boundary and an arboriculture report.

Following the submission of revised drawings and additional information, including a shadow analysis report and an arboriculture report, a second planners report concluded:

- The revised proposals were considered to address the most significant of the concerns raised by the neighbours and it is concluded that there would be no significant impact by way of overshadowing, loss of light, or overlooking.
- It is noted that the red lined area has changed, but it was considered that having regard to the general provisions of the Act, this was not considered an impediment to granting permission.
- The tree assessment was considered adequate – it is noted that the most important trees highlighted are to be protected, and that many of the trees to be removed are in poor condition.
- A grant of permission was recommended.

4.2.2. Other Technical Reports

Drainage Division – no objection subject to conditions, including the incorporation of SUDS principles.

4.3. Prescribed Bodies

None on file.

4.4. Third Party Observations

Objections made by the residents of no. 132 and 128 Howth Road, for reasons generally relating to scale, overlooking, loss of light and loss of vegetation.

5.0 Planning History

There are no records of permissions or appeals for the appeal site. There are a number of records on file for nearby similar dwellings, including three permissions granted for side and rear extensions – 1256/12; 2430/05; 2317/07 and 1938/02.

6.0 Policy Context

6.1. Development Plan

The site is in a Z1 (residential amenity) zoned area. Guidelines for residential extensions are set out in Section 16 and Appendix 17 of the Dublin City development Plan. Policy GI28 relates to the Dublin City Tree Strategy.

6.2. Natural Heritage Designations

There are no Natura 2000 sites in the immediate vicinity of the proposed development. The site is just over 1km from Dublin Bay and the South Dublin Bay and River Tolka Estuary SPA, site code 004024, and is within the catchment of the Tolka, although the site is fully connected to the Dublin City sewerage and drainage system.

6.3. EIAR

Having regard to the limited nature and small scale of the proposed development, the planning and development history of the site, and the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, 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.

7.0 The Appeal

7.1. Grounds of Appeal

Mr. Willie Costello of 128 Howth Road

- He is not opposed to the principle of a modest extension on the site but has concerns about specific elements of the proposal.
- It is argued that the removal of mature cypress trees along the boundary would have a significant negative impact on residential amenity and is contrary to the Dublin City Tree Strategy 2016-2020.
- The demolition works would give rise to nuisance – the commencement time on the decision to grant of 7am is argued to be too early.

Deirdre & Des McIlroy of 132 Howth Road

- Details are attached of the extension carried out on no.132 (reg. ref 2430/05), which, it is submitted, was intended to follow the pattern of development.
- A number of photos and drawings are attached in support of an argument that the submitted drawings do not follow the site boundary – it is argued that some of the proposed works would be outside the applicant's ownership. It is requested that a boundary wall be constructed to ensure there is no incursion over the boundary.
- It is requested that a construction management condition be attached to the condition to ensure no disturbance to neighbours.
- It is argued that a 2-storey extension will create an unacceptable level of overshadowing of no.132 (photos attached in support of the argument).
- It is submitted that the second and attic levels of the extension will overlook no. 132 to an unacceptable extent.

- It is argued in some detail that the planning report by the City Council did not adequately assess elements of the application, including overshadowing issues.
- It is argued that the planning authority placed too much emphasis on a potential loss of sunlight to the rear garden, not reflecting the concern that it would reduce sunlight to the house.
- It is argued that the planning authority placed too much emphasis on the shading of the existing trees, which (it is submitted) do not provide much shading in winter.
- It is argued that windows in no.132 will suffer a loss of sunlight that is significantly above that considered acceptable under BRE guidelines (technical submissions attached in support of this argument).

7.2. Applicant Response

- It is stated that attempts were made to engage fully with the neighbours during the design stage, but this proved difficult due to covid restrictions.
- It is argued that the design was done fully in accordance with the guidelines set out for such extensions in the Dublin City Development Plan.
- It is argued that the boundary leylandii cypress trees are overgrown and are inappropriate – it is submitted that none of the trees have conservation value and that the overall landscaping proposals will significantly improve the setting. An arboriculturist report is attached.
- It is requested that the standard hours not be altered as this would lead to an extension of the work period.
- It is argued that, with regard to no.132, the existing tree belt is a relevant consideration in assessing sunlight impacts.
- It is argued that the overall proposed development would improve sunlight with the removal of specific trees.
- The differences between the daylight assessments are noted, but it is argued that it was correct to include the impact of existing vegetation in the analysis.

- It is argued that the impact on sunlight to the rear windows of no.132 would be minor – it is emphasised that the daylight report submitted was based on the amended scheme submitted after further information.
- It is noted that the planning officer assessed potential overlooking from the dormer window and was satisfied that there was no significant issue.
- With regard to arguments that the proposed development would be overbearing and excessive, it is noted that the plot sizes are very large and would result in a site coverage of just 11%.
- The response addresses in some detail the criticisms of the planner’s report. It is stated that the proposal is for a family home and given the generous nature of the plot sizes, the proposal is proportional and appropriate.
- It is stated that they red line on the elevational drawing appears misleading because of the tilt of the boundary, but that the boundary on the site location plan is accurate and it is confirmed that there would be no development outside the applicants land ownership.

7.3. Planning Authority Response

The planning authority did not respond to the grounds of appeal.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Preliminary issues
- Principle of Development
- Design and amenity
- Landscaping/tree removal
- Other planning issues
- Appropriate Assessment

8.1. Preliminary issues

The observer has highlighted issues with the submitted documentation and in particular the red lined areas of the site. The planning authority noted some changes from the original application. Notwithstanding this, I am satisfied that the plans are broadly accurate as far as can be identified on the ground, and I would note that under subsection 34(13) of the Act a person shall not be entitled solely by reason of a grant of Planning Permission to carry out any development.

8.2. Principle of Development

The appeal site is within a Z1 zoned area (for the protection of residential amenities) and as such there is a general presumption in favour of modest scaled extensions having regard to the standards set out in the Development Plan (section 16 and Appendix 17 of the Development Plan) and related guidance and general planning considerations.

I therefore conclude that the appeal should be addressed on its own merits having regard to general planning considerations and the guidelines set out in the Development Plan. I will also have regard to a number of related guidelines including the UK BRE sunlight guidelines and the City Council tree strategy.

8.3. Design and amenity

Design

The dwelling is an attractive early 20th Century house, one of several along this stretch of Howth Road with significant conservation value, although neither the house nor the equally fine adjoining houses have any conservation designation and are not listed on the NIAH. Although most of the houses along this stretch of road are partially hidden behind vegetation, they contribute to a generally high quality streetscape. I would concur with the conclusion of the planning authority that the overall proposed design is appropriate and does not detract from the qualities of the house or the overall area.

The house and plot and adjoining plots are more or less the same as indicated on early 20th Century OS maps, the main alteration in the vicinity is the small housing development 'Ashbrook' to the south, which is partially developed on what was a

small demesne, plus on the rear gardens of some of the adjoining dwellings. While several of the houses in Ashbrook bound the rear garden of the appeal site, they are not close enough to the main house to be seriously impacted by the proposed development. The impacts will be largely confined to the dwellings on either side. I would therefore concur with the general conclusion of the planning authority that the proposed design is generally sympathetic to the character of the existing house and the immediate area.

Overshadowing

The rear of the dwellings on this section of Howth Road face NNE, so would only get substantial direct sunlight later in the evening, mostly in the summer. Due to the orientation, the proposed extension is not likely to cast a direct shadow on the dwelling to the west, but potentially would cast a shadow in the evening on the dwelling to the east (no.132).

The applicant submitted a full shadowcast study with the application and appeal. This generally showed minimal direct loss to the adjoining property up to 1900 hours in summer. On page 15, the results are tabulated with regard to habitable windows using the standards set out in the BRE guidelines. The results show the impacts both with, and without the shadow cast by the existing mature boundary trees. Excluding the impact of trees, under the guidelines there is a 'fail' for two ground floor windows from the proposed development, although it is submitted that with the impact of the trees included, all windows are a 'pass'.

The appellant to the east of the site has argued that it is inappropriate to use the assessment based on tree shading, in particular as sunlight does penetrate in winter. I would agree in principle that the important consideration should be permanent physical effects, but I would note that in this situation that the only significant impacts are likely to be in the summer months, when vegetation is at its densest.

In general, I would consider the loss of direct sunlight to the habitable windows to the rear of the dwelling to the east to be significant, but minor. Subjectively, there are a number of issues to be taken account here, not least the general use of the rear of the house and other amenity issues – I note that both no. 130 and no.132 have rear gardens sufficiently large to catch the sun from almost any angle, in

addition to substantial south facing front gardens, although no. 128 is more restricted in the rear.

The planning authority assessed this issue in some detail, and requested a number of alterations after the initial submission to address the issue of light loss. I generally concur with its conclusions, that while there is some loss of light to rear facing windows on no. 132, I would conclude that in total the amenity impact of the loss of direct light would be within the bounds of acceptability, having regard to the overall orientation, design, and nature of the dwellings, and as such I would not recommend a refusal for this reason.

I will address the issue of the loss of trees in section 8.4.

Loss of privacy

The existing house is large and has a number of upper floor windows that face over both adjoining dwellings. Both adjoining neighbours have raised concerns about overlooking from the proposed additional upper floor windows, in particular the proposed dormer. The rear terrace on the upper floor that was originally proposed was deleted in the revised plans submitted to the planning authority. The proposed additional first floor windows facing towards no.132 are to be opaque.

The planning authority addressed this issue in some detail in its two reports, and again, I concur with their overall conclusion. The proposed dormer is in keeping with the general design of the dwelling and while it will overlook the rear garden of no.13, and the rears of the smaller dwellings in the 'Ashbrook' estate, I do not consider that this is to a degree that would be unacceptable having full regard to the overall design of the extension and the layout of the adjoining houses. The angle of the proposed rooflights facing the south-west would be as such that there would be no direct overlooking of no.128.

I therefore conclude that the design as proposed and revised would be acceptable in terms of both internal amenity and its impacts on adjoining dwellings.

8.4. Landscaping/tree removal

The site has extensive mature hedges and trees, with a mature leylandii line of trees (not cut into a hedge) on the western side of the front garden, with a line of deciduous trees on the other. There are a number of fine mature trees near the

boundary with Howth Road, including a Wych Elm and Horse Chestnut. The site has been vacant apparently for some time, so it is generally not as well maintained as the adjoining properties and in particular the leylandii hedge seems not to have been cut and has been allowed to grow into what is in effect a line of trees.

The works will involve the removal of a number of the leylandii and the trees on the opposite side. These trees act as screening and to an extent also provide shading, especially in the winter months. The applicant has submitted a comprehensive tree survey which I consider to be accurate and fair in its assessment. None of the boundary trees have significant value as mature specimens, their value is in the overall setting and providing screening/privacy. But I would consider the removal of those necessary to be a normal part of the maintenance and upgrading of a site such as this. I consider that if the arboriculturist report submitted with the application and associated landscaping plans are undertaken as part of the application the overall impact on the neighbours would be neutral.

For the avoidance of doubt, I consider the Method Statement element of the arboriculture report to be part of the planning application and therefore all recommendations contained therein should be implemented in full.

8.5. Other planning issues

Flooding/drainage

There are no records indicating that the site is subject to flooding or that the proposed extension would have any implications for the drainage or provision of water for the dwelling.

Cultural heritage

The site is not within an archaeologically sensitive area. A number of late Victorian buildings close to the site are either protected structures or listed on the NIAH, but I do not consider that the proposed works affects the settings of these buildings.

Traffic

The site is accessed via an existing direct gate to the Howth Road close to a traffic light junction, but I do not consider that the intensification of the use of the house is sufficient to raise traffic concerns.

Irish Rail

The site adjoins the Dart line, but there is sufficient separation distance between the proposed works and Iarnrod Eireann property that I do not consider that a condition is required to address any potential conflicts.

Construction management

One of the appellants requested an alteration to the standard work hours set by the planning authority to protect amenities. City Council construction conditions set a condition starting at 7am. The applicant has noted that any restriction in working hours could extend the length of the works. While I accept this point, in the current circumstances many people are working from home and the City Council condition dates from a time when it would have been assumed that most people are up and leaving home for work/school by this time. I would recommend that the standard ABP condition setting a starting time at 8am would be appropriate.

Financial contributions

The works would be subject to a standard Section 48 Development Contribution. No other financial contributions or bond requirements apply.

8.6. Appropriate Assessment

There are no Natura 2000 sites within 1 km of the proposed development. The South Dublin Bay and River Tolka Estuary SPA (004024) is just over 1km to the south. The site is within the general watershed of this SPA, designated for a variety of migrating shore and seabirds, although it is fully connected to the Dublin City sewerage and drainage system. Having regard to the small scale of the works on an existing residential site and the separation distance from any 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 individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that the proposed development be granted planning permission for the reasons and considerations set out below, subject to the conditions in Section 11 below.

10.0 Reasons and Considerations

Having regard to the Z1 zoning designation of the area and the nature and extent of the proposed works, it is considered that subject to the conditions set out below the proposed development would not seriously injure the amenities of the area and would otherwise be in accordance with 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 extension including roof tiles/slates shall be the same as those of the existing dwelling in respect of colour and texture. 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 amenities.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenities.

4. 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.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste. It shall include the Method Statement as submitted with the Arboriculture Report dated July 2020.

Reason: In the interests of public safety and residential amenity.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 hours 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.

Philip Davis
Planning Inspector

10th March 2021