



An  
Bord  
Pleanála

## Inspector's Report ABP309017-20

### Development

Demolition of single storey to the rear and the construction of new rear extension at ground floor level and the construction of new extension to the side and rear at first floor level together with new attic space, dormer window to rear, widening of vehicular entrance together with ancillary works.

### Location

3 Baymount Park, Dublin 3.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

3517/20.

### Applicants

David Maguire.

### Type of Application

Permission.

### Planning Authority Decision

Grant.

### Type of Appeal

First Party -v- Conditions.

### Appellant

David Maguire.

### Observers

None.

### Date of Site Inspection

16<sup>th</sup> March, 2021.

### Inspector

Paul Caprani.

# Contents

1.0 Introduction .....	3
2.0 Site Location and Description .....	3
3.0 Proposed Development .....	4
4.0 Planning Authority's Decision .....	5
5.0 Planning History.....	6
6.0 Grounds of Appeal.....	7
7.0 Appeal Responses.....	9
8.0 Policy Context.....	9
9.0 Planning Assessment .....	10
10.0 Appropriate Assessment .....	13
11.0 Conclusions and Recommendation.....	14
12.0 Decision .....	14
13.0 Reasons and Considerations .....	14

## 1.0 Introduction

ABP309017-20 relates to a first party appeal against Condition Nos. 3 (a) & (b) and Condition No. 4 of the Planning Authority's grant of planning permission for the construction of a single storey extension to the rear of a dwellinghouse together with first floor extension to the side of the dwellinghouse and the provision of additional storage space within the attic area. The following conditions are appealed:

3. (a) The first floor level of extension to the side shall be setback behind the primary front building line by a minimum of 0.5 metres (1.17 metres from the front wall of the existing garage).
- (b) The side extension ridge line shall be proportionally set down from the primary ridge line.

**Reason:** In the interest of visual amenity and to protect the character of dwellings on Baymount Park.

4. The single storey extension to the rear shall be repositioned to adjoin the boundary with No. 1 Baymount Park with the larger element be repositioned to the south essentially swapping locations of the two elements to the rear extension.

**Reason:** In the interest of residential amenity of adjoining properties.

## 2.0 Site Location and Description

- 2.1. The appeal site is located in the suburban area of Dollymount, to the north-east of Clontarf, approximately 8 kilometres north-east of Dublin City Centre. Baymount Park is a mature and established residential area to the immediate south of St. Anne's Park and to the west of Clontarf Road. Baymount Park links up with Mount Prospect Avenue to the north. It is an L shaped cul-de-sac accommodating approximately 40 houses. No. 3 is located at the entrance to the cul-de-sac on the eastern side of the road facing westwards. It is the southern dwelling in a pair of semi-detached houses. Currently it accommodates a single storey garage and living, sitting, dining room accommodation in the main portion of the house with a kitchen

area located in a single storey return to the rear. Four bedrooms and a bathroom are located at first floor level. The single storey garage accommodates a flat roof and is located adjacent to the southern boundary of the site. The existing dwelling has a gross floor area of 134 square metres. The dwelling incorporates an extensive backgarden over 40 metres in length. The garden backs onto an area of woodland which separates Baymount Park from the rear of residential dwellings which front onto the Clontarf Road.

2.2. The planning application for indicates that the total site area is 638 square metres and that the proposed floor area of the extensions and alterations amounts to 63.6 square metres.

### **3.0 Proposed Development**

3.1. Planning permission is sought for the following:

- The demolition of the existing rear return which currently accommodates a kitchen.
- The construction of a new single storey extension to the rear. The larger northern portion of the extension extends to a depth of just less than 7.4 metres from the existing rear elevation. The extension near the southern boundary accommodating the kitchen area is stepped back to a depth of 4.54 metres. The ground floor extension is to accommodate dining room accommodation, living room accommodation and kitchen accommodation.
- At first floor level it is proposed to construct an additional bedroom above the garage area and to extend Bedroom No. 2 to the rear of the garage to the southern boundary of the site in order to enlarge this bedroom. The first floor is also to be reconfigured internally to incorporate a new en-suite and larger landing area.
- It is proposed to convert the attic area to a new smaller landing and storage space (17.4 square metres). The attic area is to incorporate a new dormer window on the rear roof pitch as well as five new rooflights to be incorporated on the front, rear and side pitch of the existing roof.

## 4.0 Planning Authority's Decision

4.1. Dublin City Council issued notification to grant planning permission. In doing so it incorporated the following two conditions.

3. *The first floor level extension to the side of the dwelling shall be revised as follows:*

(a) *The first floor level of the extension to the side shall be setback behind the primary front building line by a minimum of 0.5 metres (1.17 from the front wall of the existing garage).*

(b) *The side extensions ridge line shall be proportionally set down from the primary ridgeline.*

**Reason:** *In the interest of visual amenity and to protect the character of dwellings on Baymount Park.*

4. *The single storey extension to the rear shall be amended as follows:*

*The element to the rear with a depth of 4.54 metres shall be repositioned to adjoin the boundary with No. 1 Baymount Park and with the larger element with a depth of 7.39 metres be repositioned to the south essentially swapping locations of the two elements of the rear extension.*

**Reason:** *In the interest of residential amenity of neighbouring properties.*

## 4.2. Planning Authority's Assessment

4.2.1. The planning application was lodged with Dublin City Council on 7th October, 2020.

4.2.2. A report from the Engineering Department Drainage Division states that there is no objection to the development subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works.

4.2.3. A report from the Roads and Traffic Division stated that there was no objection to the proposed development subject to 5 standard conditions.

4.2.4. The planner's report notes that the existing single storey garage projects forwards of main front building line of the dwelling by 0.67 metres. The proposed first floor extension above the garage follows the footprint of the garage and is incorporated as

part of the existing side two-storey element. Reference is made to the development plan and in particular that extension should not dominate the existing building and should be of an overall shape and size to harmonise with the existing house and adjoining buildings and that a subordinate approach to the design of the extension should be followed. There are concerns that the side first floor extension will dominate the scale and overall proportion of the existing semi-detached house. Concern is expressed that the development as proposed could result in a terracing of dwellings which will have a harmful impact on the character of the streetscape. For this reason, it is considered that the proposed first floor extension and associated roof structures should be stepped back at least 0.5 metres from the main dwelling resulting in a step back of 1.17 metres from the building line of the garage. The side extension ridgeline should also be proportionally set down from the primary ridgeline.

- 4.2.5. With regard to the rear single storey extension, it is noted that there are concerns that the scale of the proposed extension will overshadow the rear of No. 1 and reduce the levels of daylight to the rear ground floor level. It is further considered that the depth of the extension will have an overbearing appearance on the occupants of No. 1. For this reason, it is recommended that a condition be attached placing the smaller element of the residential extension adjacent to the northern boundary of the site and the larger element closer to the boundary with No. 5 to the south. With regard to the rear dormer extension, it is considered that the proposed dormer will not have an adverse impact on the residential or visual amenities of the area and is considered to be in accordance with Appendix 17.11 of the Dublin City Development Plan. The widening of the vehicular entrance is also considered to be acceptable.
- 4.2.6. On the basis of the above assessment, the local authority planner's report recommends that planning permission be granted for the proposed development subject to the amendments set out in Conditions 3 and 4.

## 5.0 Planning History

- 5.1. There appears to be no planning history associated with the subject site. No history files are attached. Reference is made in the planner's report to two applications where planning permission was granted under **Reg. Ref. 2039/15** for the conversion

*of a garage and construction of an extension to the side and rear at No. 5 Baymount Park, the dwelling to the immediate south of the subject site. The decision was the subject of a third-party appeal. An Bord Pleanála upheld the decision of the Planning Authority and granted planning permission for the proposed development under Reg. Ref. PL29N.245149 subject to 9 conditions in 2015.*

- 5.2. Further south at No. 17 Baymount Park under **Ref. WEB1630/17** planning permission was granted by Dublin City Council for *the construction of a new first floor flat bedroom extension to the side of the existing dwelling. Alterations to the fenestration at ground floor level and a new attic rooflight to the side of the existing roof.* In granting planning permission, Dublin City Council included Condition No. 2 which required that the side extension including the front façade of the existing garage conversion shall be setback behind the primary front building line by at least 0.5 metres. This was the subject of a first party appeal to An Bord Pleanála and the Board in determining the application decided to omit the above condition.

## 6.0 Grounds of Appeal

- 6.1. The decision was the subject of a first party appeal against two conditions (Condition No. 3(a) and (b) and Condition No. 4).
- 6.2. The grounds of appeal argue that the proposed development fully complies with the residential zoning provision of the Dublin City Development Plan and also complies with policies in respect of alterations and extensions to dwellings, particularly having regard to the amenities of adjoining properties. It is considered that the rear ground extension is appropriately scaled and designed and would not result in any undue negative impacts on adjoining properties. It is stated that the design and scale of the extension has been influenced by a number of precedents in the surrounding area.
- 6.3. It is stated that the proposed extension and alterations have been scaled and designed to reduce any potential visual impacts and the materials and finishes proposed complement the existing dwelling. The positioning of the extension to the northern boundary has been implemented into the design to maximise the privacy of all properties. The proposed extension has been designed with the consideration for amenity of adjoining property and the character of the existing dwelling on site.

- 6.4. Reference is made to a number of precedents including No. 5 Baymount Park, (to the immediate south). In the case of the adjoining application, it is stated that the Council did not attach a condition requiring the extension to be setback from the building line nor did the Board. As such, it is argued there is a discrepancy throughout the Council's decision making with regard to two very similar applications adjacent to each other.
- 6.5. It is also noted that 7 Baymount Park planning permission was granted in 1996 for a new pitched roof and a bedroom over the existing garage.
- 6.6. An infill first floor side extension was also permitted over the garage in the case of No. 11 Baymount Park under Reg. Ref. 0214/99 (granted in 1999).
- 6.7. Under Reg. Ref. 0530/98 planning permission was granted for a garage conversion, a new front porch and an extension over the garage at first floor level at No. 13 Baymount Park.
- 6.8. Planning permission was granted under Reg. Ref. 0899/96 for a similar type infill development over the garage at No. 9 Baymount Park.
- 6.9. These precedents are relevant to the Board determining the current application before it.
- 6.10. In relation to Condition No. 3, it is stated that the first-floor extension would not dominate the scale or proportion of the existing dwelling. It was suggested that the first-floor extension complements the dwelling's existing character and there are precedents where the first floor extension has extended out to the building line of the garage and these are referred to in the previous section of the grounds of appeal.
- 6.11. Where the Planning Authority express concerns in relation to terracing as a result of the infill at first floor level above the garage, it is stated that similar side extensions are found at No. 16 and No. 14 Baymount Park. Furthermore, it is suggested that the proposal would have a negligible impact in terms of terracing. The applicant does not accept the Council's rationale for the requirements of Condition 3(a) and 3(b) and therefore requests that the condition be removed.
- 6.12. With regard to Condition No. 4 it is submitted that specific design considerations went into the preparation of the application to ensure that the amenity and privacy of No. 1 Baymount Park was protected. The positioning of the extension along the



northern boundary was based on enhancing the privacy for both No. 1 and No. 3 Baymount Park. The applicant has included an outdoor patio to the south-east of the extension. The relocation of the patio area would increase the potential for overlooking and impact on amenity on this space. The patio area currently serving the rear garden is in closer proximity to the bedroom window at No. 1 and this issue will be resolved with the relocation of the patio as proposed under the current application.

- 6.13. Due to the scale and positioning of the existing rear extension at No. 5 Baymount Park no such loss of privacy would be incurred.
- 6.14. The existing boundary between No. 1 and No. 3 Baymount Park is approximately 2 metres in height and there is a vast amount of vegetation to the rear of both properties. This also reduces the potential impact in terms of overlooking and overshadowing.
- 6.15. It is on this basis that it is respectfully submitted that An Bord Pleanála uphold Dublin City Council's decision to grant planning permission but omit Conditions 3 and 4 from any grant of planning permission.

## **7.0 Appeal Responses**

Dublin City Council have not submitted a response to the grounds of appeal.

## **8.0 Policy Context**

### **8.1. Development Plan**

- 8.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The subject site is zoned Z1 – “to protect, provide and improve residential amenities”.
- 8.1.2. Section 16.10.12 of the development plan specifically relates to extensions and alterations to dwellings. It states that the design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building

through the use of similar finishes and windows. Extensions should be subordinate in terms scale to the main unit.

- 8.1.3. 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.
- 8.1.4. Further details in relation to extensions and alterations to dwellings and roof profiles are contained in Appendix 17 of the development plan.
- 8.1.5. Appendix 17 requires in general terms that residential extensions should not have an adverse impact on the scale and character of the dwelling, should have no unacceptable effect on the amenities enjoyed by occupants of adjacent buildings in terms of privacy and adequacy to daylight and sunlight and achieve a high quality of design. Section 17.8 of the Appendix refers to the subordinate approach which means that the extension plays more of “supporting role” to the original dwelling. In general, the extension should be no larger or higher than existing.

## **8.2. Natural Heritage Designations**

- 8.2.1. There are no natural heritage designations near the site.

## **8.3. Environmental Impact Assessment – Preliminary Examination**

- 8.3.1. Having regard to the limited nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment and therefore the need for an environmental impact assessment can be excluded by way of preliminary examination and a screening determination is not required.

## **9.0 Planning Assessment**

- 9.1. As the appeal relates to a first party appeal against two specific conditions, and having regard to the acceptability of the proposed development in principle i.e. extending an existing residential dwellinghouse on lands zoned for residential development and the fact that no observations from third parties objecting to the proposed development were submitted, it is considered that a determination by the

Board of the application as if it were made to in the first instance would not be warranted. Thus, I consider the Board can restrict its deliberations to issues raised in the grounds of appeal namely, whether or not Condition No. 3 is appropriate in this instance.

## **9.2. Condition No. 3(a) and 3(b)**

- 9.2.1. Condition No. 3(a) requires that the first floor level of the extension to the side shall be setback behind the primary front building line by a minimum of 0.5 metres (1.17 metres from the front wall of the existing garage).
- 9.2.2. It is apparent from both by site inspection and from the drawings submitted that the front garage protrudes c.0.67 metres beyond the front building line of the central portion of the dwelling where the front entrance is located. It should be borne in mind however that the more northerly part of the elevation also extends a similar distance beyond the primary front building line accommodating the sitting room and the master bedroom. The central portion of the front elevation therefore is slightly recessed. In this regard I consider that the central element of the front elevation would be framed by two protruding elements on either side which creates an appropriate symmetry in the layout of the front elevation. From an aesthetic point of view therefore, I consider the layout of the proposed extension at first floor level on the front elevation to be more appropriate. Recessing the proposed extension at first floor level to a position 0.5 metres behind the primary building line and 1.17 metres behind the building line of the garage would in my view result in a more confused and incongruous treatment of the front elevation. Furthermore, it would result in a reduction in the size of Bedroom No. 4 by c.3.6 metres bringing the overall size of the bedroom to less than 10 metres which in turn would result in a considerable disamenity for the occupants of the dwelling. I consider that nothing will be gained from the alterations proposed by way of Condition No. 3(a) in terms of visual amenity in fact I would consider that the proposed alterations to be implemented by way of Condition No. 3(a) would detract from the amenity and symmetry when compared with the application put before the Planning Authority in the first instance.
- 9.2.3. Lastly in relation to this issue, I would refer the Board to the precedent decisions for similar type developments in the immediate vicinity of the subject site which are set

out in the grounds of appeal. It is apparent at No. 5 Baymount Park, No. 7 Baymount Park and No. 11 Baymount Park and No. 13 Baymount Park that permissions were granted for infill developments at first floor level above the garage area which did not incorporate a setback such as that incorporated into the current Planning Authority's decision.

9.2.4. Furthermore, in the case of No. 17 Baymount Park (ABP301203-18) Dublin City Council sought to set back the side extension by 0.5 metres as per Condition No. 2 of the notification to grant planning permission. This condition was specifically appealed to An Bord Pleanála and the Board in its decision omitted the condition. I therefore consider that there is a recent and very relevant precedent which would support the removal of the condition in the case of the current appeal.

9.2.5. With regard to Condition 3(b) which requires the side extension's ridgeline shall be proportionally set down from the primary ridgeline I do not consider that this condition is necessary. The incorporation of the roof pitch as proposed is in my view appropriate and acceptable from a visual amenity perspective and will not in any way detract from the overall design of the dwelling. The roofline proposed under the current application is similar to the rooflines granted in the case of extensions carried out at No. 9, 11 and 13 Baymount Park therefore there is no precedent or rationale in my view to incorporate such a condition.

### 9.3. **Condition No. 4**

9.3.1. Condition No. 4 requires the single storey extension to the rear to be amended as follows:

*The element of the rear extension with a depth of 4.54 metres shall be repositioned to adjoin the boundary with No. 1 Baymount Park and the larger element with a depth of 7.39 metres will be repositioned to the south essentially swapping locations with the two elements to the rear of the extension.*

The rationale for this condition appears to be predicated on the basis that the larger part of the rear extension would have a material impact on No. 1 Baymount Park on the basis that it would be overbearing on the adjoining neighbours to the north. As in the case of Condition No. 3, I do not accept the rationale on which the condition is based. What is proposed in this instance is a single storey extension with a very shallow roofpitch within the centre of the roofplain. It rises to a height of less than 4

metres and is in fact nearly 0.3 metres lower than the adjoining portion of the rear extension in proximity to No. 5. It also incorporates a narrower width than the part of the extension proposed to incorporate the kitchen area. The reconfiguration of the rear extension as required by Condition No. 4 would not in my view have any material impact in terms of being more or less overbearing than the configuration of the rear extension as proposed in the application submitted to the planning authority. It is also apparent that any reconfiguration as required by the condition would necessitate changes in the roof profile over the kitchen area so as to sit comfortably below the window cill of the rear bedroom at the northern end of the dwelling (Bedroom No. 2).

I would also agree with the arguments set out in the grounds of appeal that the configuration of the rear extension as originally submitted to the Planning Authority provides a secluded area of amenity space to the rear of the dwelling which is located further away from No. 1 Baymount Park and as such would assist in further protecting the amenities of No. 1 Baymount Park. Furthermore, the configuration of the rear extension as proposed under the application submitted to the Planning Authority would in my view allow for better sunlight penetration to the main amenity and patio area adjacent to the extension particularly during the daytime and evening time. As such, it offers a greater level of amenity for the occupants of No. 3.

On the basis of the above, I consider that there is no material or inherent advantage to be gained in amenity terms from reconfiguring the rear extension as suggested in Condition No. 4. On the contrary, I consider the layout as originally submitted to the Planning Authority may be more beneficial in amenity terms for both the occupants of the dwelling and protecting and preserving the residential amenity and privacy of adjoining dwellings at No. 1 and 5 Baymount Park. On this basis I consider that the Board should omit Condition No. 4 in its entirety.

## 10.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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.

## **11.0 Conclusions and Recommendation**

Arising from my assessment above, I consider that the Board should remove both Conditions 3 and 4 in its entirety based on the reasons and considerations set out below.

## **12.0 Decision**

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted based on the reasons and considerations set out below, and directs the said Council under subsection (1) of Section 139 of the Planning and Development Act, 2000 to remove Conditions 3 and 4 and the reasons thereof.

## **13.0 Reasons and Considerations**

Having regard to the nature and scale of the development and the pattern of development of the area, including the partially terraced character of the streetscape, and the layout of the rear extension as proposed in the drawings submitted to with the planning application, which it is considered offer a better level of privacy and amenity to both the applicants and the adjoining residents, it is considered that the modifications to the proposed development, as required by the planning authority in its imposition of Condition No. 3 and 4, are not warranted. The proposed development with the removal of both said conditions would not have a significant impact on the residential or visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

---

Paul Caprani,  
Senior Planning Inspector.

28th April, 2021.

