



An
Bord
Pleanála

Inspector's Report ABP309634-21

Development	Permission to incorporate alterations and incorporate a first floor extension to the side of a house.
Location	45 St. Assam's Avenue, Dublin 5, D05V091.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3893/20.
Applicants	Maurice and Geraldine Troy.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	First Party -v- Conditions.
Appellants	Maurice and Geraldine Troy.
Observers	None.
Date of Site Inspection	3 rd June 2021
Inspector	Paul Caprani.

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1.0 Introduction

ABP309634-21 relates to a first party appeal against a specific condition attached by Dublin City Council in its notification to grant planning permission to widen an existing vehicular gate, to provide bin and bike stores in garden and the construction of a single storey extension to the front of the dwelling as well as an attic conversion incorporating a dormer window. The grounds of appeal specifically relate to Condition No. 11 attached to the grant of planning permission. The subject site is located at No. 45 St. Assam's Avenue in Raheny.

2.0 Site Location and Description

- 2.1. St. Assam's Avenue is an exclusively suburban residential neighbourhood in Raheny approximately 7 kilometres north-east of Dublin City Centre. The houses along St. Assam's Avenue comprise of two-storey terraced dwellings. Most of the dwellings incorporate single storey garages to the side of the main dwellinghouse. Many of the dwellings along the street have, over the years constructed an additional room above the garage creating a terrace of two-storey buildings. Some of the first-floor extensions incorporate slight set back from the building line, while others do not.
- 2.2. No. 45 St. Assam's Avenue is located on the southern side of the road, almost opposite its junction with St. Assam's Drive which runs northwards from the Avenue.
- 2.3. No. 45 St. Assam's Avenue comprises of a two-storey dwellinghouse with a hipped gable end roof. The original garage at ground floor level has been converted into a room for habitable accommodation. There is no development above this room at first floor level. The adjoining dwelling to the east (No. 47) has incorporated an extension at first floor level, a gable type wall which runs along the western boundary of No. 47 at first floor level (see photographs attached).
- 2.4. No. 45 accommodates a sitting room and a study area to the front of the house at ground floor level and an open plan kitchen/dining area to the rear which appears to have been extended beyond the original rear building line. Three bedrooms and a bathroom are located at first floor level.

3.0 Proposed Development

3.1. The proposal consists of the following:

- Widen the existing vehicular entrance serving the dwelling from 3 metres to 3.6 metres.
- The provision of a new 1.2 metre high bin and bike store in the north-western corner of the front garden.
- A single storey extension to the front of the dwelling at ground floor level extending the building line to the front by 1 metre.
- A first floor extension on the eastern side of the building over the existing study to extend the full depth of the building to accommodate two new bedrooms.
- A small single storey extension to the rear of the dwelling along the eastern boundary with No. 47.
- The creation of a new attic area (c.12 square metres in size) to be served by a large dormer window on the rear roofpitch.
- The removal of the existing side chimney and associated works.

4.0 Planning Authority's Decision

Dublin City Council issued notification to grant planning permission subject to 11 conditions.

Condition No. 7 (a) requires that the existing vehicular entrance width shall be retained.

Condition No. 11 required the following amendments:

- (a) The front and side elevations to the front extension shall be clad in brick to match the existing ground floor elevation. The plaster capping detail may be provided for replaced with brick if so desired.
- (b) The first-floor side extension shall have its front elevation setback 600 millimetres behind the main front elevation and the roof over the new side

extension shall have its ridge set down 300 millimetres below the main roof ridge. The applicant is directed to the example of No. 47 adjacent (3403/14).

- (c) The rear dormer window shall be reduced in width to a maximum external width of 3 metres. This reduced dormer size shall not exceed the height of the ridge to the side extension set out in (b) above. The glazing of the dormer shall match the dimensions of the first-floor bedroom windows below.

Reason: In the interest of visual amenity and to comply with the requirements of the current City Development Plan and in particular Section 16.10.12 and Appendix 17.

4.1. Planning Authority Assessment

- 4.1.1. A report from the Engineering Department – Drainage Division states that there is no objection to the proposed development subject to standard conditions.
- 4.1.2. A report from the Environmental Health Officer requires a condition to be attached in relation to noise control and air quality control during both the demolition and construction phase and the operational phase.
- 4.1.3. A report from the Roads, Streets and Traffic Department recommends that the existing vehicular entrance width shall be retained.
- 4.1.4. The Planner's Report.
- With regard to the vehicular width reference is made to the recommendation contained in the Roads, Street and Traffic Department Road Planning Division which recommends that the width be restricted to 3 metres.
- 4.1.5. With regard to the extension of the front porch area, it is stated that the entire face of the new element shall be clad in brick with a plaster render cap (as opposed to a plaster render finish).
- 4.1.6. With regard to the first floor extension to the side it is noted that the first floor extension at No. 47 incorporates a setback of 600 millimetres behind the main frontage. A similar setback should be incorporated in the case of the current application in order to provide symmetry.
- 4.1.7. With regard to the dormer window, it is stated that, while the principle of the rear dormer is reasonable, the proposed structure is greatly excessive in width and would

visually dominate the rear roof plain. The dormer element should be reduced to have an external width of no greater than 3 metres and should not exceed the ridgeline of the lowered roof above the side extension.

4.1.8. The removal of the side chimney is also considered acceptable.

4.1.9. On the basis of the planner's assessment Condition No. 11 was incorporated into the grant of planning permission.

5.0 Planning History

5.1. There is no relevant planning history for the appeal site.

5.2. In terms of nearby sites of relevance reference is made to 2403/14 at 47 St. Assam's Avenue (dwelling to the immediate east). Planning permission was granted for the partial demolition of the existing dwelling and garage to the side and the construction of a new part two-storey and part single-storey extension to the side and rear with dormer window and rooflight. Planning permission was granted in May 2014.

5.3. The planners report makes reference to the above application and to two other applications in the vicinity 4253/18 at No.39 St Assam's Ave and No. 59 St. Assam's Ave where planning permission was granted for similar type extensions.

5.4. I would also refer the Board to a recent decision made by An Bord Pleanála under Reg. Ref. ABP309237-21. This application and appeal related to a first party appeal against a condition (Condition No. 3) which required the applicant to set back a first floor extension by 600 millimetres from the front building line at No. 36 St. Assam's Avenue to the immediate north-west of the site. The Board in its decision dated 29th April, 2021 decided to omit this condition on the basis that the incorporation of Condition No. 3 which required the setback was not warranted and its removal would not have a significant impact on the residential or visual amenities of the area.

6.0 Grounds of Appeal

6.1. The decision of Dublin City Council was the subject of a first party appeal specifically with regard to Condition's No's. 7 & 11. The appeal was submitted by AKM Design on behalf of the applicants.

- 6.2. In relation to the planning history, it is noted that the Planning Authority referred to three applications on sites in the vicinity. Some of the precedents referred to in the planner's report would support the applicant's contention that the setback in the first floor extension is not necessary.
- 6.3. The grounds of appeal go on to provide examples of other planning decisions where such a setback at first floor level was not necessary.
- 6.4. The grounds of appeal request that Condition No. 11(b) and 11(c) be removed. Reference is made to the zoning and the development plan policy, and it is argued that the proposal complies with both the zoning objective and the various policies contained in the development plan. It is argued that the development as originally proposed would not have an adverse impact on the scale and character of the dwelling or the amenities enjoyed by occupants of adjacent dwellings.
- 6.5. The proposal as originally submitted is appropriate. For this reason, the Board are requested to remove Condition No. 7 on the basis that the widening of the existing driveway will not impact on the availability of public street parking or result in a decrease in pedestrian safety. The applicants are proposing a new bike store and bin storage in the front garden and the extra width is needed for the safe parking of cars.
- 6.6. The applicant argues that the proposed extension will not have any adverse impacts on neighbouring residential amenity. The proposed design is visually sensitive and respectful of adjoining properties. It will result in no overshadowing or overlooking.
- 6.7. The first-floor extension is already setback 450 millimetres from the front building line. This, it is argued, is a sufficient setback.
- 6.8. While the adjoining house at No. 47 has incorporated a reduction in the ridge height. The adjoining property has a different internal layout and incorporates a smaller stairs at a different location. Furthermore, it does not incorporate a proposed attic. Condition No. 11(b) renders the attic floor to ceiling level incompatible with mandatory minimum building regulations with a floor to ceiling height of 2.4 metres. As a result the appellants cannot use the attic room as a habitable space.
- 6.9. With regard to the rear dormer there is no clear rationale for these amendments as the rear elevation is not visible from the public realm.

- 6.10. The condition requires that the glazing shall match the dimension of the first floor bedroom below. The appellants state they are amenable to putting two windows or reducing the window size in this regard. It is the appellants' contention that the dormer window as originally proposed is acceptable and is in keeping with the character of the area. It is considered that a significant portion of the roof slope will remain visible as required under the development plan policy. The structure is also setback from the eaves and the ridge.
- 6.11. It is argued that the development as originally proposed fully complies with development plan policy with regard to domestic extensions and the requirements for Appendix 17.

7.0 Appeal Responses

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

8.0 Observations

- 8.1. No observations have been submitted.

9.0 Policy Context

9.1. Development Plan

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

Applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:

- Not have an adverse impact on the scale and character of the dwelling.
- Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

Further details in relation to extensions and alterations to dwellings and roof profiles are contained in Appendix 17 of the development plan.

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

9.1.4. Dublin City Council also have specific policy guidelines in relation to parking cars in front gardens. It notes that poorly designed parking in front gardens can detract from the visual character of the street through the excessive removal of front boundary walls or railings and surfacing the entire front garden. In terms of vehicular openings, it is noted that the vehicular opening proposed shall be at least 2.5 metres or at most 3.6 metres in width and shall not have outward opening gates. Narrower widths are generally more desirable and maximum widths will generally only be acceptable where exceptional conditions exist.

9.1.5. In the case of low walls (such as the subject site) the guidelines note that there are usually two gate piers one of which can be moved back to provide for the extra entrance width with any hedge or shrub trimmed accordingly. In the case of brick or plaster concrete walls the existing gates piers should be duplicated and a replacement of plaster or brickwork should match existing.

9.2. Natural Heritage Designations

9.2.1. There are no natural heritage designations adjacent or contiguous to the subject site. The nearest Natura 2000 site is the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206) which are located at their closest point 0.8 kilometres from the subject site.

9.3. Environmental Impact Assessment – Preliminary Examination

9.3.1. A domestic extension is not a class of development for which EIAR applies.

10.0 Planning Assessment

10.1. I have read the entire contents of the file, visited the subject site and its surroundings and I note that the appeal relates to first party appeal against two conditions. Having regard to the acceptability of the proposed development in principle, being an extension to a domestic dwelling on residentially zoned land, and no third party observations were received by the planning authority, it is considered that a determination by the Board of the application as if it had been made to it in the first instance would not be warranted on this occasion. I therefore consider that the Board can restrict its deliberations to the issues raised in the grounds of appeal namely whether or not Conditions No. 7 and Condition No. 11(b) and 11(c) are appropriate in this instance.

10.2. Condition No. 7

10.2.1. The appellants' concern in relation to Condition No. 7 relates to 7(a) which requires that "*the existing vehicular entrance width shall be retained*". The grounds of appeal argue that the small increase in width will have no adverse impact on pedestrian safety and will allow for greater manoeuvrability of vehicles in and out of the site particularly as a new bin store and bike store are proposed in the front garden.

10.2.2. In relation to the bike store and bin store this aspect of the proposal is situated in the north-eastern corner of the front garden. It is less than 4.5 metres in length. It will not take up a significant amount of space. It would still be possible in my view to allow for the provision of two off-street car parking spaces to the front of the dwellinghouse. While the widening of the vehicular entrance may assist in vehicles manoeuvring in and out of the site, I would refer the Board to its decision in the case of R307646 at No. 83 St. Assam's Avenue c.250 metres to the east of the subject site. Planning permission was sought under this application for a widening of vehicular entrance. Dublin City Council refused planning permission for the widening of the entrance, and this was subject to a first party appeal. The Board in its decision decided to reject the appeal on the basis that it is considered that the entrance width of 3.45 metres is excessive and that the width of 3 metres is acceptable in terms of

pedestrian and traffic safety. On this basis I consider that there is a relevant planning precedent along the subject road which would support the Planning Authority's decision to retain the existing vehicular entrance width to 3 metres.

10.3. **Condition No. 11(b) and 11(c)**

10.3.1. It is clear from the grounds of appeal that the applicant is generally satisfied with the provisions of Condition 11(a). In relation to Condition No. 11(a) Section 2.3.2 of the grounds of appeal (page 11) notes that "the Planning Authority request that the front and side elevations of the front extension be clad in brick". The appellants have no issue with this element of the condition. The Board therefore in my opinion can retain Condition 11(a).

10.3.2. In relation to Condition 11(b), this requires that the first-floor extension shall have its front elevation set back by 600 millimetres behind the existing main front elevation and the roof over the new side extension shall have its ridge set down 300 millimetres below the main roof ridge.

10.3.3. There are two elements of this condition that needs to be examined.

10.3.4. In relation to the setback of the front elevation by 600 millimetres this requirement appears to be predicated on the basis that a similar setback was incorporated into the adjoining dwellinghouse at No. 47. The applicant has submitted a number of examples where a similar setback was not required for first floor extensions on dwellings on St. Assam's Avenue in the vicinity. Again, I would refer the Board to its precedent decision under ABP309237 where an appeal against a similar setback on a dwellinghouse on the opposite side of the road at No. 36 St. Assam's Avenue was upheld by the Board. It is my considered opinion that the setback is not necessary in visual amenity terms notwithstanding the fact that a similar setback was incorporated on the adjoining building. The Planning Authority in granting planning permission for the proposed development has permitted an extension to the front of the building at ground floor level and this together with a further setback from the established building line at first floor level would in my view result in a more confused and cluttered appearance with numerous setbacks at ground floor and first floor level on the front elevation of the building. Furthermore, the proposed setback would reduce the length of the bedroom from 4.175 metres to 3.575 metres which would impact on the quality of living space to be provided as part of the extension. On the basis of the

above and having particular regard to the precedent decision opposite the site at No. 36 St. Assam's Avenue, I would recommend that the Board consider omitting this aspect of the condition.

- 10.3.5. Likewise in relation to the reduction of the ridge height by 0.3 metres, again the Planning Authority's rationale for this condition appears to be predicated on the fact that a similar reduction in height was incorporated into the extension at No. 47. The applicant has included numerous examples in the grounds of appeal where such a reduction in ridge height has not been incorporated into first floor extensions to the side of dwellings on St. Assam's Avenue.
- 10.3.6. Furthermore, a reduction in the ridge height at this location would result in reducing the floor to ceiling height of the attic area from 2.45 metres to 2.15 metres. I note in paragraph 3.21 in the Design Standards for New Apartments (December 2020) that "the suggested minimum floor to ceiling height is generally 2.4 metres and that from a planning and amenity perspective, designers may consider the potential for increasing the minimum floor to ceiling height to 2.7 metres". The reduction in ridge height in this instance would result in a floor to ceiling height which would not meet the suggested minimum standards and would have implications for the attic accommodation in facilitating a habitable room. There should be reasonable expectation that houses can be adopted and altered in order to cater for the changing needs of families as they expand. Subject to complying with amenity requirements, there is no reason why the proposed attic accommodation should not be used as a habitable room. The incorporation of the above condition as stipulated by the planning authority however would militate against using the attic room for such purposes. On this basis I consider the Board should remove the requirement to reduce the ridge height of the proposed extension by 300 millimetres and therefore should remove Condition No. 11(b) in its entirety.

10.4. **Condition No. 11(c)**

- 10.4.1. With regard to 11(c) I would have some concerns with regard to the overall size and scale of the proposed dormer window in the rear roofpitch. The width of the dormer window is 4.2 metres. The existing windows serving the bedrooms at first floor level are a mere 1.7 metres in width. The Dublin City Development Plan policy in relation to dormer extensions states that this form of development should be subordinate to

the roof slope enabling a large proportion of the original roof to remain visible. I consider the size and scale of the dormer window is excessive and is very dominant. I do not consider that the dimensions of the dormer window as proposed would result in a construction that is subordinate and would not retain a large proportion of the original roof being visible. On this basis, I would recommend that the Board uphold the Planning Authority's condition requiring the rear dormer to be reduced in width to a maximum external width of 3 metres. I do not consider that any such reduction would have an adverse impact on amenity terms. The window in question is south facing and therefore the proposed attic space would experience adequate levels of daylight and sunlight penetration with the reduced width incorporated into the design.

10.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

11.0 Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination of the Board of the relevant application as if it had been made to it in the first instance would not be warranted and based on the reasons and considerations set out below directs the said Council under subsection (1) of Section 139 of the Planning and Development Act to attach Conditions 7, 11(a) and 11(c), the reasons therefore and remove Condition 11(b) and the reason therefore.

12.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development and the pattern of development in the area, it is considered that the removal of Condition 11(b) would not have a significant impact on the residential or visual amenities of the area, and would, therefore, in accordance with the proper planning and sustainable development of the area.

13.0 Matters Considered

13.1. In making its decision the Board had regard to those matters which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Paul Caprani,
Senior Planning Inspector.

16th June, 2021.