



An
Bord
Pleanála

Inspector's Report ABP 309537-21.

Development

Demolition of existing extensions and converted garage and construction of two storey extension to side with projecting half bay window to front, single storey flat roof extension to rear, attic conversion, zinc clad dormer internal alterations and associated site works.

Location

No 21 Ballymace Green, Templeogue
Dublin 14.

Planning Authority

South Dublin County Council

P. A. Reg. Ref.

SD20B/0141

Applicant

Eugene and Catherine Connolly

Type of Application

Permission

Decision

Grant Permission

Type of Appeal

Third Party

Appellant

Janette and Joe Gilligan.

Date of Site Inspection

28th May, 2021.

Inspector

Jane Dennehy

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 406 square metres and is that of semi-detached house with a converted garage and extension, front curtilage parking and a large rear garden within a cul de sac in a residential estate off Ann Devlin Road and south of Butterfield Avenue in Rathfarnham. The total stated floor area of the existing buildings is 150 square metres.
- 1.2. A 225 mm diam. public surface water sewer from the cul de sac traverses the site adjacent to the west boundary and below part of the converted garage at the site towards Butterfield Avenue to the north from which there is an outfall to the river Dodder. The development is served by separate foul and surface water drainage systems.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for demolition of existing extensions and converted garage and construction of two storey hipped roof extension to the side with projecting half bay window to front, single storey flat roof extension to rear, attic conversion with roof lights to the front and a zinc clad dormer, internal alterations and associated site works. The total stated floor area proposed for demolition is 44.50 square metres and that of the proposed new build is 42 square metres.
- 2.2. **Technical Reports.**
 - 2.2.1. The original report of the Environmental Services Department indicated that a clearance of three metres from the 225 mm diam. public surface water sewer traversing the western side of the site is required, (to facilitate access for maintenance works) and that refusal of permission is generally recommended in that development within the three metres is discouraged. However, in a request for additional information the applicant is advised to consult with and agree protective measures and/or a revised proposal to address this matter on the recommendation of the Environmental Services Department.
 - 2.2.2. The additional information request was issued by the planning authority on 16th July, 2021 and a response was submitted on 11th September, 2020 following

consultations between the applicant's agent and the Area Engineer on behalf of the Environmental Services Department. It is stated that the preferred option, (provision for a three metres' clearance from the sewer line) of the planning authority would have resulted in development of the extension to the side not being feasible. An alternative option proposed is for construction of a new two storey side extension incorporating protective measures, hand digging down to the sewer to determine exact alignment, engagement of a specialist contractor (Hamilton Bogie Mini Piling Company Ltd. O.S.A) installation of reinforced concrete ground beams pile foundations in 150 mm diam. steel casings to suitable depth, encasement to the 225 mm diam. sewer where it remains beneath the proposed extension and ground means along the side and front of the extension. CCTV surveys are to be undertaken before and after development to confirm the condition of the sewer. There are also proposals to include SUDS measures, a soak pit being in accordance with BRE 365 standards being included in the proposals and located in the rear garden.

- 2.2.3. The second report of the Environmental Services Division dated 18th September, 2020 indicated recommendations for request for clarification of additional information to be issued. This submission is to include a cross section view of the proposed detail over the surface water sewer, soil percolation tests and design calculations for the proposed soakaway and cross-sectional views, dimensions and the location for the proposed soakaway.
- 2.2.4. In the response to the clarification of information request issued on 6th October, 2020 the applicant submitted, on 4th January 2021 details of the position of the 225 mm diam. sewer where it meets the front wall of the extension and of the revised foundation plan and drainage protection measures including a section cutting through the front corner of the proposed extension.
- 2.3. It is confirmed in the Environmental Services Division dated 21st January, 2021 that the proposed arrangements are acceptable subject to conditions as to CCTV surveys, an overflow connection to the soakaway to the surface water network and consultation with the Water Services Division's Engineer, on site in relation to the works being carried out.

3.0 The planning officer reports had indicated that the planning officer is satisfied with the proposed development with the exception of the issues relating to the presence of the 225 mm diam. surface water sewer across the site as discussed in the reports of the Environmental Services Department. In the final report of 1st February, 2021, it is recommended that permission be granted subject to conditions to include the requirements of the Environmental Services Department and standard conditions.

3.1. **Decision**

By order dated, 3rd February, 2021, the planning authority decided to grant permission subject to conditions containing standard requirements and, under Condition No 2, the requirements of the Environmental Services Division as recommended in its report of 21st January, 2021.

3.2. **Third Party Observations**

An observation was lodged by the Appellant party who of the adjoining property at No 20 Ballymace Green, in which concerns are raised as to additional pressure on the existing drainage system in the area, obstruction of light and overlooking.

4.0 **Planning History**

P. A. Reg. Ref. SD07B/353: Permission was granted for demolition of the garage and construction of a single storey extension to the front, side and rear, two rooflights to the side of the extension, two rooflights to the existing rear roof and two rooflights to the front roof a new dormer to the side, conversion of the attic, an extended front vehicular access and associated site works. This grant of permission has been implemented.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the South Dublin County Council Development Plan, 2016 – 2022 according to which the site is within an area subject to the zoning objective: *RES – To protect and improve residential amenities.*
- 5.1.2. According to Policy H18-Objective 2 it is the policy of the planning authority to favourable consider extensions subject to the protection of residential and visual amenities and compliance with the standards for residential extensions are provide for in Chapter 11 and guidance within the Council's Document: *House Extension Design Guide 2010.*

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Janette and Joe Gilligan of No 20 Ballymace Green, the adjoining property on their own behalf on 25th February, 2021. According to the appeal:
- It has been necessary to open the manholes to resolve several sewer pipe blockages over recent years at Nos 19, 20 and 21 Ballymace Green.
 - The pipe, (the 225 mm diam. public surface water sewer) is located closer to their property than shown in the application submissions and the direction of flow is incorrect. The proposed soakaway will not address these problems. The submission includes plans showing the routing of the pipe and a second plan showing the direction of flow observed by the appellant following inspection via a manhole.
 - The appellant would like to see the full reports of Irish Water which resulted in the decision to grant permission in spite of recommendations for refusal of permission.
 - Construction of a two-storey extension over the mains water supply to the neighbourhood gives rise to serious concern particularly given the Council's

policy not to permit construction within three metres of a pipe of the County Council. The outcome could be catastrophic and the proposed development is not justified.

- It requested that permission be refused; at least, pending a thorough inspection by an independent engineer to show the correct route of this foul water pipe and how it will be safely managed and how the extension can be built safely over the mains water supply despite regulations forbidding it.

6.2. Applicant Response

6.2.1. A submission was received from the applicant's agent on 23rd March, 2021 according to which there is precedent for relaxation of the wayleave in a prior grant of permission for development at No 23 Ballymace Green which was implemented in 2007. It is claimed that all drainage issues, taking into consideration the objections in the appeal, were resolved during the application process and it is requested that the decision to grant permission be upheld.

6.2.2. According to the submission:

- An original plan for the entrance to Ballymace Green to be located between Nos 21, 22 and 23 but this changed to the current entrance location off Ann Devlin Road. The foul and surface water sewer lines were not changed when the entrance was changed. The foul sewer is now a private drain and a wayleave would be impracticable.
- The applicant's agent was responsible for development of a similar extension at No 23 Ballymace Green at which the sewer serving the cul de sac ran under the house through the rear gardens to Butterfield Avenue where it ran under another house. The conditions for the grant of permission for this development at No 23 Ballymace Green included requirements providing for full protection of the sewer. A similar approach has been taken to the current proposal at No 21 Ballymace Green.
- During the site survey it was discovered that the 225 mm diam. sewer was located at the side of the house and towards the appellant party's property, as opposed to under the house as incorrectly shown on the local authority

drawings. It is confirmed, further to surveys and inspections of manholes in the appellant party's property that the surface water sewer runs under the corner of the applicant's house to the neighbouring site. Extensive negotiations with the Drainage Department and an on-site inspection by the Area Engineer took place to confirm the routing of the sewer. The subsequent proposals for mini piling and ground beam foundations design along the boundary and over the top of the sewer ensures removal of existing loadings over the sewer with the new construction will be an improvement.

- The direction of flow was confirmed in the survey of the drainage system. Foul drainage runs away from the rear of the appellant property in a northerly direction across the rear gardens as show in submitted block plan and drainage layout drawings. A 100 mm diam. branch pipe comes out of the manhole in the adjoining property is not an outflow pipe.
- There is no water supply pipe as contended in the appeal below the footprint of the proposed extension. The only pipe is the 225 m diam. surface water sewer.

6.3. Planning Authority Response

In a letter from the planning authority, it is stated that the planning authority reaffirms its decision to grant permission and has no additional comments.

7.0 Assessment

- 7.1. The issues central to the appeal relates to foul and surface water drainage and water supply infrastructure in the area. No issues have been raised with regard to the proposed demolition and construction of extensions and alterations.
- 7.2. Firstly, further to *de-novo* consideration of the proposed demolition and new construction particularly given the considerable capacity of the site to accept development it is has been concluded that the proposed development is acceptable. The decision of the planning authority to grant permission in this regard can be supported in that no undue adverse impact on residential and visual amenities or property value would arise.

- 7.3. These issues raised in the appeal in relation to drainage and water supply infrastructure are addressed below.
- 7.4. It can be confirmed that no mains water supply pipe or foul sewer, (there being separation of foul and surface water sewers in the area) beneath the application site within the footprint of the dwelling including the converted garage to the side.
- 7.5. On review of the existing plans and drawings and the submissions of the applicant's agent, the 225 mm diam. public water surface water sewer extends across the south-west corner of the existing converted garage, across the boundary with the adjoining property and back across the boundary to the application site at the northern end. Its route continues into the network in Butterfield Avenue and outflows to the River Dodder the direction of flow being shown in a northerly direction. An existing 100 mm diam. foul sewer crosses the rear gardens of the site in an east west direction.
- 7.6. With regard to the contention that the routing of the surface water sewer is closer to the appellant's property, it is noted that it has been submitted that a thorough survey was undertaken to confirm the routing of the 225 mm diam. sewer in the course of the application process. It was to the satisfaction of the Environmental Services Department and that there is no substantive evidence that there is material difference from that shown in the applicant's submissions.
- 7.7. As such, it appears that appointment of an independent engineer, as sought in the appeal, to determine the routing of the sewer is unwarranted. Furthermore, it is not apparent in the appeal as to what party would be responsible for the appointment an independent engineer to provide this service.
- 7.8. Furthermore, on commencement of the works, there is a further opportunity for clarification and confirmation of the routing which will facilitate the protective measures to be implemented in conjunction with the laying of foundations to support the (new build), two storey side extension overhead.
- 7.9. While construction over or, within three metres of the route of public sewers is not encouraged and is generally not permitted by the planning authority, it is considered reasonable that feasibility of alternative options was considered with a view to a satisfactory and acceptable solution being established to facilitate favourable consideration of the proposed extension to the side. In this regard, it should be borne

in mind that with regard to the location of the sewer within the application site, an original plan to locate the access to the cul de sac through the plots at the northern end which include the application site was changed to the location of Ann Devlin Road. However, the routing of the sewerage infrastructure remained unchanged from the original routing and as a result there is routing through private properties. This would explain the statement that this scenario resulted in impracticalities with Wayleaves for the purposes of access in private property for maintenance purposes.

- 7.10. As a result, baseline scenario in the case of the current proposal for the application site is the location of the 225 diam. public surface water sewer under the footprint of the original garage structure, which has been converted to a habitable room. It would come under the footprint of the proposed two storey side extension the footprint of which is to extend to the party boundary. As such there are current constraints with regard to access for maintenance purposes and to Wayleaves but there is scope for inspection and works to the sewer as well as CCTV surveys, within public space, from the public road and open space at the end of the cul de sac.
- 7.11. With regard to the arrangements for disposal of surface water from the application site, there is no expectation that predevelopment rates and quantum of stormwater would be significantly altered having regard to the proposed arrangements for collection and disposal within the site, using soakaways designed in accordance with BRE 265 standards. The Environmental Services section has confirmed that it considers that satisfactory arrangements can be provided with some outstanding details being addressed through compliance with conditions. The concerns described in the appeal as to necessity to open manholes to resolve blockages are not a direct consideration having regard to the proposed development in that stormwater quantum and flows through the sewer routed beneath the proposed extension would be unchanged.
- 7.12. It is concluded that there is no substantive basis on which the decision of the planning authority should be overturned and the proposal rejected. Furthermore, the comment in the response to the appeal as to the post development scenario being an improvement with regard to the underlying sewer is accepted and is reasonable.

7.13. The request in the appeal to view full reports of the Environmental Services Department which led to the decision to grant permission, would be a matter to be raised by the appellant directly with the planning authority.

7.14. Environmental Impact Assessment – Screening.

7.14.1. Having regard to the minor nature of the proposed development and its location in a serviced inner suburban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.15. Appropriate Assessment.

7.15.1. Having regard to the scale and nature of the proposed development and to the serviced inner suburban location, no Appropriate Assessment issues arise. 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

9.0 Reasons and Considerations

Having regard to the South Dublin County Council Development Plan, 2016-2022 according to which the site is located within an area subject to the zoning objective, RES: *‘to protect and or improve the residential amenity’* it is considered that subject to compliance with the conditions set out below, the proposed development would not would be prejudicial to public health, would not seriously injure the residential amenities of adjoining properties or the visual amenities of the area, and would 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, as amended by the further plans and particulars lodged on 11th September, 2020 and on 4th January, 2021 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.

1. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services. In this regard, the applicant shall provide for and adhere to the following requirements to the satisfaction of the planning authority which shall include the following, full details of which shall be submitted and agreed with the planning authority in writing:

- Arrangements for inspection and review on site by a representative of the Environmental Services Department (Water Services Section) for review of the protective works for the existing 225 mm diam. sewer traversing the site.
- Arrangements for the CCTV survey of the 225 mm diam. sewer in order to provide confirmation that it has not been damaged during construction and that it is in good condition and operational at completion of development.
- Full details of an overflow connection, to the public surface water sewer – for the proposed soakaway in the rear garden.

Reason: In the interest of public health, public safety and clarity.

2. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

3. The house and the extension shall be occupied as a single dwelling unit and shall not be subdivided or used for commercial purposes the extension shall not be should be let, leased or otherwise transferred save as part of the single dwelling unit.

Reason: In the interest of residential amenities

4. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

5. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

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.

Jane Dennehy
Senior Planning Inspector
29th May, 2021.