



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310223-21

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<b>Development</b>	Construction of a single storey extension with apex roof and relocation of access gate to the rear wall along with a window to the side elevation at ground floor.
<b>Location</b>	38 Curragh Hall Green, Tyrellstown, Dublin 15, D15 W2R0
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	FW21B/0031
<b>Applicant(s)</b>	Ronny Hamid
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission subject to Conditions
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ronny Hamid
<b>Observer(s)</b>	none
<b>Date of Site Inspection</b>	24 <sup>th</sup> and 26 <sup>th</sup> July, 2021

**Inspector**

Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the Tyrrelstown area and comprises a detached two storey house located on a site that fronts Curragh Hall Green. The Curragh Hall Estate comprises a residential development of primarily terraced two and three storey houses that is accessed off the Powerstown Road at the southern end of the Tyrrelstown residential area. There is a recently constructed Gaelscoil located on the Powerstown Road immediately opposite the entrance to the Curragh Hall development.
- 1.2. The site is bounded to the north by an access into a parking area to the rear and to the west by this private parking area. To the south, the site is bounded by the rear of three storey development that fronts onto Curragh Hall Crescent.
- 1.3. The existing house on the site has not been previously extended and the house has an area of private amenity space located to the rear of the building line of c.100 sq. metres.
- 1.4. The stated floor area of the existing two storey house on the site is 105 sq. metres and the area of the site is stated to be 0.0245 ha.

## 2.0 Proposed Development

- 2.1. The development which is the subject of the current appeal comprises the construction of a single storey rear extension to the existing house on the site. The extension is relatively large extending the full length of the rear garden. The stated dimensions of the extension are 9.17 metres in length and 5.93 metres in width. The stated floor area proposed is 47 sq. metres. The internal layout of the extension indicates a kitchen / dining area, bathroom, study, and bedroom.
- 2.2. The extension is proposed to have a pitched roof with 4 no. rooflights. The maximum height of the extension is proposed to be 3.82 metres.
- 2.3. The existing kitchen area is proposed to be replaced with a living room and a new ground floor window to this new living room is proposed to be opened in the south facing elevation. This window would face the existing parking area to the side of the house.

2.4. In the rear garden, the proposed extension would block the existing pedestrian access gate and a new gate is therefore proposed to be opened in the western boundary close to the north west corner of the site. This pedestrian access opens to the gated parking area to the rear (west) of the house.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 10 no. conditions, of which the following are considered to be the most notable in the context of the current appeal:

- Condition No.2 requires that revised plans be submitted showing a reduction in the depth of the extension to a maximum of 7 metres when measured externally from the rear elevation of the house.
- Condition No.3 requires that all external finishes harmonise in colour and texture with the existing dwelling.
- Condition No. 4 requires that the entire premises shall be used as a single dwelling unit.
- Condition No.5 requires the submission of surface water drainage details including use of a SuDS feature for the agreement of the planning authority.
- Condition No.6 requires that the developer shall submit details of noise mitigation measures to the extension.
- Condition No. 10 requires the payment of a development contribution.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the planning officer notes the planning history of the site and the relevant provisions of the development plan including Objective PM46 relating to extensions. The principle of the development is stated to be acceptable, and the

design and scale of the extension is not considered to be such that it would result in an overbearing feature or lead to overlooking. Concern is however expressed regarding the scale in terms of its proximity to site boundaries, particularly to the west, and the limited area of open space available to serve the development. A grant of permission consistent with the Notification of Decision which issued is recommended.

### 3.2.2. Other Technical Reports

Water Services Section – Report notes that the development represents an increase in the extent of impermeable area within the site and that SuDS measures should be incorporated into the design. A condition requiring the submission of surface water proposal that includes SuDS measures is recommended.

### 3.3. Prescribed Bodies

Irish Water – No objection. Requested that the applicant sign a connection agreement with Irish Water prior to the commencement of development.

### 3.4. Third Party Observations

None on file.

## 4.0 Planning History

The following planning history is referenced in the report of the Planning Officer:

- Fingal County Council Ref. F99A/1620 – Permission granted for a residential development of 2,119 no. residential units comprising 1, 2, 3 and 4 bedroom units on a large site that includes the appeal site. This permission is therefore the parent permission for the development on the appeal site and specific note is made of Condition No.30 which states that notwithstanding the exempted development provisions of the Planning and Development Regulations, that no additional development whatsoever shall take place within the curtilage of each housing unit save with a prior grant of planning permission.

## 5.0 Policy Context

### 5.1. Development Plan

The appeal site is located on lands that are zoned Objective RS under the provisions of the *Fingal County Development Plan, 2017-2023* with the stated Objective 'to provide for residential development and protect and improve residential amenity'.

The vision for this zone is to 'ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'.

The following objectives listed in the development plan are noted and considered to be of relevance to the assessment of this case:

Chapter 3 refers to Placemaking and includes extensions:

**Objective PM46** seeks to: '*Encourage sensitively designed extension to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.*'

**Section 12.4** provides the Design Criteria for Residential Development.

Under the heading of **Extensions to Dwellings**, the Plan states that:

*'The need for people to extend and renovate dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.'*

*'Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space. Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation) and impacts on residential amenity.....External finishes shall generally match the existing.'*

**Objective DMS42** seeks to: Encourage more innovative design approaches for domestic extensions.

**Section 12.7** of the Plan relates to **Open Space**. The following provisions are noted:

**Objective DMS87** requires the following:

*Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:*

- *3 bedroom houses or less to have a minimum of 60 sq m of private open space located behind the front building line of the house.*
- *Houses with 4 or more bedrooms to have a minimum of 75 sq m of private open space located behind the front building line of the house.*

*Narrow strips of open space to the side of houses shall not be included in the private open space calculations.*

## 5.2. Natural Heritage Designations

The appeal site is not located within or close to any European site.

## 5.3. EIA Screening

- 5.3.1. Having regard to the nature and limited scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the house on the site while detached is not large and comprises only 3 no. bedrooms for the 5 occupants (two adults, two teenagers and one child).

- That an area of 40 sq. metres of private amenity space would be retained and it is contended that the 12 sq. metres to the south of the extension would also be usable as it is very secluded and quiet.
- That the single storey design will not have any impacts on the amenities of the houses to the south in terms of overlooking, shadowing, or overbearing.
- That the proposed development would not overhand any boundaries and that the area to the west of the site is only used as a car parking area.
- Submitted that whilst the original layout is sought, it is requested that in the event that this is not considered appropriate that an alternative limit on the length of the extension of 8.0 metres rather than the 7.0 metres required by Condition No.2 would be attached.

## 6.2. Planning Authority Response

The following is a summary of the main issues raised in the response to the grounds of appeal received from the Planning Authority:

- That the development was assessed having regard to the residential zoning objective of the site and the relevant plan objectives, the pattern of development in the vicinity and the scale and design of the proposal.
- That Condition No.2 was attached to ensure that the development does not overhang into the adjoining site to the west and in order to reduce the impact on the residential amenity of dwellings to the south of the site.
- That in the event that the decision of the Planning Authority is upheld that Condition No.10 (s.48 development contribution ) is retained.



## 7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development / Consideration of case De Novo
- Design and Impact on Visual Amenities,
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

### 7.2. Principle of Development / Consideration of Case De Novo

7.2.1. The appeal site is located on lands that are zoned Objective RS under the provisions of the *Fingal County Development Plan, 2017-2023* with the stated Objective ‘to provide for residential development and protect and improve residential amenity’.

The principle of a single storey extension to the rear of an existing house is therefore in my opinion acceptable in this location subject to compliance with other relevant development plan policies and objectives and that development would not have a significant negative impact on the visual or residential amenities of the area.

7.2.2. The height and form of development proposed on the appeal site and its location relative to surrounding properties and public areas is not in my opinion such that the principle of a single storey extension to the rear of the existing house on the site would be excessively visually prominent or likely to have a significant impact on visual or residential amenity. The scale and design of the proposed development are such that a significantly scaled single storey rear extension could be accommodated without significant issues of overlooking, overshadowing, or overbearing visual impact being likely to arise. The materials and finishes proposed to be used are in my opinion consistent with the existing house on the site and with surrounding properties. Overall, it is my opinion that the site is capable of accommodating a significantly sized single storey extension and that the issue arising is exactly what scale, and specifically what depth of extension, would be acceptable in terms of visual amenity and protection of the residential amenities of surrounding properties and the occupants of the existing dwelling on the site.

7.2.3. The first party appeal submitted is against the requirements imposed by Condition No.2 attached to the Notification of Decision to Grant Permission issued by the Planning Authority which requires that the depth of the proposed extension be reduced from the proposed 9.17 metres to a maximum of 7.0 metres. Having regard to the above regarding the acceptability of the principle of the proposed development it is therefore considered appropriate that the appeal would be considered under s.139 of the Planning and Development Acts (as amended) as an appeal against condition No.2 which requires a reduction in the depth of the permitted extension. .

### **7.3. Design and Impact on Visual Amenities,**

7.3.1. The design of the proposed extension is relatively standard with wall finishes that are stated to match the existing house (which is plaster finish) and a pitched roof. The overall height of the structure is proposed to be 3.8 metres with an eaves height of c.2.5 metres and the structure would not be clearly visible from the public road (Curragh Hall Green).

7.3.2. At the far north west corner of the proposed extension, the development is proposed to be located within c.400mm of the boundary with the rear gardens of the adjoining three storey houses to the south on Curragh Hall Crescent, and the roof likely to be closer when account is made for the eaves and roof overhang. The boundary between these properties at the appeal site comprises a concrete post and timber panel fence of c.1.8 metres in height. Given the proximity of the proposed development to the boundary at this location and the fact that the eaves would project c.700mm above the site boundary, the proposed development would therefore be potentially quite visually prominent when viewed from the closest house to the south.

7.3.3. To the west, the site adjoins a parking area serving local houses that is accessed via a private gated laneway to the immediate north of the appeal site. The proposed development would be located in very close proximity to this boundary and the report of the planning officer and planning authority response to the grounds of appeal raise concerns that the development may oversail this boundary. While the gable end of the proposed extension would face this boundary, the existing boundary feature is a 2.0 metre high plastered wall and therefore such that a limited extent of the proposed

development would project above the boundary. It is also noted that the area to the west is a car park and not a private amenity space connected with any adjacent property. While there may be a justification for a slight reduction in the depth of the proposed extension to increase the separation to the western boundary to prevent any possibility of oversailing, I do not consider that the development as proposed would have any negative impact on visual amenity when viewed from the west.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. As set out above, the proposed development would have some potential for a negative impact on visual and therefore residential amenity for the closest properties to the south of the site on Curragh Hall Crescent and the south west corner of the proposed extension is located such that it would appear likely to be very close to if not oversailing the boundary at this location. Some reduction in depth of the extension is therefore considered appropriate to mitigate against any such potential oversailing.
- 7.4.2. In terms of amenity, I would also have some concerns regarding the potential impact of the window to the room identified as 'study' on the submitted plans. The top of this window is indicated as c.2.0 metres above ground level and, given the proximity to the boundary, would therefore appear likely to be visible above the boundary fence with the adjoining property to the south (39, Curragh Hall Crescent). A reduction in the depth of the extension and reorientation / rearrangement of the internal accommodation to mitigate this issue is therefore in my opinion required.
- 7.4.3. In addition to the impact on the amenities of surrounding properties, the proposed development has potential impacts on the future residential amenity of occupants of the house. Firstly, I note that the proposed layout indicates two rooms at the far western end of the floorplan, one identified as 'Study' and a second as 'Bedroom 4'. Bedroom 4 is indicated as having a double bed, however the room has an area of 10.5 sq. metres which is below the 11.4 sq. metres minimum specified in Table 12.3 of the development plan and paragraph 5.3.2 of Quality Housing for Sustainable Communities. While not identified as a bedroom, the second room identified as 'Study' has a floor area of 6.6 sq. metres and is therefore less than the minimum

recommended floor area to be used as a bedroom as per the above referenced documents.

- 7.4.4. With regard to private amenity space to serve the development, the existing house on the site has three bedrooms (2 no. doubles and 1 no. single). The current area of private amenity space to serve this accommodation is c.100 sq. metres of private amenity space located to the rear of the building line. The effect of the proposed development would be to increase the accommodation to 4 no. bedrooms (3 no. doubles and 1 no. single without accounting for the additional study room). The layout proposed would result in the amenity space being split by the new development, with c. 36 sq. metres to the rear of the building line proposed to be retained to the north of the extension and an area of c.12 sq. metres to the south. The appellant argues that the area to the south should be counted as private amenity space, however I would agree with the assessment of the Planning Officer that the shape of this area means that it is incidental space and I note that it would be functionally separated from the rest of the garden by the scale and layout of the extension proposed. The c.36 sq. metres of private amenity space are in my opinion inadequate to cater for the scale of accommodation proposed on the site and, in terms of functionality, it should be noted that this area would be located to the north of, and therefore significantly shadowed by, the proposed extension as well as by the existing house and the 2 metre high boundary walls.
- 7.4.5. In view of the above, I consider that some reduction in the depth of the extension is required in order that additional private amenity space can be satisfactorily provided. I note the request included in the first party appeal that in the event that the Board is not satisfied that the originally proposed layout is acceptable that consideration would be given to a reduction in the depth of the extension from the proposed 9.17 metres to a maximum of 8.0 metres. This request is noted and would in my opinion significantly address the issues raised in section 7.3 of this report above regarding potential oversailing, visual intrusion and perceived overlooking. The issue therefore is whether such an amendment would materially improve the availability of private amenity space and the residential amenity for future occupants of the house.
- 7.4.6. A reduction in the depth of the permitted extension would result in additional space at the western end of the extension being available for inclusion in the garden. This additional area would measure c.7 sq. metres. This additional area would however

be located in an inaccessible part of the site and the separation between the north west corner of the extension and the boundary wall would only be c.1.2 metres and such that in my opinion the area to the west and south of the extension would remain functionally separate from the rest of the amenity space. A limitation on the depth of the extension to a maximum of 7.0 metres as conditioned by the planning authority would have the effect that an area of c.20 sq. metres to the west of the extension could in my opinion be considered to be usable and functional open space for the benefit of occupants of the dwelling on site. The inclusion of this area would have the effect of increasing the extent of functional open space to the rear of the building line from c.36 sq. metres to c. 56 sq. metres. This open space provision is in my opinion acceptable for a three bedroom house and just about acceptable for a four bedroom unit in the event that part of the permitted extension was proposed to be given over to a fourth bedroom. For context, Objective DMS87 of the development plan specifies that the minimum amount of private amenity space for a new four bedroom house should be 75 sq. metres.

- 7.4.7. I note that the reorganisation of the existing ground floor layout on foot of the proposed extension provides for the addition of a new window in the south facing gable elevation at ground floor level in the existing house. This new window would face the existing parking area to the southern side of the house that serves the development and would not in my opinion lead to any issues of overlooking of third party property or loss of amenity.
- 7.4.8. Overall, therefore for the reasons set out above related to prevention of oversailing, protection of amenity, and provision of adequate private amenity space, I consider that the requirements of Condition No.2 attached to the Notification of Decision to Grant Permission issued by the Planning Authority should remain and that the extension should be reduced in depth to 7.0 metres. I also consider that the wording of Condition No. 2 should require the submission of drawings for the written agreement of the Planning Authority showing the revised design including the internal layout and that this layout should only provide for a maximum of one additional bedroom that meets the minimum floor area requirements set out in the development plan and that no window to the south facing elevation in the permitted extension would be located within less than 1.0 metres of the site boundary.

## 7.5. Other Issues

- 7.5.1. I note the proposed relocation of the **pedestrian access** in the west facing boundary of the site. In the event that a reduced depth of extension is conditioned in the Boards decision this relocation may not be required, however I do not have any objection to the principle of this alteration.
- 7.5.2. It is noted that the proposed layout indicates a direct access to the proposed extension via a new door from the existing parking area at the southern side of the property. The location of this door is where the existing access to the rear garden from the parking area is currently available. The availability of this access, together with the inclusion of a bedroom and WC in the proposed layout opens up the possibility of the additional accommodation being used as **separate residential accommodation / unit**. In this regard, it should be noted that in addition to not being provided for in the application documentation and notices, Condition No. 4 attached by the planning authority specifically prohibits this option.
- 7.5.3. The stated floor area of the proposed development as per the layout submitted to the Planning Authority is 47 sq. metres and the proposal therefore exceeds the threshold of 40 sq. metres specified in Paragraph 11 (i)(a) of the 2021-2026 Fingal **Development Contribution Scheme** which is exempt from the requirement to pay contributions. It is noted that despite the requirements of Condition No. 2 which reduced the floor area permitted by c.11.5 sq. metres to c.35.5 sq. metres, the Planning Authority still attached Condition No. 10 which requires the payment of a contribution of €884 in accordance with the adopted s.48 development contribution scheme. In the event that the Board issues a decision to grant permission subject to the recommended condition restricting the length of the extension to 7.0 metres, it is also recommended that the Planning Authority be directed to omit Condition No.10. In the event that the Board decide that the development should be permitted as per the application or that a condition limiting the length to a maximum of 8.0 metre is attached, then the overall floor area would exceed 40 sq. metres and the inclusion of a financial contribution condition would be appropriate.

- 7.5.4. The appeal site is located within **Airport Noise Zone C** where the objective is '*to manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance and to ensure that appropriate noise insulation is incorporated within the development*'. It is a requirement of the plan that in zone C, a Noise Assessment should be undertaken to demonstrate that good acoustic design has been followed. In the case of the proposed development no such assessment is on file however given the existing residential development on the site and the nature of the proposed development it is considered appropriate that Condition No.6 attached to the Notification of decision to Grant Permission issued by the Planning Authority which requires the submission of details of noise mitigation measures to be implemented is sufficient to protect the residential amenity of the occupants of the development.
- 7.5.5. I note that the report on file from **Irish Water** states that there is no objection to the proposed development but goes on to state that a connection agreement is to be signed with Irish Water prior to the commencement of development. The development is currently connected to the public water supply and foul drainage network. While an additional bathroom and WC are indicated in the proposed layout, I do not consider that the inclusion of a condition requiring a connection agreement with Irish Water is appropriate or required in this case and I note that no such condition was attached to the Notification of Decision issued by the Planning Authority.
- 7.5.6. The content of the report from Water Services Section and the wording of Condition No.5 attached to the decision of the planning authority relating to **on site surface water attenuation** is noted. This condition requires the submission of surface water drainage details including use of a SuDS feature for the agreement of the planning authority. Exactly what is envisaged as being required under this condition is not clear from the report of the Water Services Section, however justification for the required works is the extent of additional hard surfaces proposed to be provided on site following construction of the extension. In terms of the appropriateness of Condition No.2 which is the subject of this first party appeal, a reduction in the size of the permitted extension would clearly act to reduce the degree of increase in impermeable surfaces on the site while also providing additional space within which the required SuDS measures could be installed.

## **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. Having regard to the above, based on the reasons and considerations set out below, it is recommended that Fingal County Council be directed to reword Condition No.2 as per the condition below and to omit Condition No.10.

## **9.0 Reasons and Considerations**

Having regard to the form and scale of development on the site, to the context of the site and to the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or of property in the vicinity and would be in accordance with the provisions of the Fingal County Development Plan, 2017-2023. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Condition**

2. The proposed development shall be amended as follows:
- (a) the depth of the permitted extension shall be limited to a maximum of 7.0 metres when measured externally from the existing rear elevation of the dwelling on site.



(b) the internal layout of the permitted rear extension shall contain a maximum of one additional bedroom that shall be in accordance with the minimum room sizes set out at Table 12.3 of the development plan.

(c) no window to the south facing elevation in the permitted extension shall be located within less than 1.0 metres of the site boundary

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

**Reason:** In the interests of residential amenity.

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Stephen Kay  
Planning Inspector

26<sup>th</sup> July, 2021