



An
Bord
Pleanála

Inspector's Report ABP 309194-21

Development	1 st floor extension to side, increase width of vehicular entrance, bicycle storage to front and associated internal alterations and ancillary works.
Location	42 Beverly Heights, Scholarstown, Dublin 16
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20B/0406
Applicants	Brian and Marie Kelly
Type of Application	Permission
Planning Authority Decision	South Dublin County Council
Type of Appeal	3 rd party v. grant
Appellant	Patrick Moran
Observer(s)	None
Date of Site Inspection	07/05/21
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

No.42 is a semi-detached, 2 storey dwelling with single storey side and rear extensions at the end of a cul-de-sac within the mature residential estate of Beverly Heights off Scholarstown Road. The side extension is constructed on the party boundary with No. 40. No. 40 has a side access which runs between the gable walls of the respective properties. By reason of the staggered layout No. 40 has a building line forward of No.42.

2.0 Proposed Development

Permission is sought for

- 18 sq.m. 1st floor extension onto the side
- Widen the vehicular access from 2.6 metres to 3.5 metres
- Bicycle storage in the north-eastern most corner of the front garden behind the front boundary wall.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 3 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report within the Record of Executive Business and Chief Executive's Order can be summarised as follows:

- visually the extension is acceptable given that it would match the pitch of the existing roof plane and therefore maintain the character of the dwelling.
- the applicant would require consent from the neighbouring landowner to build on the shared boundary and to access their property for maintenance. These are civil matters.

- The landing window in the objector's gable wall does not serve a habitable room. A shadow analysis is not required. Although the proposed extension would be located closer to the boundary, the hipped roof would still allow some light in.
- Although the 1st floor extension would extend beyond the rear elevation of the neighbouring property it is not considered that it would be materially harmful.
- Entrance alterations and bicycle storage unit are acceptable.

A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Public Realm Section has no objection.

Water Services has no objection subject to conditions.

Roads Department has no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions

3.4. Third Party Observations

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised are comparable to those set out in the 3rd party appeal summarised in section 6 below.

4.0 Planning History

I am not aware of any previous planning application on the site.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016-2022

The site is within an area zoned 'RES' the objective for which is to protect and/or improve residential amenity.

Housing Policy 18 - Residential Extensions

It is the policy of the Council to support the extension of existing dwellings subject to the protection of residential and visual amenities.

H18 Objective 1: To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 11 Implementation and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).

Chapter 11 - Implementation

Section 11.3.3 (i) The design of residential extensions should accord with the South Dublin County Council House Extension Guide (2010) or any superseding standards.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The 3rd party appeal by Mr. Patrick Moran who owns and lives in No.40 directly adjacent to the appeal site can be summarised as follows:

- The plans do not indicate how roof water is to be collected. A parapet wall is not part of the design. If provided it would increase the gable wall by an additional 0.6 metres and would also include a cap which would extend into his property. This would be at variance to the finish of the semi-detached houses in the vicinity and would change the visual aspect and appearance of the property.
- The existing fascia, soffit and gutters on the gable walls of the properties extend out 0.33 metres. If the extension is built on the shared boundary the gutters will oversail his property.

- The applicants have not sought his permission to build on the shared boundary or to oversail his property. His permission will not be forthcoming nor will consent be given for access for construction or maintenance purposes.
- The extension would remove all light to the side passageway and would result in it being damp at all times with concerns regarding slippery conditions.
- The extension will remove all light from the landing window. It is unfair not to consider this loss of light as important to the quality of the living space in his home.
- The proposed development would depreciate the value of their property.
- The extension would result in loss of light to the downstairs window in the side elevation and to the skylight in the single storey rear extension.
- It would lead to a loss of privacy in his garden.
- The proposal contravenes the South Dublin County Council House Extension Design Guide.

6.2. Applicant Response

The submission by F + D Studio Architects on behalf of the applicants can be summarised as follows:

- There is an existing extension constructed on the party boundary. The application seeks to extend this wall at 1st floor level. There is no new or greater contravention in terms of wall position other than the existing wall being extended upwards.
- A condition to require the new wall to be constructed within the property without need to access the appellant's property would be acceptable. This is a relatively common construction method achievable by a suitable material such as brick or self finished block which is to be constructed entirely within the subject site. Access would be preferable to allow for an enhanced appearance to the construction which would benefit the appellant.

- There will no overhang over the property line. There are a number of ways to deal with the situation as it is a common detail for extensions throughout the city. This can be confirmed by way of condition.
- The issue of roof water collection can be dealt with (detail provided).
- The 1st floor landing is not a habitable room.
- There are already 1st floor windows to the rear of the property so there is no new instance whereby even perceived overlooking is created.

Reference made to Order 93A of the District Court Rule (SI 162/2010) and procedures for getting a works order.

6.3. **Planning Authority Response**

The issues raised in the appeal have been covered in the planner's report.

6.4. **Observations**

None

7.0 **Assessment**

I consider that the issues arising in the case relate to the impact on the amenities of the adjoining property and suitability of the extension design.

The appeal site is within the mature residential estate of Beverly Heights comprising largely of 2 storey, semi-detached dwellings. It is within an area zoned 'RES' the objective for which is to protect and/or improve residential amenity. Whilst extensions and alterations to an existing dwelling are acceptable in principle there is an obligation to reconcile the need to meet the requirements of the applicants with the requirement that such works should maintain the visual amenities and character of the parent building and wider area, whilst not compromising the residential amenities of adjoining properties.

The existing single storey extension is constructed on the party boundary with No.40 and the proposal is seeking to extend the side wall upwards to allow for the 1st floor extension. No encroachment over this existing building line is proposed. The

agent for the applicants has confirmed that no oversailing of the appellant's property is proposed or will occur arising from gutters, soffits etc. with detail provided as to the design solution for the collection of roof water. I would concur with the applicant's agent that such scenarios are not unusual in urban settings and can be appropriately addressed. Details are also provided as to the means by which the extension could be constructed without recourse to seek access to the appellant's property.

I consider that sufficient detail has been provided to support the applicant's case in this instance. I submit that any further issue between the property owners would constitute a civil matter best resolved through the appropriate channels. I recommend that the applicant be informed of the provisions of Section 34(13) of the Planning and Development, Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a permission to carry out any development.

The 1st floor window in the appellant's dwelling serves the landing and does not serve a habitable room. It is not considered that the loss of light relative to that existing would be a material concern in terms of the amenities of the property. The window at ground floor level is already impacted by the single storey extension on the appeal site. Also, in view of the proposed extension being to the east of the appellant's property and the southern aspect of his single storey rear extension served by roof lights it is not considered that loss of light to same will be an issue.

Within such a suburban residential estate lateral overlooking from 1st floor windows is ubiquitous. In terms of overlooking the existing 1st floor windows serving habitable rooms already overlook the appellant's garden. The proposal for a further 1st floor window in the rear elevation, albeit closer to the shared boundary with the appellants' property, would not result in such an increased level of overlooking relative to that existing as to warrant amendment or refusal on grounds of loss of privacy.

In conclusion I consider that the extension would be appropriate in size and scale and I am satisfied that the amenities currently enjoyed by the appellant would not be adversely compromised by way of overlooking or loss of light.

I have no objection to the widening of the vehicular entrance or the bicycle storage unit to be erected in the front garden.

Appropriate Assessment – Screening

Having regard to the location of the site and the nature and scale of the proposed development it is concluded no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the vicinity it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of scale, design and use, and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

3. The external finishes of the proposed 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. Site development and building works shall be carried out only between the hours of 0800 to 1900 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

5. The drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road or adjoining properties.

Reason: In the interest of public health.

6. 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.

Pauline Fitzpatrick
Senior Planning Inspector

May, 2021