



An  
Bord  
Pleanála

## Inspector's Report ABP-309021-20

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<b>Development</b>	Retention of and alterations to a rear extension to ground and first floor of an existing dwelling.
<b>Location</b>	No. 22 Patrick Street, Drogheda, Co. Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	20636.
<b>Applicant(s)</b>	Hal Smith.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party.
<b>Appellant</b>	Shirley Byrne.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	17 <sup>th</sup> day of February, 2021.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. No. 22 Patrick Street, the rectangular shaped appeal site has a stated 0.020519ha area and it contains a modest 2-storey redbrick period terrace dwelling that has and is under the process of being extended to the rear. This period terrace dwelling is located second from the westernmost end of its terrace group and has a zero setback from the northern side of Patrick Street, in Drogheda, Co. Louth.
- 1.2. At its nearest point, the principal frontage of the subject property is situated c122m to the east of Rope Walk and c97m to the west of Moore's Lane. The rear boundary of the site backs onto the playing pitch of Boyne Rovers FC. There is a modest rear garden space remaining with this being defined by solid concrete boundary walls that are in part added to in terms of height by timber panelling.
- 1.3. Adjoining and neighbouring dwellings within this terrace group have been subject to *ad hoc* alterations and additions since their construction with both properties to the east and west being extended to the rear. I observed that the extensions to the rear of the subject terrace group consist of single storey extensions of varying design and built form. There are no other 2-storey rear extensions. A number of the subject group terrace properties have rear outbuildings located within their rear garden spaces.
- 1.4. The subject appeal site lies c0.4km to the north of West Street, Drogheda's principal street, in County Louth.

## 2.0 Proposed Development

- 2.1. Retention of and alterations to a rear extension to ground and first floor of an existing dwelling. The stated floor area of the works is given as 24.794m<sup>2</sup>.
- 2.2. On the 10<sup>th</sup> day of November, 2020, the Planning Authority received the applicant's further information response. It indicated that:
  - Eaves and gutter overhanging the site boundary would be reduced and the gutter has been changed to an integrated hidden gutter system.
  - Single storey flat roof would be finished in insulated glass fibre in a grey colour. In addition, an upstand will be added around the perimeter to ensure no spillage occurs onto the neighbouring property.

- No significant changes have been made to the overall design resolution of the proposed rear extension.

I further note that this response is accompanied by additional drawings.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. The Planning Authority **granted** permission subject to 4 no conditions. Of note to the grounds of this appeal is Condition No. 2. It reads as follows:

*“The revisions proposed to:*

*(a) The upstand along the western boundary and insulated fibre glass roof finish to the single storey extension as illustrated on Drawing No. 0251 received on the 11<sup>th</sup> November, 2020; and*

*(b) Alterations to first floor extension including provision of a pitched roof and hidden gutter along the eastern boundary, shall be completed to the satisfaction of the planning authority within 6 months of the date of this permission unless otherwise agreed in writing with the planning authority.*

*Reason: In the interest of orderly development.”*

- 3.1.2. I further note that the Planning Authority’s notification to grant permission is accompanied by four itemised notes for the applicant with the third one reading:

*“A grant of Planning Permission does not entitle a person to construct a development that would oversail, overhang or otherwise physically impinge upon an adjoining property without the permission of the adjoining property owner”.*

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The **final Planning Officer’s report** is the basis of the Planning Authority’s decision. It includes the following comments:

- The applicant's proposal to amend the eaves and guttering so that no overhanging of No. 23, the adjoining property and the provision of a hidden gutter was deemed to be acceptable.
- The use of insulated fibre in a grey colour over the single storey extension was deemed to be acceptable.
- This report concludes with a recommendation to grant permission subject to safeguards.

The **initial Planning Officer's report** included the following comments:

- Principle of the development is acceptable subject to safeguards.
- The proposal would not result in a reduction of garden space of less than 25% or 25m<sup>2</sup>.
- The proposed development would not be detrimental to the visual character of the existing dwelling or would it conflict with its existing palette of materials and finishes.
- The first-floor extension is comprised of a flat roof design which is considered to be more acceptable in terms of design and scale.
- Concern is raised that the proposed development appears to encroach onto adjoining properties.
- It is not considered that the proposed extension would give rise to undue diminishment of residential amenities of properties in its vicinity.
- The design is considered to be less overbearing than previous designs proposed.

This report concludes with a request for further information on the following matters:

- Item No. 1: The applicant was requested to clarify the matter of overhanging of the western and eastern boundary. In addition, further concern was raised on the matter of the drawings not reflecting what has been built on site.
- Item No. 2: Clarification is sought on the proposed material of the roof above the single storey extension which runs along the boundary with the western boundary of the site.

Item No. 3: Relates to the provision of new public notices in the event of significant changes being made to the development proposed.

3.2.2. **Other Technical Reports:** None.

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. The appellant submitted an observation during the course of the Planning Authority's determination of this application. It is considered that the substantive concerns raised are the same as those raised in their grounds of appeal.

## 4.0 **Planning History**

### 4.1. **Site and Vicinity:**

**P.A. Ref. No. 191061:** Planning permission was **refused** for a development described as retention permission for a rear extension to ground floor and first floor with a stated 24.794m<sup>2</sup> for the following stated reasons:

- “1. *The site is located within the 'Residential Existing' zoning as designated by the Drogheda Borough Council Plan 2011-2017. The zoning objective for which is 'to protect and/or improve the amenity of developed residential communities'. It is considered that the retained first floor extension by reason of the bulk, its scale relative to the subject terrace property and height is totally out of keeping and has a negative and injurious impact on the residential amenities of the area and would set an undesirable precedent for similar inappropriate developments in residential areas and would be contrary to the proper planning and sustainable development of this area. The subject retention application for the extension materially contravenes the provisions of the zoning objective and is considered contrary to the proper planning and sustainable development of the area.*
2. *It is considered that the subject first floor retention application would seriously injure the rear amenities of adjoining residential properties and will depreciate*

*their value, by reason of its design and cause overshadowing and as such would be contrary to the proper planning and sustainable development of the area.”*

**P.A. Ref. No. 55523136:** In 1979 planning permission was granted subject to conditions for an extension to this dwelling house.

## 5.0 Policy & Context

### 5.1. Local Planning Provisions

#### 5.1.1. Louth County Development Plan, 2015 to 2022.

Section 2.16.4 of the above stated County Development Plan indicates that the statutory plan for the urban and surrounding environs area of Dundalk is currently the Drogheda Borough Development Plan, 2011 to 2017, and that the County Development Plan will be an overarching Development Plan for the entire county including the settlement of Dundalk.

#### 5.1.2. Drogheda Borough Council Development Plan, 2011 to 2017.

The appeal site is zoned ‘*RE – Residential Existing*’ under the said Development Plan. The stated zoning objective for such land is “*to protect and/or improve the amenity of developed residential communities*”.

Section 6.6.8 of the Development Plan deals with the matters of design and scale in relation to residential developments.

Section 6.6.9 of the Development Plan deals with the matter of extension to residential properties.

Section 6.7.6 of the Development Plan deals with the matters of privacy and spacing between buildings.

Where new dwellings are located very close to adjoining dwellings, it indicates that the planning authority may require that daylight and shadow projection diagrams be submitted. The recommendations of ‘Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’ (B.R.E.1991) or B.S. 8206 ‘Lighting for Buildings, Part 2 1992: Code of Practice for Day lighting’ should be followed.

## 5.2. Natural Heritage Designations

5.2.1. There are a number of Natura 2000 sites within the wider vicinity of the site. The nearest is located c0.6km to the south where the northern banks of the River Boyne are situated and the River Boyne and River Blackwater SAC (Site Code: 002299).

## 5.3. EIA Screening

5.3.1. Having regard to the serviced nature of the site, the modest nature, scale and extent of the proposed development, the lack of any direct hydrological connectivity from the site to any nearby sensitive receptors, including the River Boyne and River Blackwater SAC noted in the previous section of this report, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of this 3<sup>rd</sup> Party appeal can be summarised as follows:

- The appellant indicates that they are the owner of No. 23 Patrick Street, the adjoining property.
- Concern is expressed that the applicant is being rewarded by way of the grant of planning permission despite his actions in carrying out unauthorised development.
- The proposed development would adversely impact by way of substantially reducing light to their property which in turn would devalue their property.
- The proposed development would also result in additional overlooking of their rear open space amenities which in turn would devalue their property.
- The submitted documents provided with this application are substandard and should not have been accepted by the Planning Authority.
- In order to undertake and complete the works it is necessary for the applicant to encroach, trespass and stand on their single storey rear extension. This is objected too and no consent for this has been provided.



- The grant of permission for what is an unsightly structure would create an undesirable precedent in the area.
- The current application for retention is very similar to the previous application which was refused.

## 6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- It was a genuine mistake to have erected the rear extension without permission. It was their view that the rear extension benefitted from exempted development provisions. Once this situation came to light that it did not benefit from exempted development provisions the applicant has sought to regularise this situation.
- It is not accepted that the appellants residential amenities would be adversely impacted by this development.
- Shadow analysis demonstrating that no overshadowing would occur has been attached.
- The level of glazing at first floor level would be the same.
- The comments in relation to the inadequacies of the drawings are spurious and vexatious in nature.
- At all times it is contended that they have tried to be in contact with neighbours on both sides in relation to the development.
- It will not be necessary for any trespass to occur to complete or maintain the extension.
- The proposed extension is a simple extension featuring a pitch roof and is not unsightly.
- It is not accepted that it would establish an undesirable precedent.
- The roof profile has been changed in this application to that previously sought, i.e. the roof profile is now a pitched roof structure.

- The purpose of the extension is for additional habitable space. In particular the provision of a bathroom at first floor level.
- It is considered that this application addresses the concern that resulted in the refusal of the previous application relating to this extension.
- The applicant will comply with any conditions imposed to a grant of permission.
- It is sought that the Board uphold the decision of the Planning Authority.

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

6.3.1. The Planning Authority's response can be summarised as follows:

- The appeal submission contains no new issues.
- No further comment other than to refer the Board to the Planning Officer's report and the assessment therein.
- It is the Planning Authority's opinion that the proposed development is acceptable.
- Reference is made to the 'Notes for Applicants' contained within the Planner's Report which states: "*it should be clearly understood that the granting of Planning Permission does not relieve the developer of the responsibility of complying with any requirements under other Codes of legislation affecting the proposal*".

### **6.4. Further Response**

6.4.1. The Planning Authority's further response to the applicant's submission can be summarised as follows:

- No new issues raised and therefore no comments to make on this submission.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. The main issues in this appeal are those raised in the grounds of appeal and the responses received by the Board from the 1<sup>st</sup> Party. Having inspected the site, its

surrounds and relevant planning provisions I am generally satisfied that no other substantive planning issues arise.

- 7.1.2. Prior to commencing my assessment, I consider it incumbent to consider the applicants concerns that the appeal submission is in its nature vexatious. In this regard, I consider that the appellants submission clearly sets out planning concerns. In particular residential and visual amenity concerns have been raised. On balance I do not consider the appellants appeal to be vexatious in nature and I do not consider it should be dismissed as being so.
- 7.1.3. In relation to the unauthorised works that have occurred on the appeal site which are a concern of the appellant in this case and it would appear that the intention of this planning application and its predecessor P.A. Ref. No. 191061 is to seek retrospective permission for the works carried out in the absence of their required planning permission alongside planning permission to complete these works. It would appear that this action may have occurred on foot of enforcement proceedings actioned by the Planning Authority. The Board does not have a role in planning enforcement, nor does it have an ombudsman role on the manner in which the Planning Authority has dealt with such matters. Notwithstanding, it would appear from the applicant's submission to the Board that when he commenced the development to the rear of his property, he was under the view that as it was less than 40m<sup>2</sup> that it was exempted development and when he became aware that it was not, he has sought to regularise it through this and the previous application P.A. Ref. No. 191061.
- 7.1.4. What is clear is that this subject appeal concerns an application which is comprised of two distinct elements, namely 'permission' to undertake certain works relating to the unfinished rear extension; and also 'permission for the retention' of the existing development relating to the rear extension that has already been carried out on site.
- 7.1.5. In relation to retention, I note that the Development Management Guidelines for Planning Authorities, 2007, make it clear that, in dealing with applications for retention, they must be considered "*as with any other application*". This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed. Therefore, no account can, or should, be taken by the Board of the

fact that substantive development in relation to the rear extension at this subject property has already taken place.

- 7.1.6. The appellant also raises concern in relation to the works that have been carried out to date. With particular concerns expressed to the oversailing and overhanging arising onto her property without her given consent. It is further highlighted by her that the completion of the development would require access onto her property, in particular, the appellants existing single storey rear extension. Alongside this when completed that access onto her property would be required for maintenance purposes. The appellant objects to this and has not provided their consent for either or any other circumstance that would require access, oversailing through to overhanging of their property.
- 7.1.7. As part of dealing with this concern the Planning Authority sought clarification from the applicant in terms of the level of oversailing/overhanging of adjoining properties to the east and west of the development sought. The applicant in their response indicates that the eaves and the gutter overhanging adjoining properties have been reduced alongside the design now includes a hidden gutter system. There are no details provided on the hidden gutter system.
- 7.1.8. These measures in the applicants view ensure that no overhanging and/or oversailing would occur to either adjoining properties.
- 7.1.9. In my view these design changes have been poorly and confusing detailed in terms of the physical appearance of the exterior of the first-floor level extension and how they are presented in the further information documentation. For example, the hidden gutter system appears to be integrated on one side only and slightly projecting above the eaves of the proposed first floor level extension.
- 7.1.10. In addition, the side elevation addressing No. 23 has not been clarified in the further information documentation provided. Nor has the overall actual intervention to the rear roof been clarified with the works on site being different to that presented as existing in the submitted drawings.
- 7.1.11. During my site inspection I did observe guttering running along the northern elevation of the first-floor extension. With either end of this guttering pipe extending the entire width of the rear yard area in a manner that appeared to oversail the shared boundaries between No.s 21 and No.s 23 Patrick Street.

- 7.1.12. This is not provided on the drawings submitted and there is no indication of any guttering been provided at this location nor does the drawings submitted indicate the provision of any hidden gutter system at this location either.
- 7.1.13. Further no consent for any discharge from it onto the party boundary and/or onto adjoining properties and the drawings provided appear to disingenuously show that the first-floor extensions at both No.s 21 and 23 overhang and oversail into the appeal site when this is not the case. This has been done by misrepresenting the built form and siting of these extensions relative to the actual boundaries and the appellants property.
- 7.1.14. Of further concern is the height of the rear first floor level extension which extends significantly above the original eaves level and extends into a significant width of the roof slope where the two meet. In addition, the height of the rear first-floor window is of a height that it appears to be higher than those present in the rear elevation of the terrace group.
- 7.1.15. Alongside the changes made to eliminate the overhang from the eaves and gutter the applicant also proposes an upstand on the first-floor level roof is also proposed to ensure no spillage onto adjoining properties from the roof over the single storey extension.
- 7.1.16. It is also unclear from the documentation provided with this application how the applicant proposes to complete the first-floor extension adjoining the appellants property even if it is slightly setback within No. 22's site boundaries without requiring consent from the appellant to complete the works and thereafter having some consent in place for the maintenance and when required the replacement of the proposed exterior cladding.
- 7.1.17. I note that the Planning Authority as part of their grant of permission for the development sought under this application did include a note highlighting to that granting of permission does not entitle a person to construct a development that would oversail, overhang or otherwise physically impinge upon an adjoining property without the permission of the adjoining property owner. It also noted that a person shall not be entitled solely by reason of a grant of permission to carry out any development.

7.1.18. I also note that the Board has no statutory power to adjudicate upon matters that constitute civil matters which can be only resolved by agreement between parties or in the civil courts.

7.1.19. Indeed, the Development Management Guidelines make this clear and state ‘...the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution by the courts....’

7.1.20. In relation to the procedural concerns raised by the appellant and the adequacy of the documentation provided with this application I concur with the appellant in this case that they are not qualitative. I also consider that they are vague in their detail; some of the detailing in the submitted drawings in my view appears to be deliberately ambiguous; and, of significant concern there are very significant and very evident differences between what is presented as ‘existing’ to what is apparent on site.

7.1.21. In my view any grant of permission for the development sought under this application should first require revised drawings to be submitted from the applicant to address these deficiencies with these drawings clearly setting out the existing and proposed development sought to the main dwelling and in its contextual relationship with adjoining properties. In the absence of these details, it is difficult to see how any grant of permission implemented and how any grant of permission could be enforced by the Planning Authority should any concerns arise.

7.1.22. In my view the relevant issues are as follows:

- Principle of the Proposed Development
- Planning History - Residential & Visual Amenity Impact
- Depreciation of Property Value

7.1.23. The matter of ‘Appropriate Assessment’ also requires examination.

## **7.2. Principle of the Proposed Development**

7.2.1. The appeal site is located in an area zoned ‘RE’, which is existing residential. Accordingly, in this zone residential extensions and alterations to an existing dwelling for residential purposes are considered permissible, subject to safeguards. The current proposal is for retention permission and planning permission for a part single storey and part two storey rear extension together with all associated site works to the

rear of a period 2-storey period mid-terrace dwelling. As such the general principle of the development sought under this application is acceptable, subject to safeguards. On particular subject to no adverse impact on the character of the main dwelling, the resident and visual amenities of the area. These matters therefore require examination.

### **7.3. Planning History**

- 7.3.1. Of relevance to this particular application is that a previous similar application was recently refused by the Planning Authority under P.A. Ref. No. 191061. This application also sought to extend the dwelling at first and floor level to achieve an additional 24.74m<sup>2</sup> habitable floor area. The reasons for refusal of this previous application I have set out under Section 4.1 of this report above. The two reasons for refusal essentially relate to the Planning Authority considering that the development, if permitted, would give rise to serious residential and visual amenities.
- 7.3.2. In terms of this application before the Board, having had regard to the documentation accompanying the development sought under P.A. Ref. No. 191061, I raise it as a concern that there appears to have been no significant changes made when the two have been compared with one another with essentially the built form and the overall design resolution of the rear extension being the same albeit for the provision of a pitched shaped roof over the first-floor extension.
- 7.3.3. Further, this application is not accompanied by any examination of the potential impact on adjoining properties, in particular it is not accompanied by an examination of the impact of this development on sunlight and shadowing on adjoining properties. I do, however, note that the applicant's submission to the Board is accompanied by a shadow analysis which appears to suggest minimal overshadowing of properties in the vicinity. With only minor overshadowing occurring over the roof structure of the appellants single storey rear extension which includes overshadowing of one of its roof lights.
- 7.3.4. However, the examination submitted appears to suggest that No. 22 Patrick Street is orientated exactly due north, when in fact it has a northern aspect that verges westwards. It also does not clarify the built volumes presented either with single storey extensions appearing to have similar shadow impacts as the first-floor level extension proposed. In addition, the overall shadow analysis does not appear to be consistent

with the approaches advocated in BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. As such the level of overshadowing that would arise, particularly for adjoining properties, in my view, cannot be relied upon.

- 7.3.5. Of further, in relation to the rear extension sought is that the first-floor rear elevation to the rear private amenity spaces of adjoining properties on either side with the level of existing proposed in totality being significantly greater than that present at original first floor level rear elevation of this terrace group. In addition, it is evident that the glazing on the rear extension at first floor level is greater than that of the original rear extension and with these modest properties by and large being subject to later single storey rear extensions, including the properties on either side the significant depth of the first floor level and the now proposed first floor rear elevation with a large window brings the perception of overlooking closer for those using the private amenity space to the rear of the adjoining properties on either side.
- 7.3.6. In terms of visual amenity impact I consider that the first-floor level extension is out of character with the 2-storey red brick terrace properties that address the northern side of Patrick Street and the submitted drawings are such that it is ambiguous how what is apparent on site will be actually integrated with the main dwelling. In particular, it would appear that the window opening at its highest point corresponds with the original eave's height of the main dwelling and it would appear that the external side and rear wall of the first-floor extension would meet a new eaves height above that of the original dwelling and the terrace group it forms part of.
- 7.3.7. In terms of external treatments, the use of timber cladding is a material that is not one of the original materials and treatments that characterise the palette of this period terrace group and it is in my view at odds with a non-contemporary design resolution approach. As such the use of timber cladding would be visually incongruous with the use of red brick that characterises these properties at first floor level. This concern is one that could be dealt with by way of condition should the Board be minded to grant planning permission.
- 7.3.8. In terms of the solid to void relationship, the proposed extension at first floor level is also a concern as the rear elevation proposes a first-floor level extension that extends in a north westerly direction by c5.6m from the original rear elevation of this terrace



group. The new rear elevation at first floor level seeks to provide 2.7m in width and 1.2m in height rear window opening. One of the original rear window openings would appear to remain due to the first-floor extension being setback from the western boundary. This in my view would result in the modest rear private amenity space of properties on either side to be diminished by the perception of being subject to greater overlooking over and above their existing situation.

- 7.3.9. While I consider that a level of overlooking is normally expected in such urban settings, this additional overlooking that would arise from the development sought under this application when taken with the visual overbearance; the visual incongruity and the potential of the first floor level extension of this built form to diminish residential amenities by increased levels of overshadowing of already modest rear garden spaces is at variance with Section 6.6.8 of the Development Plan which indicates that residential developments should not cause any unacceptable overbearing or overshadowing on existing dwellings. Further, this section of the Development Plan indicates that applicants for such developments will be required to demonstrate that there are no adverse effects arising on existing buildings. In this case, in my view this has not been robustly demonstrated despite residential amenity impacts being given as a reason for refusal for what was essentially the same development under P.A. Ref. No. 191061.
- 7.3.10. Also, of particular relevance to the development sought under this application is Section 6.6.9 of the Development Plan which deals specifically with the matter of extensions to residential properties. It indicates that such applications should ensure that the proposal does not detrimentally affect the scale, appearance, and character of the existing dwelling.
- 7.3.11. In this instance I consider that the first-floor element of the development sought under this application is out of character with this originally homogenous period 2-storey terrace group and out of character with the type of extensions that have occurred to the rear of a number of its individual residential units. While I acknowledge that the traditional design approach could be improved by use of a more harmonious palette of materials and a reduction in the level of glazing at first floor level; notwithstanding, the depth of the first floor extension effectively almost doubles that of the first floor level of the main dwelling and the overall built form, including its roof structure over

fails, to be subservient to both the main dwelling and the once highly coherent and homogenous period terrace group it forms part of.

7.3.12. As such to permit the first-floor level extension to this modest terrace property would detrimentally affect the scale, appearance, and character of the existing dwelling but similarly the once homogenous and coherent terrace group it forms part of. Moreover, it would diminish the established residential amenities of properties in its immediate vicinity by way of visual overbearance, overshadowing and reduced privacy.

7.3.13. For the reasons set out above in my view this element of the development sought would be contrary to the requirements of Section 6.6.8 and 6.6.9 of the Development Plan.

#### **7.4. Depreciation of Property Value**

7.4.1. As part of the appellants concerns in relation to the first-floor extension sought under this application is the potential for this to devalue their property, if permitted. Given that the applicant has provided insufficient evidence to support that no serious diminishment of residential amenities of the appellants property or indeed other properties in its immediate vicinity I consider that this concern is not without foundation, particularly in terms of the matters of overlooking and overshadowing. Notwithstanding, the appellant has not provided any expert opinion to support this concern. As such I can not make an informed decision on the matter of depreciation of the appellants property or any other property based on evidential based proof.

#### **7.5. Conclusion**

7.5.1. On the basis of my assessment above I conclude that whilst the principle of the single storey extension element to the rear of No. 22 Patrick Street the first-floor level extension due to the serious residential and visual amenity impacts should be omitted from any grant of permission.

7.5.2. The fact that substantial building works have occurred above ground level are not a material factor given that this element is essentially sought for retention but not detailed as such in the submitted documentation including the applicant's further information response to the Planning Authority.

- 7.5.3. As set out in my report above applications for retention must be considered 'as with any other application' which is in accordance with planning law and with proper planning practice.
- 7.5.4. The only benefit of the substantial first floor extension being in place shows its already actual residential and visual amenity impact through to the fact that there are serious deficiencies in how this element of the development is presented in the submitted application to the extent that the outcome of this element would be unacceptably ambiguous, if permitted.
- 7.5.5. I therefore recommend a split decision in this case.

## 7.6. Other Matters Arising

- 7.6.1. **Undesirable Precedent:** The appellant raises concern that this development, if permitted, has the potential to give rise to an undesirable precedent for other similar developments to other similar properties in this urban setting, as there is no precedent established for first floor levels. I consider that this is not an unreasonable concern; however, all such applications should be considered on their individual merits against their site contexts.
- 7.6.2. **Drainage:** The drainage details provided with this application are inadequate and therefore I can not make any determination upon them other than this dwelling appears to benefit from an existing connection to public mains drainage. The main concerns however are surface water drainage disposal and whether or not this would be carried out in a manner that accords with required best practice.
- 7.6.3. **Private Open Space:** The remaining private open space meets the Development Plan requirements for this type of development.

## 8.0 Appropriate Assessment

- 8.1.1. Despite the appeal sites proximity to several European sites in the wider vicinity, having regard to the modest nature, scale and extent of the proposed development sought which essentially relates to the development to an existing dwelling within an existing built-up area, it is not considered that the proposed development would be likely to have a significant effect, directly or indirectly, individually or in combination

with other plans or projects on any European site. I therefore consider no 'Appropriate Assessment' issues arise.

## 9.0 Recommendation

- 9.1. I recommend that permission for the single storey extension component of the development sought is granted as per the Reasons and Considerations together with the conditions set out thereunder in Schedule 1 and that the first-floor extension component of the development sought is refused for the reasons and considerations set out in Schedule 2 below.

### Schedule 1

#### **Reasons and Considerations**

Having regard to the nature, scale, form, and design of the single storey extension element of the development sought under this application it is considered that, subject to compliance with the Conditions set out below, the proposed development would not adversely impact on the residential amenity of neighbouring property. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 11<sup>th</sup> day of November, 2020, to the Planning Authority, 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. Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority, revised drawings showing the following:
  - (a) Revised drawings showing the omission of the first-floor level extension and reinstatement of first floor level rear elevation and rear roof structure over.
  - (b) Revised drawings showing the ground floor level extension including details and finishes of its roof structure over as well as all rainwater goods. In relation to all associated rainwater goods these shall not oversail or overhang shared boundaries to the east and west of the site.

**Reason:** In the interest of residential amenity and safety.

3. The external finishes of the ground floor extension shall be the same as those of the existing dwelling in respect of colour and texture.

**Reason:** In the interest of visual amenity.

4. Water supply and drainage arrangements, including the 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. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

6. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

Notes to Applicant:

- You are advised that Section 34(13) of the Planning and Development Act, 2000 as amended, indicates that “*a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development*”.
- You are advised that a grant of permission does not entitle a person to construct a development that would oversail, overhang or otherwise physically impinge upon an adjoining property without the permission of the adjoining property owner.

## **Schedule 2**

### **Reasons and Considerations**

1. Having regard to the character of the terrace group the subject property forms part of and the pattern of development in the area, it is considered that the first-floor level extension, by reason of its scale, bulk, and proximity to site boundaries, would seriously injure the residential by reason of visual obtrusion, overshadowing and reduced privacy. The proposed development would for these reasons be contrary to Section 6.6.8 and Section 6.6.9 of the Drogheda Borough Council Development Plan, 2011 to 2017, the applicable plan for this urban area and would therefore be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Inspector

25<sup>th</sup> day of February, 2021.