



An
Bord
Pleanála

Inspector's Report

ABP-308742-20

Development	Permission for retention of amendments to previously approved first floor extension (Ref 3369/18).
Location	15, O'Moore Road, Ballyfermot, Dublin 10
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3296/20
Applicant(s)	Derek Byrne & Fiona Dowling
Type of Application	Derek Byrne & Fiona Dowling
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Derek Byrne & Fiona Dowling
Observer(s)	None
Date of Site Inspection	6 th February 2021
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	7
5.3. EIA Screening	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Planning Authority Response	8
6.3. Observations	8
6.4. Further Responses.....	9
7.0 Assessment.....	9
7.2. Principle	9
7.3. Condition No 3 of Reg Ref 3369/18	9
7.4. Residential Amenity	10
7.5. Appropriate Assessment	11
7.6. Other Issues.....	11

8.0 Recommendation..... 11

9.0 Reasons and Considerations..... 12

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 160sqm comprises an end of terrace two storey dwelling with off street car parking to the front located on the south side of O'Moore Road within the Dublin suburb of Ballyfermot. As observed on day of site inspection there is a large rear extension to the house (subject of this appeal). A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Planning permission is sought for retention of amendments to previously approved first floor extension (37sqm) (Planning Ref No. 3369/18) to rear providing two bedrooms above existing kitchen.
- 2.2. The application was accompanied by a cover letter and sunlight / shadow diagrams.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin city Council issued notification of decision to refuse permission for two reasons relating to (1) material contravention of condition of no 3 of previous permission Reg Ref 3369/18 and (2) negative impact on adjoining residential amenity as follows:

- 1) *Having regard to Condition No.3 of the existing permission, Reg. Ref. 3369/18 and to the scale and length of the development to be retained it is considered that the development would contravene materially a condition attached to an existing permission for development and would be contrary to proper planning and sustainable development.*
- 2) *Having regard to the pattern of development in the area and the scale of the development to be retained, it is considered that the development would have a negative impact on adjoining residential amenity in terms of overbearance and overshadowing and is contrary to Section 16.10.12 of the Dublin City Development Plan, 2016-2022 with respect to residential extensions. The proposed development*

would, therefore, by itself and by reason of the undesirable precedent it would set for similar substandard development in the area, be contrary to proper planning and sustainable development

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The Case Planner recommended that permission be refused permission for two reasons relating to (1) material contravention of condition of no 3 of previous permission Reg Ref 3369/18 and (2) negative impact on adjoining residential amenity. The notification of decision to refuse permission issued by Dublin City Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Drainage Division** – No objection

3.3. **Prescribed Bodies**

3.3.1. None

3.4. **Third Party Observations**

- 3.4.1. There are 2 no observations recorded on the planning file from neighbouring properties at No 17 & 13 O'Moore Road stating that they have no objection to the proposal.

4.0 **Planning History**

- 4.1.1. There is no previous planning appeal on this site. there was a previously permitted house extension on this site that is relevant to this appeal that may be summarised as follows:

- **Reg Ref 3369/18** – Dublin City Council granted permission to Derek Byrne & Fiona Dowling for the construction of a flat roofed first floor extension above the existing rear kitchen of the house, to provide three bedrooms and an en-suite and all

associated site works subject to 9 no conditions. Condition No 3 is relative to this appeal as follows (emphasis added in bold):

3. *Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to, and agreed in writing by the Planning Authority and such works shall be fully implemented prior to the occupation of the building:*

a) The proposed first floor rear extension shall project a maximum of 3.5 metres from the existing rear building line at first floor level.

b) The measurements indicated above are external measurement.

c) All internal and external modifications to give effect to the above.

Reason: *In the interests of the protection of residential amenity and visual amenity.*

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The site is within an area zoned **Z1 - Sustainable Residential Neighbourhoods** where the land use zoning objective is *to protect, provide and improve residential amenities*.

5.1.2. Chapter 16, Section 16.2.2.3 Extensions and Alterations

- Dublin City Council will seek to ensure that alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context, the amenity of adjoining occupiers and integrated with the surrounding area.

5.1.3. **Chapter 16, Section 16.10.12 Extensions and Alterations to Dwellings** - This section states that the development should integrate with the existing building in terms of form and finishes. Extensions should be subordinate in terms of scale to the main unit. 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.

5.1.4. **Appendix 17 – Guidelines for Residential Extensions** – This provides general advice and design principles for residential extensions as follows;

- 17.3: Residential Amenity: extensions should not unacceptably affect the amenity of the neighbouring properties.
- 17.4 Privacy: Extensions should not result in any significant loss of privacy to the residents of adjoining properties.
- 17.6 Daylight and Sunlight: care should be given to the extensions and the impact on the adjoining properties.

5.2. **Natural Heritage Designations**

5.2.1. The site is not located within a designated Natura 2000 site.

5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development comprising a residential extension in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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**

6.1.1. The first party appeal has been prepared and submitted by Ceardean Ltd on behalf of the applicant and may be summarised as follows:

- The works completed have been done so without approval and contrary to conditions of the planning approval, in order to develop sufficient space for the resident family to enjoy their home.

- The applicants, who are native to the area, live at the appeal site with their 3 no children. They purchased the already rear ground floor extended house in 2008 but it was compromised by reason of its layout and the sequential arrangement of rooms. This application is for the extension to a family home where much needed space is required for the family to the rear their three young children in adequate environment.
- Two observations were submitted on the current application from the neighbours on either side of the development, the only stakeholders that would be impacted by the development. Stated that there will be no impacts on these properties.
- Privacy - The windows of the development are towards the rear boundary, with the rear wall 6 metres from the boundary and circa 16 metres from the rear building line of the opposing properties to the south. If the Board is minded to grant permission with conditions that would remove any potential overlooking that may occur from the development to the private gardens space to the south, the appclaint is willing to adapt the fenestration to the south, while retaining the bedroom space within as developed.
- Daylight - There is no impact on the daylight afforded to any of the adjoining properties. The living room extension to the houses at No 13 and 17 are extended to the distance as No 5. The daylight afforded to the first floor windows is no less with the constructed development as that which would be with the approved development with an extension limited to 3.5 metres.
- Sunlight – A shadow diagram study is submitted which outlines that there is no loss of sunlight to the adjoining properties or to those to the south.

6.1.2. The appeal was accompanied by sunlight / shadow diagrams.

6.2. **Planning Authority Response**

6.2.1. None

6.3. **Observations**

6.3.1. None

6.4. Further Responses

6.4.1. None

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Condition No 3 of Reg Ref 3369/18
- Residential Amenity
- Appropriate Assessment
- Other Issues

7.2. Principle

7.2.1. Under the provisions of the Dublin City Development Plan 2016 – 2022 the site is wholly contained within an area zoned Z1 - Sustainable Residential Neighbourhoods where residential development is acceptable subject to compliance, with the relevant policies, standards and requirements set out in the current development plan.

7.3. Condition No 3 of Reg Ref 3369/18

7.3.1. Dublin City Council (DCC) in their first reason for refusal state that the having regard to the scale and length of the development to be retained that to permit same would contravene materially condition no 3 of the existing permission Reg Ref 3369/18.

7.3.2. In 2018 DCC granted permission under Reg Ref 3369/18 to Derek Byrne & Fiona Dowling for the construction of a flat roofed first floor extension above the existing rear kitchen of the house, to provide three bedrooms and an en-suite and all associated site works subject to 9 no conditions. Condition No 3 required that the proposed first floor rear extension project a maximum of 3.5 metres from the existing rear building line at first floor level. As documented in the appeal and as observed on day of site

inspection the first-floor extension was built as per the plans submitted and without compromise as required by Condition No 3. In addition, the first-floor extension was constructed with a pitch roof rather than a flat roof thus further increasing the volume of the development.

- 7.3.3. The previous proposals under Reg Ref 3369/18 were considered by the planning authority where it was concluded that a reduced first floor extension was necessary in the interests of protecting residential amenities and visual amenities.
- 7.3.4. The scheme now before the Board seeks retention for amendments to this previously approved first floor rear extension that currently provides two bedrooms above the existing kitchen. According to the plans submitted the depth of the area to be retained is 3.07m. However, as the first-floor extension as built extends a depth of c6.9m metres from the rear elevation of the main house it means that what is identified as permitted under Reg Ref 3369/18 would appear to be greater than 3.5m (c6.9m - 3.07m =3.83m). This combined with the overall depth of the rear extension and the pitched roof forms a significant extension relative to its environs.
- 7.3.5. The appeal site is part of a former corporation housing estate comprising compact 2/3 bedroom terraced houses from the mid-20th century which have a uniform design and layout and which have limited private amenity space. While there have been several interventions in the form of single storey rear extensions to many of the houses in the area the scale of the that now under appeal is exceptionally overbearing in this context and appears almost as a second house in the rear garden. I agree with the Planning Authority that to permit the scale of this rear extension as constructed would be to the detriment of neighbouring properties. Refusal is recommended.

7.4. Residential Amenity

- 7.4.1. Dublin City Council in their second reason for refusal state that the development would have a negative impact on the adjoining residential amenity in terms of overbearance and overshadowing and is contrary to Section 16.10.12 of the Dublin City Development Plan, 2016-2022 with respect to residential extensions. The two storey rear extension has a stated dept of 7.2 meters and a height of 7.334 metres.
- 7.4.2. I refer to the County Development Plan where it states that extensions and alterations to dwellings should integrate with the existing building in terms of form and finishes

and should be subordinate in terms of scale to the main unit. Having regard to the pattern of development in the area and the scale of the development to be retained, I am concerned that the development would have a negative impact on adjoining residential amenity. It was obvious on any of site inspection that it was visually intrusive with an overbearing impact on adjoining properties. The scheme as constructed has an adverse impact on the scale and character of adjoining dwellings and by reason of its bulk and volume would have an adverse affect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight. Refusal is recommended.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development comprising a rear extension to an existing house and its distance to 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.

7.6. **Other Issues**

- 7.6.1. **Development Contributions** – I refer to the Dublin City Council Development Contribution Scheme 2020-2023. Section 12 states that *no reductions in whole or in part shall apply to permissions for retention of development*. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 **Recommendation**

- 8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **REFUSED** for the following reason and considerations

9.0 Reasons and Considerations

- 1) Having regard to Condition No 3 of the existing permission Reg. Ref. 3369/18 that required that the *first-floor rear extension project a maximum of 3.5 metres from the existing rear building line at first floor level*, to the scale and length of the pitched roofed development to be retained, it is considered that to permit the development would contravene materially a condition attached to an existing permission for development and would be contrary to proper planning and sustainable development.
- 2) Having regard to the pattern of development in the area and the scale of the development to be retained, it is considered that the development would have a negative impact on adjoining residential amenity in terms of overbearance and overshadowing and would be contrary to Section 16.10.12 of the Dublin City Development Plan, 2016-2022 with respect to residential extensions. The proposed development would, therefore, by itself and by reason of the undesirable precedent it would set for similar substandard development in the area, be contrary to proper planning and sustainable development

Mary Crowley

Senior Planning Inspector

7th February 2021