



An
Bord
Pleanála

Inspector's Report 310541-21

Development

The development will consist of the demolition of an existing single storey rear extension, construction of a two storey extension with setbacks at First Floor Level, conversion of attic space for use, and widening of existing rear gate to rear laneway, together with all associated siteworks.

Location

32, Millmount Avenue, Drumcondra,
Dublin 9

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

WEB1322/21

Applicant(s)

Marie Feirtear

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party Appeal

Appellant(s)

Patrick Roche

Observer(s)

None

Date of Site Inspection

9th August 2021

Inspector

Susan Clarke

1.0 Site Location and Description

- 1.1. The site has a stated area of 112.5 sq m and is located at No. 32 Millmount Avenue, Drumcondra, Dublin 9. The site is an existing mid-terrace period dwelling located in a predominately residential area.
- 1.2. The existing property is a 2-storey dwelling with a single storey rear extension. The property benefits from a rear garden that has access onto a laneway, which runs parallel to Millmount Avenue.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - Demolition of a rear single storey extension (7.4 sq m);
 - Construction of a two storey rear extension with setbacks at First Floor Level (50.7 sq m);
 - Conversion of attic space for use;
 - Associated elevation alterations and internal alterations;
 - Widening of existing rear access to laneway; and
 - All associated site works to facilitate the development.

The proposed development will result in an increase of gross floor area by 47 sq m, from 78.2 sq m to 125.2 sq m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Planning permission was granted on 24th May 2021, subject to 9 No. conditions.
- 3.1.2. Condition No. 8 requires that the attic space shall not be used for human habitation unless it complies with current building regulations. Condition No. 4 requires that the standard working hours are complied with. All other conditions are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Basis of Planning Authority's decision.

The Planning Officer considered that the development was acceptable in principle and that overshadowing of the rear garden of No. 34 Millmount Avenue would not be excessive and was acceptable having regard to the inner-suburban residential environment in the area. Furthermore, it was considered that the development would not be overbearing when viewed from the rear of the adjoining properties. The development was considered to be consistent with the pattern of development in the area.

3.2.2. Other Technical Reports

Engineering Department Drainage Division: No objection subject to conditions.

3.3. Prescribed Bodies

Irish Rail: None received.

Irish Water: None received.

3.4. Third Party Observations

3.4.1. One third party observation was made on the application by Mr. Patrick Roche, of No. 34 Millmount Avenue, Drumcondra, Dublin 9.

3.4.2. The points which are raised can be summarised as follows: (1) the proposed development will affect daylight and sunlight entering the rear bedroom and living room of No. 34 Millmount Avenue; (2) concerns regarding the height of the single storey extension being built next to No. 34 and extensions being in breach of the Planning Authority's permitted sizes (3) unsocialable working hours.

4.0 Planning History

None relating to the subject site.

4.1. Planning History for Neighbouring Sites

Planning Authority Reg. Ref. WEB1405/19 relates to the demolition of the existing single storey rear extension and garden shed, the construction of a part single storey, part 2 storey rear extension, minor alterations to the rear elevation, an attic conversion with rear dormer, skylights to the front and rear and associated works at No. 3 Millmount Avenue. Permission was granted on 15th October 2019, subject to 7 No. standard conditions.

Planning Authority Reg. Ref. 1566/18 relates to the demolition of the existing single storey kitchen extension to the rear of the house, replacing it with a new two storey extension, and conversion of the attic for use, together with all associated siteworks at No. 36 Millmount Avenue. Permission was granted on 13th February 2019, subject to 7 No. standard conditions.

Planning Authority Reg. Ref. 3672/08 relates to the demolition of existing single storey kitchen extension to rear of terraced house and construction of new 2 storey extension of 28 sq m at ground floor and 13.6 sq m at first floor, conversion of attic for use, and all associated site works at No 38 Millmount Avenue. Permission was granted on 16th October 2008, subject to 6 No. standard conditions.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The site is subject to land use zoning “Z1” (Sustainable Residential Neighbourhoods) which has the objective “to protect, provide and improve residential amenities”.
- 5.1.2. Section 16.2.2.3 of the CDP refers to Alterations and Extensions. This Section states that the Local Authority will seek to ensure that alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context and the amenity of adjoining occupiers. In particular, 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.

Section 16.2.2.3 also states that extensions should be confined to the rear in most cases, be clearly subordinate to the existing building in scale and design and incorporate a high standard of thermal performance and appropriate sustainable design features.

- 5.1.3. Section 16.10.12 deals more specifically with ‘Alterations and Extensions to Dwellings’. In summary, it is recommended that proposals should respect the visual amenity / character of the area and should protect the residential amenity of adjoining properties. Appendix 17 ‘Guidelines for Residential Extensions’ sets out more detailed advice and principles in this regard.

5.2. Natural Heritage Designations

- 5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal has been lodged by Mr. Patrick Roche King of No. 34 Millmount Avenue, Drumcondra, Dublin 9 who is resident of the abutting 2-storey residential dwelling to the west of the application site. The grounds of appeal can be summarised as follows:

- The Planning Authority failed to adequately assess the degree or impact of overshadowing due to not adequately addressing the position and height of the ground floor extension element of the proposal.
- The Planning Authority’s statement that the light incursion is acceptable for an inner city suburban area, is incorrect.

- The planning documentation for a number of the permitted developments referenced by the Planning Authority is not available for inspection and notwithstanding this, these developments are not comparable to the subject proposal.
- The Planning Authority failed to address that the proposed new single storey element of the development will stand at the same height as an existing extension to No. 30 Millmount Avenue, which was described by the Council as being “relatively tall”.
- The Planning Authority’s assessment has been considered in a linear manner and is allowing an enhancement of one property to the detriment of a neighbouring property.
- Extensions such as that proposed are destructive to the original characteristics of Victorian terraces.
- The 2m extension of the boundary wall will cause a debilitating light deficit for the downstairs of No. 34 Millmount Avenue. The Planning Authority should have required that the Applicant’s increase the subterranean floor depth to achieve the required extra ground floor height, as has been required at other development sites.
- The extensions will create an un-liveable shadow and block light to No. 34 Millmount Avenue.
- There is a flagrant breach of the prescribed working hours on site, which is unacceptable in an inner-city suburban area.

6.2. Planning Authority Response

- 6.2.1. None received.

6.3. First Party Response to Third Party Appeal

- 6.3.1. First Party Response to Third Party Appeal received outside of the applicable response period.

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the planning application and Third-Party Appeal, and inspection of the site, and having regard to relevant local/regional/policies and guidance, I consider that the main issues on this appeal are as follows:

1. Impact on Residential Amenities of No. 34 Millmount Avenue
2. Daylight and Sunlight Issues
3. Working Hours
4. Appropriate Assessment.

Each of these issues is addressed in turn below.

7.1. Impact on Residential Amenities of No. 34 Millmount Avenue

The proposed development includes the demolition of a rear single storey extension and provision of a two storey rear extension with setbacks at First Floor Level. The Ground Floor Level extension will measure 3.7m in height (and 4.921m in width), thereby matching the existing rear extension to the subject dwelling and that of No. 30 Millmount Avenue to the east. Whilst the Planning Authority described the neighbouring Ground Floor extension as “relatively tall”, I do not consider this height to be excessive. The Ground Floor extension extends the full width of the rear garden and has a length of 6.6m similar to rear Ground Floor Level extensions in neighbouring sites. I do not consider this extension to be excessive nor will it unduly overbear neighbouring dwellings. The proposed First Floor extension will have a parapet height of 6.3m. It will be setback from the western boundary shared with No. 34 Millmount Avenue by 1.21m and from the southern boundary of the Ground Floor extension. There are no windows proposed on either the eastern or western elevations of the First Floor extension and as such, the proposal will not result in a loss of privacy to the neighbouring occupants. Overall, the proposal is subordinate in size and height to the main dwelling and neighbouring dwellings. Furthermore, the subject dwelling will remain to benefit from a rear garden measuring circa 28 sq m. I do not consider that the proposal is overbearing. There are no works proposed to the front elevation and as such I do not consider that the development will adversely impact the external

appearance of the Victorian terrace or is detrimental to the residential amenity of the neighbouring properties.

- 7.1.1. In relation to the planning applications referenced by the Planning Authority namely Reg. Refs. WEB1405/19, WEB1566/18 and 3672/08, I do not concur with the Appellant that these are not comparable to the proposed development. As outlined in Section 4.1 above, the developments are very similar in nature and were proposed on sites with a similar context to the subject site. However, the Board is not bound by these decisions and each application is assessed on its own merits.
- 7.1.2. In conclusion, in my opinion, the proposed development comprises a reasonable and sympathetic approach to the provision of an improved standard of residential accommodation on the site. As such, I consider that the proposed development would result in no undue overbearing impacts on the neighbouring properties or adversely impact the area's residential amenity, including No. 34 Millmount Avenue.

7.2. Daylight and Sunlight Issue

- 7.2.1. The grounds of appeal express concerns that the proposed development will restrict daylight and sunlight penetration to the Appellant's property, in particular the living accommodation to the rear of the dwelling and will result in significant overshadowing. No. 34 Millmount Avenue benefits from a rear south facing garden that extends circa 13.5m in length. The proposed extension (Ground and First Floor Levels) is located to the east of No. 34 Millmount Avenue. In my opinion, having regard to the sun path movements which would arise in this context, the scale of the development, and the location of the First Floor Level extension along the eastern boundary of the site, no undue loss of light would occur to the neighbouring property. Any reduction of light in the early mornings would be minimal and temporary and would not adversely injure the residential amenity of the neighbouring dwellings. Contrary to the Appellant's suggestion, I do not consider it necessary to increase the subterranean floor depth of the proposed extension to ensure the proposal would not unduly reduce light entering No. 34 Millmount Avenue.
- 7.2.2. I am satisfied that the proposed development would not have an adverse impact on the scale and character of the existing dwelling and would not adversely affect

amenities enjoyed by the occupants of adjacent dwellings, including No. 34 Millmount Avenue, in terms of access to daylight and sunlight.

7.3. Working Hours

- 7.3.1. The Appellant states that works have been on-going at the site at unsociable times and that these works are unacceptable in an inner-city, suburban area. Condition No. 4 attached to the Planning Authority restricts the working times on site. This Condition only applies to works relating to the subject development. I note from my site inspection that refurbishment works are currently on-going on-site. These works do not appear to relate to the works for which planning permission is being sought, except for the widening of the existing rear access laneway.
- 7.3.2. The Appellant correctly highlights that it is the Local Authority's responsibility to enforce the planning conditions. I recommend that the Board limit the working hours in a similar manner to the Planning Authority to safeguard the residential amenities of property in the vicinity.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, the residential land use zoning of the site, and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the 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

- 8.1.1. I recommend that planning permission be granted, subject to the conditions outlined below.

9.0 Reasons and Considerations

- 9.1. Having regard to the residential land use zoning of the site, the nature and scale of the proposed development, and pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the development would

not seriously injure the residential amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning</p>

<p>authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Susan Clarke

Planning Inspector

16th August 2021