



An  
Bord  
Pleanála

## Inspector's Report ABP-309210-21

<b>Development</b>	Amendments to previously approved application Reg. Ref. 2431/19, to increase the size of previously permitted first floor level rear extension from 26.5 square metres to 31.6 square metres.
<b>Location</b>	7 Churchgate Avenue, Clontarf, Dublin 3
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3669/20
<b>Applicant(s)</b>	Joseph Trehy & Amy Creighton
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First Party vs. Grant
<b>Appellant(s)</b>	Joseph Trehy & Amy Creighton
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	15 <sup>th</sup> March 2021
<b>Inspector</b>	Stephen Ward

## **1.0 Site Location and Description**

- 1.1. The site is within the immediate environs of the commercial core of Clontarf, approximately 50 metres west of Vernon Avenue and 70 metres north of Clontarf Road. It is bounded by the Churchgate Avenue cul-de-sac to the south, which is a narrow lane serving the church and the rear of properties along Clontarf Road. To the north of the site is the access road serving St. Joseph's Square and Vernon Wood residential developments. To the east is a terrace of similar single-storey cottages and to the west is the St. John The Baptist Church and the St. Vincent's Hall building associated with Holy Faith Secondary School.
- 1.2. The site has a stated area of 107.5m<sup>2</sup> and contains the existing end-of-terrace single-storey dwelling with a stated area of 71.6m<sup>2</sup>. There is a small yard at the rear of the site of c. 10m<sup>2</sup>. The existing dwelling is described as a single storey double-vaulted artisan type cottage. The front of the site hosts the original pitched roof cottage, which has been extended by a hipped roof addition to the rear. External finishes include painted render and non-profiled blue-black slate.

## **2.0 Proposed Development**

- 2.1. It is proposed to amend the design of the first-floor extension (26.5m<sup>2</sup>) previously permitted under P.A. Ref. 2431/19. The amendments involve an increase in floor area to 31.6m<sup>2</sup>, which is primarily achieved through an increase in the height of the extension over the roof valley between the original cottage and the rear extension. The rear elevation of the extension will remain as per the previously permitted design. The applicant outlines that the amendments will provide an improved internal layout that will facilitate remote working.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 16th December 2020, Dublin City Council (DCC) issued notification of the decision to grant permission. Condition No. 2 of the decision requires amendments to the proposed development as follows:

*The amendments to the roof profile submitted as part of the subject application shall be omitted. The development shall be constructed as per drawing No. 002 with the attached annotation 'Previously Approved – Compliance with Conditions Reg. Ref. 2431/19' submitted on 30/10/2020 with the subject application.*

**Reason:** *In the interests of the visual amenity of the area.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planner's report can be summarised as follows:

- The proposal changes the previously permitted asymmetrical roof pitch to a more box like appearance.
- The eastern side elevation indicates that the proposed roof profile will rise above the existing south pitch line by 0.9m to 1.2m.
- There are concerns that the proposal will result in a more obtrusive appearance on the streetscape, particularly when viewed from the east on Churchgate Avenue.
- The submitted drawings and images indicate that the proposal will have a greater presence onto St. Joseph's Square to the north.
- There are concerns that the proposal would set an undesirable precedent for neighbouring dwellings to incorporate obtrusive and incongruent elements.
- It is recommended to grant permission subject to conditions, including the amendments as outlined in condition no. 2. The planner's recommendation forms the basis of the DCC decision.

#### **3.2.2. Other Technical Reports**

- Drainage Division: No objections subject to conditions.

### **3.3. Prescribed Bodies**

None.

### 3.4. Third Party Observations

None.

### 4.0 Planning History

**P.A. Ref. 2431/19:** Permission granted by DCC (11<sup>th</sup> June 2019) for a development involving the construction of an extension of 26.5 sq.m at first floor level at rear of existing single storey dwelling of 71.6 sq.m and all associated site works including roof lights. Condition no.2 of the permission requires the following amendments:

*Prior to commencement of any development on site, the applicant shall submit details of the following amendments for the written agreement of the planning authority:*

- a) The proposed 1st floor extension shall be lowered as much as possible*
- b) The roof pitch of the proposed extension's front roof slope shall be revised to be as close as possible to the roof pitch of the retained front roof.*
- c) The extension's front roof slope shall be finished in matching non profiled slates or tiles.*
- d) The vertical elevations of the rear extension shall be finished in a dark colour so as to blend with the existing roof finish.*
- e) The rear 1st floor windows shall be reduced in size and shall have a more vertical emphasis.*
- f) The proposed rear 1st floor bedroom window shall be permanently fitted with opaque glazing to at least 1.8m above finished floor level.*
- g) The subject site's rear/northern boundary wall shall be lowered in height to match the existing common boundary treatment onto St Joseph's Square.*

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

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The operative Development Plan for the area is the Dublin City Development Plan 2016-2022. The site is zoned as 'Z1', the objective for which is '*To protect, provide and improve residential amenities*'. St. John The Baptist Church, to the west of the site, is included as a Protected Structure. The southern portion of the site is located within a Zone of Archaeological Interest (019-034).

5.1.2 Section 16.2.2.3 of the Plan is part of the general design standards and principles. It deals with 'Alterations and Extensions', which should be designed to respect the existing building, its context and the amenity of adjoining occupiers. Of relevance to the current application, it is stated that development should:

- Respect street uniformity, patterns and rhythms
- Retain a significant portion of garden / yard / enclosure
- Not detract from the architectural quality of the existing building
- Be confined to the rear in most cases
- Be clearly subordinate to the existing building in scale and design

5.1.3 Section 16.10.12 deals more specifically with 'Alterations and Extensions to Dwellings'. In summary, it is recommended that proposals should respect the visual amenity / character of the area and should protect the residential amenity of adjoining properties. Appendix 17 'Guidelines for Residential Extensions' sets out more detailed advice and principles in this regard.

### 5.2. Natural Heritage Designations

The nearest Natura 2000 site is the South Dublin Bay and River Tolka SPA, which is approximately 130 metres south of the site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. This case presents an unusual situation whereby the First Party has appealed the decision of DCC to grant permission. While condition no. 2 of the decision clearly forms the rationale for the appeal, the applicants have not specifically appealed this condition alone. They consider the decision to be, in effect, a refusal.

6.1.2. The grounds of appeal can be summarised as follows:

- The scale and design of the proposal is very similar to that previously permitted. Greater height is needed in the 'valley' section in order to comply with Building Regulations.
- With regard to concerns that the development would be more obtrusive when viewed from the east and the precedent for further such development, the appellant contends that any such similar development on properties to the east would effectively screen the proposed development.
- The current proposal significantly improves the internal layout and should not be refused unless there are clear and obvious adverse impacts on the visual and residential amenities of the area, which there are not.
- The proposal complies with Development Plan policy aimed at improving residential standards and facilitating studio spaces and live/work units.
- The proposal has been designed to avoid overlooking or overshadowing of adjoining properties and will provide passive surveillance to the north.
- The degree of visibility from the street is minimal and the scale and design should be considered acceptable in the context of that previously permitted.
- The existing private open space area will be maintained.
- There will be no additional traffic to warrant additional car parking provision.
- The proposal can be screened out for Appropriate Assessment.

## **6.2. Planning Authority Response**

None.

## **6.3. Observations**

None.

## **7.0 Assessment**

### **7.1. Nature of the appeal**

7.1.1 While condition no. 2 of the decision clearly forms the rationale for the appeal, I note that the applicants have not specifically sought to appeal this condition alone. In what is an unusual situation, the applicants have treated the decision as an effective refusal of permission and 'call upon An Bord Pleanála to grant permission'.

7.1.2 I would concur with the appellant's contentions that the decision of the planning authority would effectively amount to a refusal of the proposed development in entirety by requiring the applicant to revert to the terms of the parent permission.

7.1.3 Having regard to the content of the appeal and the overriding effects of condition no.2 on the terms of the permission, and notwithstanding the discretions available to the Board under section 139 of the Planning and Development Act 2000 (as amended), I consider that the determination of the application as if it had been made to the Board in the first instance is warranted in this case.

7.1.4 On that basis, I consider that the main issues for assessment in this case relate to visual amenity and residential amenity

### **7.2 Visual amenity**

7.2.1 When compared to the parent permission, I note that the northern elevation remains unchanged and that the western elevation will still be largely screened by the existing 2-storey school hall building adjoining the western site boundary. Visual impacts are therefore mainly confined to the southern and eastern views of the site.

7.2.2 When viewed from Churchgate Avenue to the south, I note that the proposed roof profile of the extension remains below the achievable line of sight above the roof

ridge line of the original cottage. Otherwise, views would not be particularly apparent from the public realm to the south.

7.2.3 I note that the planning authority has raised concerns about the impact when viewed from the eastern approach along both Churchgate Avenue and the St. Joseph's Square road. From these viewpoints I would acknowledge that the raised roof profile would be more visible than that previously permitted. However, I consider that the visual impact would be relatively limited and would not detract from the character of the existing dwelling or adjoining properties.

7.2.4 I note the planning authority's concerns about the potential precedent for the adjoining properties to the east. However, I consider that any future proposals for these properties can be appropriately addressed through the application process and that there would not be a significant cumulative impact as a result of any perceived precedent. Proposals for the further improvement of such properties should be facilitated, where possible, at a location such as this in close proximity to local facilities and services.

7.2.5 Having regard to the above, I consider that the visual impact of the proposed development, as viewed from the public domain, would be relatively insignificant and would not seriously detract from the visual amenity or character of the area.

### **7.3 Residential Amenity**

7.3.1 When compared to the parent permission, the proposed development does not introduce any new windows or spaces that could result in overlooking of surrounding properties.

7.3.2 With regard to sunlight and daylight impacts, I note that the proposed extension is surrounded by the original cottage to the south, a large blank gable wall to the west, and a public road to the north, none of which I consider to be sensitive receptors. The rear of the adjoining property to the east is largely covered by a single storey extension, which includes some rooflights. However, I consider that any additional sunlight impacts to the east would be extremely limited given the larger height and scale of the existing school building to the west, which would continue to be the main source of any overshadowing to the east. I also consider that any impacts on



daylight availability would be minimal given the limited increase in roof height proposed.

- 7.3.3 Having regard to the above, I consider that the proposed development would not adversely impact on the residential amenity of surrounding properties.

#### **7.4 Other issues**

- 7.4.1 When compared to the parent permission, the proposed development does not involve the creation of any additional bedrooms and, accordingly, I do not consider that there is potential for intensification of use and associated traffic volumes. Therefore, I do not consider that parking provision warrants further consideration in this case.

- 7.4.2 I note that it is proposed to connect to the existing public water services and that the Drainage Division of DCC has no objection in this regard, subject to standard conditions. With regard to surface water, it is noted that the entire site is already hard surfaced and there will be no appreciable increase in run-off from the site.

- 7.4.3 As per the DCC Development Contribution Scheme 2020-2023, a contribution shall only be payable for residential extensions in excess of 40 sq.m. Given that the proposed extension is 31.6m<sup>2</sup>, no contribution shall apply in this case.

#### **7.5 Conclusion**

Having regard to the above, I consider that the proposed amendments to the parent permission would not seriously detract from the visual or residential amenity of the area and would be in accordance with the proper planning and sustainable development of the area. While I have advised that a *de novo* consideration of the case is warranted, as has effectively been requested by the applicants, I would also consider that discretion is available to the Board to consider the appeal under the provisions of section 139 of the Planning and Development Act 2000 (as amended). In that event I would simply recommend that condition no. 2 should be removed.

## 8.0 Appropriate Assessment

Having regard to the minor nature of the proposed development, and to the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 Recommendation

I recommend that the consideration of the application as if it has been made to the Board in the first instance is warranted, and that permission should be **granted**, subject to conditions, for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

Having regard to the pattern and character of development in the area, the design and scale of the proposed development, and the provisions of the Dublin City Council Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenity of surrounding properties, and would not endanger public safety by reason of a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 30<sup>th</sup> day of October 2020 and, more particularly, the drawing sheet entitled 'Drawing No. 002' and 'Job No. 677.1', 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on the 11<sup>th</sup> day of June 2019 under planning register reference number 2431/19, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the development is carried out in accordance with the previous permission.

3. Water supply and drainage requirements, including surface water collection and disposal, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

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 or public holidays. Deviation from these times shall 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 construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of

development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

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Stephen Ward  
Senior Planning Inspector

6<sup>th</sup> April 2021