



An
Bord
Pleanála

Inspector's Report ABP-309674-21

Development

The development will consist of (i) building a two storey extension at the front of the house comprising of a new hallway and bicycle storage room at ground floor level and a new bedroom above, (ii) two roof windows to the front of the dwelling, (iii) a living room bay window with extended flat roof canopy at the front, (iv) incorporating the existing garage into the kitchen area with new mono-pitch roof with two rooflights at the side of the house and (v) widening the existing driveway entrance. The works also include all associated internal, site and drainage work.

Location

No. 38 Grace Park Heights, Dublin 9.

Planning Authority

Dublin City Council – North.

Planning Authority Reg. Ref.

3967/20

Applicant(s)

Audrey Clancy & Robert Purcell.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

First Party - V- Conditions

Appellant(s)

Audrey Clancy & Robert Purcell.

Observer(s)

None.

Date of Site Inspection

15th day of May, 2021.

Inspector

Patricia-Marie Young.

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1.0 Introduction

- 1.1.1. This appeal case relates to a First Party Appeal against Condition No. 3 subsections (a), (b) and (d); and Condition No. 4 of Dublin City Council's notification to grant permission for a development essentially consisting of alterations, additions, and the provision of wider vehicular entrance along the roadside boundary at No. 38 Grace Park Heights, Dublin 9, in north County Dublin. By way of this appeal the First Party seeks that these are omitted from the notification to grant permission.

2.0 Site Location and Description

- 2.1. No. 38 Grace Park Heights is a rectangular shaped urban plot with a given 248m² site area on the southern side of Grace Park Heights access road c32.5km to the west of T-junction; c168m to the east of Grace Park Heights junction with Grace Park Road and High Park and c258m as the bird would fly to the south east of the Collins Avenue junction with Beaumont Road and Grace Park Road in Dublin 9, north County Dublin. It contains a 2-storey end-of-terrace with a single storey attached garage structure on its eastern side. The area in between its principal elevation and its roadside boundary treatments consists of an off-street parking area served by a vehicle entrance accessed from Grace Park Height road. The eastern boundary of the site aligns with a pocket of communal open space that is predominantly in grass but near the eastern boundary of the site and where it meets Grace Park Heights it contains a several mature deciduous trees. The site forms part of a mature residential area also known as 'Grace Park'.

3.0 Proposed Development

- 3.1. Planning permission is sought for the following:
- Construction of a 2-storey extension at the front of the house comprising of a new hallway and bicycle storage room at ground floor level and a new bedroom above;
 - Installation of two roof windows to the front of the dwelling,
 - Construction of a living room bay window with extended flat roof canopy in the principal façade addressing Grace Park Height road,

- Works associated with incorporating the existing garage into the kitchen area together with the provision of a new mono-pitch roof with two rooflights at the side of the house;
- Works associated with the widening of an existing driveway entrance; &
- All associated site works and services.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. On the 19th day of February, 2021, the Planning Authority decided to **grant** planning permission for the development set out in Section 3.1 subject to 8 no. conditions. Of note to this appeal case are:

Condition No. 3: *“Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to and agreed in writing with the Planning Authority and such works shall be fully implemented. The proposed development shall be modified as follows:*

(a) The first floor front extension indicated as a bedroom shall be omitted.

(b) The proposed ground floor zinc clad front extension to the ‘home office’ and canopy shall be omitted”

“(d) The two velux roof lights in the front plane of the roof of the house shall be omitted”....

The stated reason reads: “in the interest of visual amenity and the proper planning and sustainable development of the area”.

Condition No. 4: *“The proposed development shall adhere to the following:*

(a) Driveway entrance shall be a maximum of 3metres in width and shall not have outward opening gates.

(b) Footpath and kerb to be dished and widened entrance provided to the requirements of the Area Engineer, Roads Maintenance Division.

(c) *All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.*

(d) *The developer shall be obliged to comply with the requirements set out in the Code of Practice*".

The stated reason reads: "*in the interest of public safety, visual amenity and the proper planning and sustainable development of the area*".

4.2. Planning Authority Reports

4.2.1. Planning Reports

The Planning Officer's report reflects the decision of the Planning Authority. That is to say that the principal of the development sought under this application is deemed to be acceptable subject to conditions recommended. In particular those set out under Condition No. 3 and 4 for reasons relating to safeguarding the visual amenity of Grace Park Heights as a highly coherent in design, appearance and layout residential scheme and ensuring that the width of the entrance does not exceed 3m for road safety as well as convenience.

4.2.2. Other Technical Reports

Transportation Planning Division: No objection, subject to safeguards.

Engineering Department – Drainage Division: No objection, subject to safeguards.

4.3. Prescribed Bodies

4.3.1. None.

4.4. Third Party Observations

4.4.1. None.

5.0 Planning History

5.1. Site and Setting

5.1.1. None relevant.

6.0 Policy & Context

6.1. Local Planning Provisions

- 6.1.1. This appeal site is governed by the policies and provisions contained in the Dublin City Development Plan, 2016 to 2022, under which it forms part of a larger parcel of urban land zoned 'Z1' (Sustainable Residential Neighbourhoods). Notwithstanding, the stated land use objective for this land is: "*to protect, provide and improve residential amenities*". The eastern boundary of the site adjoins a small communal green space which is zoned 'Z9' (Amenity/Open Space Lands/Green Networks). The stated zoning objective for this land is: "*to preserve, provide and improve recreational amenity and open space and green networks*".
- 6.1.2. 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. It also advises that extensions should be subordinate in terms scale to the main unit.
- 6.1.3. Appendix 17 of the Development Plan sets out further details in relation to extensions and alterations to dwellings.
- 6.1.4. Appendix 5: Reference to leaflet Parking Cars in Front Gardens.

6.2. Natural Heritage Designations

- 6.2.1. The appeal site does not form part of, it does not adjoin nor is it in the vicinity of any European Site.

6.3. EIA Screening

- 6.3.1. Having regard to the limited nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment and therefore the need for an environmental impact assessment can be excluded by way of preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The grounds of this 1st Party Appeal can be summarised as follows:

- The reasons for Condition No. 3 sub-conditions (a), (b) and (d) are contrary to other similar developments permitted by this Planning Authority in the area.
- The Planning Authority did not consider its previous decisions in relation to similar developments in this area.
- The subject property and area are given no specific protection.
- It is not accepted that the components of the development omitted under Condition No. 3 (a), (b) and (d) would establish any precedent with the design resolution chosen reflecting other residential developments within the Grace Park Heights and Grace Park estate in general. This contention is supported by a number of examples that have included similar developments to this with the earliest example given dating to 2005 and the latest dating to early 2021.
- There is precedent for 3.4m in width entrances on Grace Park Height including that permitted under P.A. Ref. No. 3383/15.
- There is also a precedent for zinc cladding to be used in the Grace Park area.

7.2. Planning Authority Response

7.2.1. None received.

8.0 Assessment

8.1. Overview

8.1.1. As the appeal relates to a First Party against a particular condition and having regard to the acceptability of the proposed development in principle, 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 consider the Board can restrict its deliberations to the issues raised in the grounds of appeal namely whether or not Condition No. 3 (a), (b) and (d) as well as Condition No. 4 is appropriate in this

instance. I therefore propose to deal with these conditions and in relation to Condition No. 3 its sub-conditions separately below.

8.1.2. The matter of 'Appropriate Assessment' also requires assessment.

8.2. Condition No. 3 (a), (b) and (d) of the P.A.s Notification to Grant Permission under P.A. Ref. No. 3967/20

8.2.1. In relation to Condition No. 3 of the Planning Authority's notification to grant permission, I note that it requires that prior to the commencement of any development on site revised plans, drawings and particulars showing the amendments sought in its sub-conditions shall be agreed 'in writing' and thereafter implemented in full. It sets out several modifications to the extensions sought for the subject dwelling under this application. With the first requiring the omission of the first-floor front extension (Note: Condition No. 3(a)). In addition to this under Condition No. 3(b) it seeks the omission of the use of zinc cladding as an external material, treatment, and finish to the front. This it notes is an exterior finish of the 'home office' and canopy' proposed. Moreover, under Condition No. 3(d) it seeks that the two velux roof lights in the front plane of the house be omitted. The general reason given for Condition No. 3 is in the interests of visual amenity as well as in the interests of the proper planning and development of the area.

8.2.2. Having regard to the Planning Officer's report on file it would appear that the failure to recess the first-floor level would result in the visual diminishment of the character of this dwelling by way of it breaking the single storey and two storey building volumes as well as eroding the first-floor levels recess/setback from the principal front building line.

8.2.3. It was also considered in so doing that it would diminish the visual coherence of the terrace group it forms part of and also its streetscape scene which consists of what originally were highly coherent in their overall appearance, design and building to space relationship dwellings and terraces.

8.2.4. Moreover, the use of zinc is considered to be a material not characteristic of the homogenous palette of materials, finishes and treatments present within this residential scheme. In particular those dwellings within the Grace Park Height residential scheme that form part of the visual setting of the subject dwelling.

- 8.2.5. In terms of the two velux windows proposed, these would only have a localised impact and they are modest in their overall dimensions. As such they would not give rise in themselves to any great deterioration of the principal roof slope over the subject dwelling or the terrace group, they form part of. They would also not give rise to any additional undue overlooking or other disamenity. They would however bring light and ventilation into the interior space.
- 8.2.6. While I consider that the existing dwelling forms part of a streetscape scene that in terms of its implemented design it has been subject to alterations and additions as appreciated from its public domain over the decades since it was completed and first occupied.
- 8.2.7. The subject dwelling itself is not afforded any specific protection nor has its streetscape scene being afforded any specific protection either.
- 8.2.8. I also consider that there is a unity in the coherent use of materials also within this streetscape scene that also adds to the overall character and uniformity of the streetscape scene forms part of.
- 8.2.9. Nonetheless, No. 38 occupies an end-of-terrace position that aligns with a green space and as such has arguably more flexibility for change. Within the Grace Park area there has been a number of residential scheme's that have sought to introduce materials into the overall palette of materials that reflect the more contemporary approach given to these new building layers. These have added interest and also tied these older residential schemes in with more recent residential schemes on Grace Park Road and in this general vicinity. Zinc cladding is one of the materials that has become a highly used material in this suburban area.
- 8.2.10. I also observed examples where later first floor extension has been constructed in recesses within the Grace Park Estate.
- 8.2.11. In this situation the omission of sub conditions (a), (b) and (d) of Condition No. 3 would not give rise to any serious diminishment of the visual of the subject property's streetscape scene. Moreover, the palette of materials chosen in this case whilst harmonising with those that characterise Grace Park Heights also allows the new building layers to be legible as new insertions of their time.

8.3. Condition No. 4 of the P.A.s Notification to Grant Permission under P.A. Ref. No. 3967/20

- 8.3.1. The requirements of Condition No. 4 reflect the recommendations of the Planning Authority's Transportation Planning Division in that it essentially requires that the proposed width of the entrance be reduced from 3.4m to no more than 3m. Alongside this it includes a number of standard safeguards for this type of work that also has potential result in obstruction of public domain like in this case the adjoining footpath, damage of the public domain through to the loss of on-street car parking. the appellants raise no particular issue in terms of compliance with these with the only apparent issue being that of the reduction of the width of the entrance from that proposed.
- 8.3.2. In addition, their report indicates that the Development Plan provides that vehicle entrances should be at least 2.5m or at most 3.6m in width. This is provided for under Appendix 5 of the Development Plan and that the preference is for narrower widths over maximum widths with this approach also reflected in the Planning Authority's document 'Parking Cars in Front Gardens'.
- 8.3.3. Their report also states that: *"the creation of excessively wide vehicular entrances results in the loss of on-street parking provision and impact on pedestrian safety, as well as impacting upon streetscape character. Excessive widening of a vehicular entrance can result in hazardous manoeuvres by a vehicle across the public footpath. Consequently, Proposals for off street parking and/or widening of vehicular entrances needs to be balanced against loss of on street car parking and pedestrian safety"*; that: *"the existing depth of the driveway is c7metres and it has been demonstrated on the site layout plan that 2 cars can currently be adequately accommodated within the site"*; and, that *"it is considered that exceptional site circumstances do not exist at this location to warrant the almost maximum width"*.
- 8.3.4. To this I note that the appeal site's roadside boundary is within 32m of a junction within the Grace Park Heights residential scheme. I observed a steady stream of vehicles using this junction and also pedestrians walking the pedestrian footpaths. I also observed two vehicles parked to the front of the dwelling and that vehicle entrances along this streetscape scene were characteristically narrow in their width. This is one of the design features of the original design scheme that helps to provide a sense of

visual unity as an overall formally design scheme that seeks to achieve a high level of homogeneity and coherence.

- 8.3.5. On the matter of precedent, I note the example given where a 3.4m widening was permitted. This I note was granted under the previous Development Plan and by the Planning Authority. The Board is not bound by the precedent of the Planning Authority as the higher authority. Moreover, the site constraints at this location are different, largely due to the close proximity to a junction alongside the use of the immediate stretch of public road for on-street car parking which further compounds and complicates the safe movement of vehicles from the subject entrance.
- 8.3.6. Having regard to local planning provisions on this matter together with the reasonable concerns raised by the Planning Authority's Transportation Planning Division which I concur with I consider that the requirements of Condition No. 4 are reasonable and appropriate in this case and I therefore do not recommend that this condition be omitted or amended.

9.0 **Appropriate Assessment**

- 9.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the c2.2km separation distance to the nearest European site, i.e., South Dublin & River Tolka Estuary SPA (Site Code: 004024) which lies to the south east, 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.

10.0 Recommendation

10.1. Having regard to the nature of the conditions subject of this First Party Appeal, the Board is satisfied that the determination by 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 2000 to remove Condition No. 3(a) (b) and (d); and to retain Condition No. 4 for the reasons and considerations set out below. The Planning Authority should be directed to make the amendments to their notification to grant permission under P.A. Ref. No. 367/20 accordingly.

11.0 Reasons and Considerations

In respect of Condition No. 3(a) (b) and (d):

Having regard to the nature and scale of the proposed development and the pattern of development in the area, including the terraced character of the streetscape scene No. 38 Grace Park Heights forms part of it is considered that the modifications to the proposed development, as required by the Planning Authority in its imposition of Condition No. 3 (a) (b) and (d) under the Planning Authority's notification to grant permission under P.A. Ref. No. 3967/20 are not warranted. The proposed development, with the omission of Condition No. 3 (a) (b) and (d) would not have a significant impact on the residential or visual amenities of the area, and would, therefore be in accordance with the proper planning and sustainable development of the area.

In respect of Condition No. 4:

Having regards to the nature of Condition No. 4, the location of the proposed entrance to a junction; the homogenous character and pattern of development; the provisions of the Dublin City Council Development Plan, 2016 to 2022, in particular the provisions set out in the DCC document 'Parking Cars in Front Gardens', which advocate the provision of narrower width entrances; the lack of demonstratable exceptional circumstance that would override the additional road safety hazards and potential for conflict with other road users to arise from entrance of a width that is close to the maximum width permitted for entrances facilitating parking in front garden areas off-street; through to the use of the public road that serves the subject entrance for

overspill parking; it is considered to amend Condition No. 4 in order to facilitate a wider than 3m maximum entrance would endanger public by reason of traffic hazard and would lead to a greater potential for conflict between road users, including vulnerable road users, to arise in close proximity to a junction and would therefore, be contrary to the proper planning and sustainable development of the area. For these reasons it is considered that any modification to the requirements of Condition No. 4 would not be justified or warranted in this instance.

Patricia-Marie Young
Planning Inspector

17th day of May, 2021.