



An  
Bord  
Pleanála

## Inspector's Report ABP310297-21

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<b>Development</b>	Alterations to existing dwelling to include demolition of garage and existing single storey extension, and construction of a part single, part two storey extension and new basement area.
<b>Location</b>	46 Mount Prospect Avenue, Clontarf, Dublin 3.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2044/21.
<b>Applicant</b>	James Weldon.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party -v- Grant.
<b>Appellants</b>	(i) Colman Bermingham and Others, (ii) Richard and Kathryn Lomard.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	21 <sup>st</sup> September, 2021.
<b>Inspector</b>	Paul Caprani.

# Contents

1.0 Introduction.....	3
2.0 Site Location and Description .....	3
3.0 Proposed Development .....	4
4.0 Planning Authority’s Decision .....	5
4.1. Decision .....	5
4.2. Planning Authority’s Assessment.....	5
5.0 Planning History.....	6
6.0 Grounds of Appeal.....	6
7.0 Appeal Responses.....	7
8.0 Development Plan Provision.....	8
9.0 EIAR Screening Requirement.....	11
10.0 Planning Assessment.....	11
11.0 Appropriate Assessment Issues.....	13
12.0 Conclusions and Recommendation.....	14
13.0 Reasons and Considerations .....	14
14.0 Conditions .....	14

## 1.0 Introduction

ABP310297-21 relates to two third party appeals against the decision of Dublin City Council to issue notification to grant planning permission for alterations to an existing dwellinghouse comprising of the partial demolition of a dwelling and the construction of a part single part two-storey extension to the side and rear of No. 46 Mount Prospect Avenue, Clontarf, Dublin 3. The grounds of appeal argue that the footprint of the proposed structure will impinge upon existing underground drainage pipes and that the basement construction could adversely impact on groundwater levels in the area.

## 2.0 Site Location and Description

- 2.1. No. 46 Mount Prospect Avenue comprises of a detached two-storey red bricked building located on a corner site adjacent to the junction to the Mount Prospect Avenue and Mount Prospect Park. No. 46 appears to be one of the earlier dwellings associated with the original layout of Mount Prospect Avenue in the 1930s. Many of the houses in the wider vicinity along the Avenue are of a later date. The existing dwelling on site comprises of two living rooms, a sitting room within the main dwelling. The western side of the house accommodates a single storey garage and utility type room. The rear portion of the ground floor accommodates a single-storey kitchen area, a toilet and a back entrance. A narrow single storey store is located to the rear along the western boundary of the site. The first floor occupies a smaller footprint than the ground floor. It accommodates two small bedrooms, two larger bedrooms and a bathroom. The dwelling incorporates a rear garden between 12 and 17 metres in length and a smaller front garden c.9 metres in length. One off-street car parking space is located within the front garden along the western boundary of the site. A side garden is located along the eastern boundary of the site, adjacent to Mount Prospect Park and is c.3.5 metres in width.
- 2.2. No. 44 Mount Prospect Avenue is located to the immediate west of the subject site. It comprises of a two-storey dwelling of a similar size and date to the house on the

subject site. A single-storey house, which appears to be an infill development, is located on lands to the immediate rear of the subject site.

### **3.0 Proposed Development**

- 3.1. Planning permission is sought for the demolition of the existing single storey elements including garage, utility room, kitchen and storage area along the western boundary of the site and also the single storey element to the rear. The protruding element of Bedroom No. 1 at first floor level on the western side of the dwellinghouse is also to be removed as part of the current application.
- 3.2. It is proposed to provide a new two-storey element to the western side and rear of the dwellinghouse. The internal layout of the dwellinghouse is to be completely reconfigured to accommodate a larger utility area on the western side of the dwelling together with a kitchen, dining room and living room to the rear of the dwellinghouse. A new playroom, sitting room and study area is to be located to the front of the dwellinghouse at ground floor level. Three larger bedrooms are to be located at first floor level all of which incorporate en-suite bathrooms.
- 3.3. It is also proposed to provide a new entertainment room at basement level beneath the north-eastern corner of the dwellinghouse (closest to Mount Prospect Park). This entertainment room is to incorporate a toilet and storage area and is to be accessed off the study room at ground floor level. The basement level is to extend to a maximum depth of 2.8 metres below ground level. The main part of the basement area extends to a gross floor area in excess of 40 metres. The ground floor area amounts to 148.2 square metres while the first-floor area amounts to 103 square metres. The total basement area is 43.7 square metres. The gross floor area of the proposed structure therefore amounts to just less than 295 square metres.
- 3.4. It is also proposed to reallocate the existing vehicular entrance to a point more centrally along the front boundary.

## **4.0 Planning Authority's Decision**

### **4.1. Decision**

- 4.1.1. Dublin City Council issued notification to grant planning permission for the proposed development subject to 10 conditions.

### **4.2. Planning Authority's Assessment**

- 4.2.1. A report from the Engineering Department – Drainage Division stated there was no objection subject to standard conditions.
- 4.2.2. A report from the Transportation Planning Division express concerns with regard to the relocated vehicular entrance and its potential impact on an existing mature tree on the public footpath. On this basis the applicant is requested to submit revised plans omitting the proposed new vehicular access.
- 4.2.3. The initial planner's report expresses concern that the proposed two-storey extension to the side will have an adverse impact on the character and design of the existing dwelling and will not be subordinate to the main structure. On the basis of the above further information was requested from the applicant to address these matters.
- 4.2.4. Further information was submitted on 1<sup>st</sup> April, 2021. It included revised drawings which provides a setback at first floor level of the two-storey element by 0.5 metres from the primary front building line of the dwelling.
- 4.2.5. In relation to the vehicular entrance, the applicant has liaised with the Parks, Biodiversity and Landscape Services Division has decided to remove any works associated with the vehicular entrance and the existing vehicular entrance is to be retained in its current form.
- 4.2.6. A further planning report was prepared on foot of the additional information submitted. It concludes that the Planning Authority is satisfied that the applicant has responded satisfactorily to the further information request and on this basis, it was recommended that planning permission be granted for the proposed development.

## 5.0 Planning History

- 5.1. No history files are attached, and the planner's report notes that there is no history associated with the appeal site.

## 6.0 Grounds of Appeal

- 6.1. The decision was the subject of two third party appeals. One of the appeals was submitted by the next door neighbour at No. 44 Mount Prospect Avenue. A separate appeal submitted by Muir and Associates was submitted on behalf of the row of neighbours from Nos. 34 to 44 Mount Prospect Avenue. The issues raised in both appeals are of a similar nature and for this reason are set out on a topic basis below.
- 6.2. Drainage Issues It states that there is an existing private foul drain which runs to the rear of Nos. 34 to 46 Mount Prospect Avenue and this foul drain serves all the properties including the appeal site, from Mount Prospect Lawns to the west to Mount Prospect Park to the east. There is also a manhole within the curtilage of No. 46 Mount Prospect Avenue which is at the end of the line before it discharges into the public sewer on Mount Prospect Park. This manhole incorporates a Buchan Interceptor Trap preventing odours from entering the private drain from the public sewer which in turn protects odour escaping from the sewers into the dwellinghouses. Plans submitted by the applicant provide no details of the drainage arrangements for the proposed development and make no reference to this existing private drain. The proposed basement will impact on existing drainage arrangements and the residents are concerned that the proposed development will adversely affect wastewater disposal arrangements currently provided. The residents respectfully request that An Bord Pleanála impose a condition that requires the applicant to agree the drainage arrangements including the diversion of the existing private drain with the Planning Authority prior to the commencement of development.
- 6.3. Construction of Basement No details of the proposed construction methodology for the basement have been provided by the applicant. It is noted that a construction management plan should be required by way of condition in the grant of planning permission however no such condition was included in the notification. Concern is expressed that the basement excavation may impact on groundwater levels in the area. Any potential dewatering arising from the construction of the basement may

have the potential to impact on foundation settlement in adjoining properties. An Bord Pleanála are therefore requested to impose a condition that requires the applicant to provide a detailed construction management plan for the proposed development including a detailed basement construction methodology which address potential groundwater impacts.

- 6.4. The submission made by the appellants of No. 44 Mount Prospect Avenue also expresses concerns that the proposed two-storey construction along the western boundary of the site includes a pitched roof which shows drainage towards the boundary of No. 44. No details of how this new two-storey construction is to be constructed. An Bord Pleanála are requested to impose a condition that requires the applicant to agree the boundary drainage details associated with the proposed roof and that such details are to be agreed in writing with the planning authority prior to the commencement of development.

## **7.0 Appeal Responses**

- 7.1. A response was received on behalf of the applicant by Hughes Planning Consultants. The response is set out below.
- 7.2. The response sets out details of the site description and various planning precedents including domestic developments which have incorporated basements to the rear and side of a dwelling. The response sets out details of the decision of Dublin City Council and details how the proposed development complies with the Dublin City Development Plan.
- 7.3. Section 6 of the response specifically deals with the issues raised in the grounds of appeal. In relation to existing drainage arrangements, it is noted that the Drainage Division had no objection to the proposed development and recommended a condition be incorporated to minimise the risk of basement flooding. A separate Engineering Report prepared by Kavanagh Ryan and Associates accompanies the response. This report notes that it is proposed to divert the sewer around the proposed basement and provide a new manhole connection with the existing sewer in the road. All works in this regard can be agreed with Dublin City Council and Irish Water prior to the commencement of development. The applicant has no difficulty

with the attachment of such a condition. Any diversion works will also include maintenance works to improve the existing drainage to other properties on the line.

- 7.4. With regard to the impact of the proposed basement on groundwater levels, it is stated that the applicant is fully satisfied that the proposed development can be completed without giving rise to flooding or associated drainage impacts. The Planning Authority had required a construction management plan to be submitted to and agreed in writing with the Planning Authority prior to the commencement of development. A registered, insured, and certified structural engineer will be appointed to supervise the construction of the proposed development. Again, reference is made to the engineering report prepared by Kavanagh Ryan and Associates which notes that sheet piling or other method of retaining the ground outside the basement excavation can be used in the execution of construction works. Temporary works relating to the construction of the basement would form part of the construction management plan required under the Planning Authority's grant of permission.
- 7.5. With regard to surface water run-off from the proposed two-storey roof element along the western boundary of the site, it is noted that the two-storey element is approximately 180 millimetres off the centreline of the existing boundary wall. It is submitted that this is sufficient to ensure that no surface water run-off will trespass into the appellant's property at No. 44. The applicant is willing to accept a condition in this regard.
- 7.6. On the basis of the above the applicant is happy to accept conditions to address the concerns raised and request that the Board uphold the decision of the Planning Authority and grant planning permission for the proposed development.

## **8.0 Development Plan Provision**

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022.
- 8.2. The subject site is governed by the Z1 zoning objective. Residential use is a permissible use under this objective.



- 8.3. A Section 16.2.2.3 of the Development Plan relates to alterations and extensions to existing dwellinghouses. It states that Dublin City Council will seek to ensure that alterations and extensions to existing dwellings 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 the characteristics of townscape spaces or gaps between buildings.
  - Not involve the infilling, enclosure or harmful alterations to front lightwells.
- 8.4. 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.
- 8.5. In addition to the above alterations and extensions at roof level, including roof terraces, are to respect the scale, elevational proportions and architectural form of the building and will:
- Respect the uniformity of terraces or groups of buildings with a consistent roofline and will not adversely affect the character of terraces with an attractive varied roofline.
  - Will not result in the loss of roof forms, roof coverings or roof features (such as chimney stacks), where these are of historic interest or contribute to the local character and distinctiveness.
- 8.6. Further details on residential extensions are contained in Appendix 17 of the Dublin City Development Plan.
- 8.7. Section 16.10.15 specifically relates to basements.
- 8.8. It notes that in recent years there have been a significant growth in new basement development and extensions to existing basement accommodation. Basements can

provide valuable additional accommodation for leisure or storage purposes. However, basements can be prone to flooding. There are a growing number of planning applications looking to maximise accommodation on restricted sites by proposing habitable basement accommodation sunk one full level below the ground and extending up to 100% of the site area often with a ground floor/roof garden on top.

- 8.9. It is the policy of Dublin City Council to discourage any significant underground or basement development or excavations below the ground level of, adjacent to, residential properties in conservation areas or properties which are listed on the Record of Protected Structures. Development of all basements or any above ground floor buildings for residential use below the estimated flood levels for Flood Zone A or Zone B will not be permitted.
- 8.10. In considering applications for basement developments the Planning Authority would have regard to the following:
- The permissible size of a basement development to the rear of a property would be guided by the characteristics of the site. In the case of large sites, a basement development to the rear of a property generally should not exceed the footprint of the original building. In all cases basement development should not generally extend to more than 50% of the amenity/garden space.
  - The impact of the proposal on future planting and mature development of vegetation and trees on site.
  - Impact on the water table and/or any underground streams or sewers.
  - Basement development should an appropriate proportion of plant and material to mitigate the reduction and natural stormwater infiltration capacity of the site and the use of sustainable urban drainage systems is recommended.
  - Measures should be taken by the applicant during the demolition and construction works to ensure the structural stability of the existing property, adjoining properties and critical infrastructure is maintained.
  - Adequate sunlight/daylight penetration will be required which shall be influenced by site orientation and the size on the site and any

lightwells/courtyard. The Planning Authority may require a daylight analysis to be submitted as part of the planning application for basements.

- Adequate ventilation will be required. Kitchens, bathrooms and utility areas should ideally be naturally ventilated.
- Basements should be provided with a means of escape allowing access to a place of safety that provides access to the external ground level.

#### **8.11. Natural Heritage Designations**

The site is not located within or contiguous to a Natura 2000 site. The nearest Natura 2000 sites the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206) are located approximately 1 kilometre east of the subject site.

### **9.0 EIAR Screening Requirement**

- 9.1. The proposed extension to the existing residential dwelling is not a class of development for which EIAR is required.

### **10.0 Planning Assessment**

#### **10.1. Introduction**

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal. I am satisfied based on my own assessment and the Planning Authority's assessment that a complete de novo assessment of the proposed extension is not necessary or warranted in this instance. It is noted that the third party appellants do not object to the principle of the proposed development. On this basis I consider the Board can restrict its deliberations to the issues raised in the grounds of appeal namely:

- Foul drainage arrangements
- The proposed basement construction
- Surface water drainage arrangements associated with the proposed extension

These issues are dealt with under separate headings below.

## 10.2. Foul Drainage Arrangements

- 10.2.1. Concerns are expressed in both grounds of appeal that the proposed basement will impinge upon an existing foul sewerage drain that runs to the rear of the existing dwellings fronting onto Mount Prospect Avenue. Concerns were also expressed that the proposal will result in the relocation of a manhole which incorporates a buchan trap. This trap intercepts and prevents odours from the sewer pipe entering dwellings. The proposed basement area will necessitate a diversion of the sewage pipe and the creation of a new manhole connection to the existing sewer along Mount Prospect Park. While the construction of the proposed basement will necessitate a sewer diversion, the diversion of the said sewer does not create a significant obstacle in engineering terms and the report by Kavanagh Ryan and Associates attached to the applicant's response to the grounds of appeal clearly provides details as to how the private sewer can be diverted and be connected to a new manhole on Mount Prospect Park. I note that Dublin City Council Drainage Division have not expressed any concerns in relation to the diversion of the said sewer. Such works regularly carried out throughout the city in order to cater for new developments which involve either extensive foundations or new basement areas.
- 10.2.2. Furthermore, it has been reported that the existing drainage infrastructure serving the above dwellings can be blocked and this requires regular maintenance. The response on behalf of the applicant indicates that the diversion works will upgrade the existing line removing any obstructions and therefore improving existing drainage for the properties served. The engineering report attached also indicates that it is possible to relocate the broads trap (buchan interceptor) to the new manhole if required. All these works in my opinion can be agreed with Dublin City Council and Irish Water prior to the commencement of development. For the purposes of clarity and to allay specific third-party concerns, the Board could include specifically a condition in any grant of planning permission, the requirement to incorporate a buchan interceptor.

## 10.3. The Proposed Basement Construction

- 10.3.1. It is not considered that the proposed basement construction in this instance is so extensive that it would result in significant changes in the groundwater regime to the wider area. Any displacement of groundwater which may occur would be negligible

in the context of altering levels of the water table or underlying aquifer. The applicant has indicated that the incorporation of sheet piling are effective methods in creating waterproof retaining walls for the purposes of basement construction. The area of basement is relatively modest at c.40 square metres and does not in my view present an insurmountable engineering challenge as part of the proposed development. Furthermore, the proposed basement is not located directly beneath or contiguous to any overlying structures outside the ownership of the applicant's property. The provision of a basement therefore will not impact on the structural integrity of adjoining dwellings. It is imminently reasonable in my view that any details of the construction of the basement be the subject of a construction management plan; the details of which can be submitted to and agreed in writing with the Planning Authority prior to the commencement of development. The Board in my view can attach a standard condition in this regard.

#### **10.4. Surface Water Drainage associated with the Proposed Extension**

- 10.4.1. While the proposed two storey extension along the western boundary of the site extends to the existing building line, it does not overhang the adjoining property. Any surface water run-off from the roof area will (as in the case of normal domestic dwelling roof construction) be collected in gutters and discharged to surface water drains. There is nothing to suggest that the proposed development will in any way adversely impact on the amenity of the adjoining dwellinghouse through inadequate surface water drainage. Again, it is considered that a general condition in relation to surface water drainage can adequately address the appellants' concerns in this regard.

#### **11.0 Appropriate Assessment Issues**

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.

## 12.0 Conclusions and Recommendation

Arising from my assessment above, I consider that the Board can uphold the decision of the Planning Authority in this instance and grant planning permission for the proposed development subject to appropriate conditions based on the reasons and considerations set out below.

## 13.0 Reasons and Considerations

Having regard to the Z1 zoning objective relating to the site it is considered that the proposed extension to the dwellinghouse including the construction of a basement level, subject to conditions below, will not seriously injure the amenities of the area or property in the vicinity, will not be prejudicial to public health and will generally be acceptable in terms of traffic safety and convenience. The proposed development will therefore be in accordance with the proper planning and sustainable development of the area.

## 14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted on the 1<sup>st</sup> day of April, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Water supply and drainage arrangements including the attenuation of surface water shall be agreed in writing with the planning authority prior to the commencement of development. Specifically, the applicant is requested to submit the following prior to the commencement of development.

- (a) The developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- (b) Details of the proposed diversion of the foul sewage pipe including the new manhole shall be agreed in writing with the planning authority. Any such works shall include the incorporation of a buchan trap in order to prevent odours.
- (c) To minimise the risk of basement flooding all internal basement drainage must be lifted, via pumping to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site into the public sewer.
- (d) All private drainage such as downpipes, gullies, manholes, Armstrong junctions etc. shall be located within the final site boundary and shall not overhang any adjoining properties. Private drains should not pass through the property they do not serve.

**Reason:** In the interest of public health.

- 3. A construction management plan shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The plan shall contain details of the intended construction practice for the basement area including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and residential amenity.

- 4. The proposed basement shall only be used for uses incidental and ancillary to the overall dwelling. The proposed basement area shall not be sold or used as separate accommodation from the main dwellinghouse.

**Reason:** In the interest of orderly development.

- 5. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the

planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

6. The existing vehicular entrance shall be retained in its current position as indicated on Drawing 2020-53-RFI-100 submitted to the planning authority on the 1<sup>st</sup> day of April, 2021.

**Reason:** In the interest of traffic safety.

7. 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.

**Reason:** To ensure an adequate standard of development.

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Paul Caprani,  
Senior Planning Inspector.

13th October, 2021.