



An  
Bord  
Pleanála

## Inspector's Report ABP-310174-21.

---

<b>Development</b>	Demolish rear ground floor WC and shower room and extend and reconfigure first floor bedroom to the rear.
<b>Location</b>	48, Harty Place, Dublin 8
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2235/21.
<b>Applicant</b>	Anecy Schölling.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Permission with conditions.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Anecy Schölling.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> June 2021.
<b>Inspector</b>	Philip Davis.

# Contents

1.0 Introduction .....	3
2.0 Site Location and Description .....	3
3.0 Proposed Development .....	3
4.0 Planning Authority Decision .....	4
4.1. Decision .....	4
4.2. Planning Authority Reports .....	4
4.3. Prescribed Bodies .....	5
4.4. Third Party Observations .....	5
5.0 Planning History.....	5
6.0 Policy Context.....	5
6.1. Development Plan.....	5
6.2. Natural Heritage Designations .....	5
7.0 The Appeal .....	6
7.1. Grounds of Appeal .....	6
7.2. Planning Authority Response .....	6
7.3. Observations .....	6
8.0 Assessment.....	7
9.0 Recommendation.....	9

## 1.0 Introduction

This appeal (under s.139 of the 2000 Act) is against a condition set by the planning authority to reduce the size the rear extension to a single storey cottage in Dublin 8. The applicant argues that the condition is inconsistent with other decisions in the area and the scale of development would have no have negative impacts on the neighbouring properties.

## 2.0 Site Location and Description

### 2.1. Harty Place/Daniel Street

Harty Place/Daniel Street is a late 19<sup>th</sup> Century looped cul-de-sac of single terraced artisan cottages just east of Clanbrassil Street in the south inner city of Dublin. Almost all the houses are similar, with a single front window and door, relatively narrow frontage with a deep plan and small rear yards/gardens.

### 2.2. Appeal site

48 Harty Place is an east facing terraced dwelling on Harty Place. Its location close to a corner gives it a more restrictive rear yard than most others on the street. Total site area is given as 42 m<sup>2</sup>, with the dwelling floorspace given as 47 m<sup>2</sup> (this includes a 12 m<sup>2</sup> attic first floor bedroom).

## 3.0 Proposed Development

The proposed development is described as:

- a) To demolish rear ground floor WC and shower room
- b) To extend and reconfigure first floor bedroom to the rear incorporating a new bathroom with flat roof over and,
- c) To increase the roof ridge height to the rear.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority decided to grant permission subject to 8 no. conditions.

Condition no. 2 states:

*The development shall be revised as follows:*

*The depth of the new first floor extension shall be reduced to 3.5m when measured from the dwellings new ridge line. Revised drawings shall be submitted to and approved in writing with the Planning Authority prior to commencement of development.*

**Reason:** *To protect the residential amenities of adjoining properties.*

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

- Notes a number of previous applications, including a retention for the dormer to the rear (**3625/16**) and permission to raise the roof and build up to the rear wall refused (**0113/97**) and a long and detailed planning history for other dwellings on Harty Place.
- Notes that dwellings here are very small and opportunities for extensions are limited. The principle of 2 storey extensions to the rear and raising the ridge heights is established by virtue of planning permissions.
- Notes that there is no objection to raising the ridge height but expresses concern about the depth of the new upper floor level, and that the neighbour has velux windows and a limited rear yard. It is therefore recommended that the extension be reduced to a depth of 3.5 metres.

#### 4.2.2. Other Technical Reports

**Drainage:** No objection subject to conditions.

#### 4.3. **Prescribed Bodies**

**Transport Infrastructure Ireland:** Notes the location within an area for the adopted Section 49 Supplementary Contribution Scheme – Luas Cross City.

#### 4.4. **Third Party Observations**

None.

### 5.0 **Planning History**

There are three previous applications relating to the site:

**3525/16:** Retention for dormer window to the rear.

**1555/96:** Refusal for internal and roof alterations.

**0113/97:** Refusal to raise existing roof and build up the rear wall.

The planning report on file outlines numerous previous permissions for Harty Place.

### 6.0 **Policy Context**

#### 6.1. **Development Plan**

The site is in an area zoned Z1 for the protection of residential amenities.

#### 6.2. **Natural Heritage Designations**

There are no EU designated habitats on or in the vicinity of the site. The closest such habitats are the various littoral and marine SAC's and SPA's of Dublin Bay to the east. I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004024 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The appellant has appealed condition no. 2 of the permission.

- With regard to the comments in the planning report, it is noted that the ground floor extension is not 'new' as stated in the Planners Report, but dates to the middle of the last century.
- It is argued that the rear yard in no.49 referred to in the planning report is overshadowed by the extension made to no.49 and not from no.48 or the proposed development.
- It is argued that the proposed extension is similar in size and scale to several other such extensions in Harty Place/Daniel Street, some larger than that applied for.
- A series of examples of the above are outlined, with additional photographs and drawings.
- It is argued that the restrictive nature of the site reduces the possibilities for a extension to the dwelling.

### 7.2. Planning Authority Response

The planning authority did not respond to the grounds of appeal.

### 7.3. Observations

None.

## 8.0 Assessment

- 8.1. This appeal is against a condition set by the planning authority, i.e., under S. 139 of the 2000 Act as amended as follows:

**139.—(1) Where—**

**(a) an appeal is brought against a decision of a planning authority to grant a permission,**

**(b) the appeal relates only to a condition or conditions that the decision provides that the permission shall be subject to, and**

**(c) the Board is satisfied, having regard to the nature of the condition or conditions, 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, then, subject to compliance by the Board with subsection (2), the Board may, in its absolute discretion, give to the relevant planning authority such directions as it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.**

**(2) In exercising the power conferred on it by subsection (1), apart from considering the condition or conditions to which the relevant appeal relates, the Board shall be restricted to considering—**

**(a) the matters set out in section 34(2)(a), and**

**(b) the terms of any previous permission considered by the Board to be relevant.**

- 8.2. I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted. I will therefore confine myself to the issues raised by the appellant with regard to condition 2 only.
- 8.3. The dwelling is a typical small artisan dwelling of the period (probably mid 19<sup>th</sup> Century), although its position near a corner ensures it is on a restrictive and non-standard shaped plot. As with almost all such dwellings of the period, it has had a number of alterations and improvements over the years to bring it up to modern

standards of amenity. The planning history of Harty Place, along with most similar streets, has been generally that the planning authority and the Board has sought to maintain the lines of the front elevations while accepting occasionally quite large and sometimes incongruous extensions to the rear in order to allow for the upgrading and modernisation of the homes. As there is rarely a coherent rear building line and the sites are often very different in size and orientation there has been no clearly identifiable pattern, except insofar as no rear extensions that are clearly visible from the public street and break the established roof/ridge lines have been granted permission or built. The result has been that Harty Place has an attractive streetscape and general ambience as viewed from public areas, while developments to the rears of the houses have been more haphazard, although this is generally only visible from private areas, not from the public street.

- 8.4. The appeal site is particularly difficult due to its size and orientation, and I recognise that the planning authority has sought to be pragmatic in allowing development to the rear while trying to minimise the impact on the amenities of the immediate neighbours. There is inevitably a very subjective element to judging how to balance these needs in the absence of any meaningful quantitative rules that could be applied in a situation such as this. The main consideration by the planning authority appears to have been the dwelling to the north of the appeal site and the assessment that the proposed extension would reduce daylight to the rear yard and velux of this dwelling to an unacceptable extent.
- 8.5. While recognising the need to protect the neighbour, I am satisfied that the extension as proposed would not significantly reduce direct daylight to the neighbour and would not be overbearing. I consider that the reduction as set out in the condition would reduce the potential applicant's amenity and use of the dwelling to a degree that would not be justified by the potential benefits to neighbours which are likely to be very marginal. I therefore recommend that the Board removes condition no.2 from the planning decision.



## 9.0 Recommendation

I recommend that the Board, under its powers under Section 139 of the 2000 Act, as amended, direct the planning to delete condition to remove condition 2 of decision order P3068.

---

Philip Davis  
Planning Inspector

21<sup>st</sup> June 2021