



An
Bord
Pleanála

Inspector's Report ABP-310217-21

Development	House Extension
Location	70 Saint Magdalen Terrace, Irishtown, Dublin 4, D04 TC56
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2251/21
Applicant(s)	Colum Lavery & Melanie Cunningham
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	First Party
Appellant(s)	Colum Lavery & Melanie Cunningham
Observer(s)	None
Date of Site Inspection	19/06/21
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The appeal site is c. 2.5km to the south east of Dublin City centre at No. 70 Saint Magdalen Terrace, Irishtown Dublin 4. The sites has a stated area of 99 sq.m.
- 1.2. Magdalena Terrace can be characterised a s single storey terraced street generally running from north to south. It is located perpendicular to Celestine Avenue and Oliver Plunkett Avenue. Celestine Avenue is characterised by single storey terraced houses and Oliver Plunkett Avenue is characterised by two storey terraced houses. Rosary Terrace and Veronica Terrace are single storey style streets that both run parallel to Magdalena Terrace to its east and west.
- 1.3. The site includes a narrow mid terrace single storey brick finish house with a central porch to public pathway. The front walls of the house are recessed c.1m from the path and a small area either side of the porch is bound by low railing to the path.
- 1.4. St Magdalen Terrace is a narrow road with two terraces either side of nine storey houses. Each house has a centrally located brick finish chimney. All houses bar one (No. 74) appear to have retained their original ridge height and chimney feature. No 74 is an end of terrace house and is adjoined to its southern boundary by a property with a two storey house, No. 139 Oliver Plunkett Avenue.

2.0 Proposed Development

- 2.1. The proposed development comprises-
 - replacement of the existing rear extension
 - construction of a two storey rear extension with amendments to increase apex height
 - existing house 63 sq.m, proposed extension 49 sq.m, total proposed floor area 112 sq.m
 - 2 rooflights to front roof pitch

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission on the 13/04/21, subject to ten conditions, generally of a standard nature and including-

- C5- The proposed development shall be modified as follows:
 - (a) The ridgeline of the existing roof shall not be altered.
 - (b) The flat roof over the proposed first floor bedroom to the front of the house shall be located below the ridge tile of the main roof.
 - (c) The rear extension at first floor level shall project a maximum of four metres beyond the original rear building line of the house.
 - (d) Two no. standard windows measuring a maximum of 1m in width and 1.5m in height shall be provided in the rear elevation at first floor level.
 - (e) The roof lights on the front slope shall be of a conservation type, of matching size and no greater than 0.6m in width and 1m in height.

Prior to the commencement of development the applicant shall submit, for the written agreement of the planning authority, revised drawings complying with the above requirements.

Reason: To protect the architectural character of the area and the residential amenity of adjoining properties.

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officer (06/01/21) reflects the decision of the Planning Authority. The following is noted from the report:

- There are several planning precedents in Stella Gardens for two-storey / dormer extensions to the rear of the cottages. The vast majority, however, retain the ridgeline of the main roof of the house in its original form

- The proposed development seeks to raise the ridgeline of the main roof in order to provide habitable accommodation to both the front and rear of the house.
- With the exception of No. 74, the uniform ridgeline of the cottages on St. Magdalene Terrace has been preserved along with other defining features such as chimney stacks and front porches.
- The proposed alteration to the ridgeline of the subject property would, in itself and by way of the precedent it would set, detract from the overall uniformity and architectural integrity of the terrace and, consequently, the streetscape.
- A reduction to 4m in length would bring the proposed extension more closely into line with the rear ground floor extensions of the adjoining cottages and address concerns regarding potential impacts on residential amenity.
- The first floor window of the proposed rear extension are considered excessive in size given its proximity to the private amenity spaces of adjoining properties.
- The principle of installing roof lights on the front roof slope of the cottages on St. Magdalene Terrace has been established under planning applications reg. ref. WEB1089/11 and WEB1020/12 in respect of works to No. 76 and No. 77, Conservation style roof lights can be conditioned.
- Whilst the proposed development is acceptable in principle, aspects of its design would detract from the streetscape and are likely to have an adverse impact on the residential amenity of adjoining properties.

4.2. Other Technical Reports

- Drainage Division- No objection subject to condition

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

- None

5.0 Planning History

This Site-

- 4147/04- single storey extension to the rear, **Grant** 03-Nov-2004

Adjoining Sites-

- WEB1342/15- the construction of a single storey flat-roofed extension to the rear, a flat-roofed box-dormer to the rear roof, the addition of a rooflight to the rear roof. **Grant** 16-Feb-2016

Relevant Nearby Sites on Magdalena Terrace-

- WEB1020/12- single storey and dormer extension to the rear and roof lights to the front of No. 77 St. Magdalen Terrace, **Grant** 29-Mar-2012
- WEB1089/11- single storey and dormer extension to the rear and roof lights to the front of No. 76 St. Magdalen Terrace, **Grant** 11-Jul-2011
- 1322/05- A second storey extension with flat roof to rear of No. 72, Magdalen Terrace, **Grant** 28-Apr-2005 (No change to ridge)
- 2484/00- Two storey extension by increasing existing pitched roof height by approx. 400mm to rear, No. 67 St. Magdalen Terrace **Refused** 21-Sep-2000. The two reasons can be summarised as-
 - the proposed development by reason of its design, size and scale would be visually obtrusive and out of character in the streetscape and would conflict with the conservation zoning objective for the area.
 - Having regard to its size, scale and design it is considered that the proposed extension at first floor level would seriously injure the amenities of properties in the vicinity by reason of overshadowing, overlooking and visual intrusion.

- 2387/97- Two storey extension to rear and to include a new ridge height of approx. 450mm above that of existing ridge to front elevation at No. 74 St. Magdalen Terrace, **Grant** 01-Dec-1997

6.0 Policy Context

6.1. Ministerial Guidelines

6.1.1. Development Management Guidelines for Planning Authorities June, 2007

- Section 7.7- Conditions directly departing from the application

A condition that radically alters the nature of the development to which the application relates will usually be unacceptable. For example, a condition should not require the omission of a use, which forms an essential part of a proposed development, or a complete re-design of a development. If there is a fundamental objection to a significant part of a development proposal, and this cannot fairly be dealt with in isolation from the rest of the proposal, the proper course is to refuse permission for the whole.

6.2. Dublin City Development Plan 2016-2022

- 6.2.1. The appeal site has a zoning objective 'Z2 - Residential Neighbourhoods (Conservation Areas)' within the Dublin City Development Plan 2016-2022, with a stated objective '*To protect and/or improve the amenities of residential conservation areas.*
- 6.2.2. Relevant planning policies and objectives for residential development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Appendix 17 of Volume 2 of the Development Plan provides guidance specifically relating to residential extensions.
- 6.2.3. The following sections are of particular relevance:

Section 11.1.5.4- Architectural Conservation Areas and Conservation Areas.

The policy mechanisms used to conserve and protect areas of special historic and architectural interest include:

- Land-use zonings: Residential Conservation Areas (land-use zoning Z2)....

The policy to ensure the conservation and protection of the areas of special historic and architectural interest is as follows-

It is the Policy of Dublin City Council:

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

It is the Policy of Dublin City Council:

Development will not:

- 1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area*
- 2. Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail*
- 3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors*
- 4. Harm the setting of a Conservation Area*
- 5. Constitute a visually obtrusive or dominant form.*

Section 16.2.2.3- Extensions and Alterations to Dwellings-

.... alterations and extensions should:

- *Respect any existing uniformity of the street, together with significant patterns, rhythms or groupings of buildings*
- *Retain a significant proportion of the garden space, yard or other enclosure*

- *Not result in the loss of, obscure, or otherwise detract from, architectural features which contribute to the quality of the existing building*
- *Retain characteristic townscape spaces or gaps between buildings*
- *Not involve the infilling, enclosure or harmful alteration of front lightwells.*

Furthermore, extensions should:

- *Be confined to the rear in most cases*
- *Be clearly subordinate to the existing building in scale and design*
- *Incorporate a high standard of thermal performance and appropriate sustainable design features.*

Section 16.10.12 Extensions and Alterations to Dwellings:

‘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.’*

Appendix 17 Guidance for Residential Extensions

- Section 17.3 Residential Amenity Issues
- Section 17.4 Privacy
- Section 17.5 Relationship Between Dwellings and Extensions
- Section 17.6 Daylight and Sunlight
- Section 17.7 Appearance
- Section 17.8 Subordinate Approach
- Section 17.11 Roof Extensions

6.3. Natural Heritage Designations

- None relevant

7.0 The Appeal

7.1. Grounds of Appeal

A first-party appeal has been lodged against condition no. 5 and in particular paragraphs (a) and (b), which was attached to the Planning Authority's notification of a decision to grant planning permission. The grounds of appeal can be summarised as follows-

- The condition makes the development unviable as it would be non-compliant with the building regulations.
- The appeal details the planning context including relevant policy from the Development Plan
- Development trends are examined in the area including a survey of the street and adjoining streets where it is noted that a large number of properties have visible extensions at first floor. Some have the benefit of planning approval. It is put forward that none of these in themselves or combined detract from the overall uniformity and architectural integrity of the terrace and the streetscape.
- The appeal discusses the rationale of the proposed development
- A drawing is submitted showing the amendments as per condition 5. This is not constructable in compliance with the building regulations. A reduction in height reduces the internal floor to ceiling height to circa 2.1m if parts a and b of the condition are followed.
- The imposition of the condition is effectively a refusal by way of granting it and contrary to section 7.7 of the Development Management Guidelines.
- It is evident from similar development on the street and adjoining streets that raising the ridge height has no visual impact on the enjoyment of the street and does not detract from the streetscape. The aesthetic of the street is

created by the uniformity, but also the character of the area is exemplified by the diversity of individual properties.

- The area does not have planning restrictions such as an ACA and the precedent for rooflights to the front elevation have been accepted.
- An amendment to the proposed development is put forward and the Board is requested to consider it 'de novo'. The proposal is in keeping with some of the other similar developments in the area, retains the ridge height and raise the extension behind the ridgeline. This reduces the impact on the streetscape and allows for a viable height in the bedroom to the rear. The constructed height of the flat roof will be higher than the ridgeline.
- The applicant has abided by the precedence set by No. 74 which is not uniform throughout the estate.

7.2. Planning Authority Response

- None received

7.3. Observations

- None

8.0 Assessment

- 8.1. This is a first-party appeal against Condition No. 5 and in particular paragraphs (a) and (b) of condition 5 attached to the Planning Authority's decision to grant permission. Having regard to the nature and scale of the proposed development and the content of condition no. 5, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance would not be warranted. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

8.2. Condition 5

- 8.2.1. The Planning Authority have imposed condition 5 in order to protect the architectural character of the area and the residential amenity of adjoining properties.
- 8.2.2. The main issue to be examined is the amendment to the original roof height and the visual impact of the proposed extension on the area. In this regard the site is zoned Z2 - Residential Neighbourhoods (Conservation Areas) within the Dublin City Development Plan 2016-2022, with a stated objective '*To protect and/or improve the amenities of residential conservation areas*'. Accordingly the site benefits from Policy CHC4 of the Development Plan which seeks to protect the special interest and character of such areas. This policy requires development to take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- 8.2.3. Having visited the site and inspected the street, it is my opinion that St Magdalena Terrace has retained a significant amount of its original character and appearance. In terms of amendments to ridge height and visible extensions to the rear I note that only No. 74 appears to be evidently altered. I refer to planning reference number 2387/97 where this change appears to have permitted an increase in ridge height and the removal of the original central chimney. I also note in a subsequent application to No. 67 Magdalena Terrace (2484/00) a similar style development was refused by the Planning Authority and the reasons for that refusal which include impact on the conservation zoning for the area.
- 8.2.4. No 74 is an end of terrace house located to the southern side Magdalena Terrace. It bounds the rear of No. 139 Oliver Plunkett Avenue which is a two storey house. In my opinion the alteration to the ridge height, loss of original chimney and the visible nature of the rear extension to No. 74 do detract from the character, appearance, and architectural integrity of Magdalena Terrace and consequently the streetscape. However the impact is somewhat mitigated by its location at the end of the terrace and proximity to the two storey house at No. 139 Oliver Plunkett Avenue.
- 8.2.5. I also examined a number of other streets in the area and in particular I refer to Rosary Terrace. Properties on the western side of this terrace bound the eastern side of properties to Magdalena Terrace including the subject application site. A number of houses to Rosary Terrace have carried out development that affect the

original ridge level and provide a visible rear extension when viewed from Rosary Terrace. In my opinion these developments do detract from the character, appearance, architectural integrity and setting of Rosary Terrace which is also zoned Z2 - Residential Neighbourhoods (Conservation Areas).

- 8.2.6. The proposed development will increase the ridge height of the house by 500mm, provide for a 'fake' chimney to match existing and a two storey flat roof rear extension including an ensuite and master bedroom. The application site is located centrally in the terrace and in this context I tend to agree with the Planning Authority. The proposed alteration to the ridgeline would detract from the original uniformity and architectural integrity of the terrace and consequently the streetscape.
- 8.2.7. The applicants contend that the imposition of Condition 5 (a) and (b) makes the permitted development non-complaint with the building regulations. They have submitted a drawing with the appeal (Drg No. 2_213) showing the development as per condition 5 in which the floor to ceiling height would be 2.09 for the Master Bedroom. I note the height of this extension does not match the height of the existing ridge line (save the rear parapet), however based on this drawing it appears that a building regulation compliant floor to ceiling height would not be achievable without exceeding the ridge height at some point to the rear.
- 8.2.8. The applicants have submitted an 'amended proposal' which they have requested to be considered 'de novo'. I note the amended proposal appears to comply with condition 5 (c) and (e) in terms of the depth of the extension and front roof lights. It does not appear to comply with the requirements of condition 5 (d) in relation to rear windows. Notwithstanding this, I am satisfied the amended proposal can be considered under the provisions of Section 139 of the Act.
- 8.2.9. The amended proposal ensures the original ridgeline is not altered. It provides for an angled extension off the rear roof pitch below the ridgeline. This angle will gradually rise to a height where building regulations can be complied with but its highest point will be set back from the existing ridge by c. 1.5m. The rear parapet will be 330mm higher than the front ridgeline with the flat roof extension c.200mm below this. In my opinion it is unlikely that the amended proposal would be visible or visible to a significant extent that would detract from the original uniformity and architectural integrity of the terrace and consequently the streetscape. In this regard the amended

proposal will have a negligible impact upon the character and appearance of the Z2 Residential Conservation Areas and its setting. In my opinion the 'amended proposal' is acceptable and Condition 5 (a) and (b) are therefore not required. Condition 5 should be AMENDED to ensure the proposed extension is in accordance with the 'amended proposal' as per Drg No 2_212 submitted with the appeal.

8.2.10. As the 'amended proposal' provides the extension in accordance with condition 5 (c) the depth of the extension I am satisfied condition 5 (c) is not required.

8.2.11. Condition 5 (d) requires two windows measuring a maximum of 1m in width and 1.5m in height to the first floor rear elevation of the extension. The amended proposal does not comply with this condition. As the floor plan has been revised to relocate the ensuite to the rear the amended proposal provides a frosted glass window 1.5m wide and 0.4m high. It also provides a larger window broken into three frames with an overall size of 1.7m high and 2m wide to the master bedroom. The bottom 0.7m of this window is to be frosted glass. I note the proximity of the development to the rear boundary and the revised extension depth. As the Planning Authority have permitted two windows to this elevation in any event I have no concerns in relation to the revised windows in the 'amended proposal'. In my opinion Condition 5 (d) is not required.

8.2.12. Although the 'amended proposal' shows rooflights in accordance with condition 5 (e) the proposal does not state that they are of a conservation type. In my opinion condition 5 (e) should be amended to ensure final details of the rooflight type are agreed with the Planning Authority given the sites Z2 zoning.

8.3. Appropriate Assessment

8.3.1. Having regard to the nature and scale of the proposed development and the distance from 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.

9.0 Recommendation

9.1. Having inspected the site and reviewed the drawings and documents on file, 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. Accordingly, I consider that it would be appropriate to use the provisions of Section 139 of the 2000 Act, as amended. I recommend that Condition 5 should be AMENDED as follows-

The proposed development shall be amended as follows:

- a) The development shall be carried out and completed in accordance with the further plans and particulars as shown on Drg. No. 2_212 received by An Bord Pleanála on the 12th day of May, 2021.
- b) The roof lights on the front slope shall be of a conservation type

Revised drawings and details showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the architectural character of the area and the residential amenity of adjoining properties.

10.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the Z2 - Residential Neighbourhoods (Conservation Areas) zoning for the site, the pattern of development in the area and the provisions of the Dublin City Development Plan 2016-2022, it is considered that subject to condition 5 as amended, the proposed development would not seriously injure the residential and visual amenities of the area or of property in the vicinity, would not detract from or harm the setting of the Z2 Conservation Area zoning, and would therefore, be in accordance with the proper planning and sustainable development of the area.

Adrian Ormsby

Planning Inspector

20/06/2021