



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310857-21

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Demolition of garden shed; the construction of a part single storey, part two storey extension to the rear, surface water drainage, landscaping and boundary treatment, and all associated development works. |
| <b>Location</b>                     | 3 St. Patrick's Terrace, Donabate, Co. Dublin   |
| <b>Planning Authority</b>           | Fingal County Council   |
| <b>Planning Authority Reg. Ref.</b> | F21B/0175   |
| <b>Applicant(s)</b>                 | David McDonnell and Orla Brannigan.   |
| <b>Type of Application</b>          | Permission.   |
| <b>Planning Authority Decision</b>  | Grant permission.   |
| <b>Type of Appeal</b>               | First Party.  |
| <b>Observer(s)</b>                  | Cathy and Liam Hoey,<br>Mary O'Reilly.  |
| <b>Date of Site Inspection</b>      | 20 <sup>th</sup> October 2021.  |
| <b>Inspector</b>                    | Barry O'Donnell   |

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.0885ha and is located at 3 St. Patrick's Terrace. St. Patricks Terrace is located to the east of Main Street and is accessed from New Road.
- 1.2. The terrace comprises of single storey houses at both ends, with 2-storey houses in the centre. The terrace is set back from New Road, with a mature open space area in the intervening area. There is a single means of vehicular access to the terrace, through the centre of the open space and via a narrow route which terminates at both ends of the terrace.
- 1.3. The subject site is centrally located within the terrace and comprises of a 2-storey house on a large and irregularly shaped plot.

## 2.0 Proposed Development

- 2.1. Permission is sought for demolition of an existing rear garden shed and construction of a part-single storey, part-2-storey rear extension, modifications to the internal layout, surface water drainage, landscaping and boundary treatments. Associated site works are also included.
- 2.2. The shed to be demolished has a stated area of 9sqm.
- 2.3. The proposed extension would project from the rear plane of the house by 15.6m at ground floor level and by 5.7m at first floor level.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority granted permission on 1<sup>st</sup> July 2021, subject to 7 No. conditions.
- 3.1.2. Condition No. 2 stated: -

*'The living room at ground floor level within the proposed hereby permitted shall be omitted. Prior to commencement of development revised floor plans and elevations shall be submitted to the Planning Authority for written agreement indicating same.'*

*Reason: To protect the amenities of adjoining property.'*

### 3.2. **Planning Authority Reports**

3.2.1. A Planning Report dated 29<sup>th</sup> June 2021 has been provided, which reflects the Planning Authority's decision. The report stated that the proposal accords with the TC zoning applying to the lands but expressed concerns regarding the scale and extent of the ground floor element and its impact on the east and west-adjointing properties, where the development was considered likely to give rise to overbearance. In order to address these concerns, the report recommended that the living room element should be omitted. The first floor extension was considered to be acceptable. The report recommended that permission be granted subject to 9 No. recommended conditions, but condition Nos. 7 and 8 (bond and financial contribution in lieu of public open space) were identified to be omitted from the final decision.

### 3.2.2. Other Technical Reports

A **Water Services** department report dated 20<sup>th</sup> May 2021, which recommended a number of conditions should permission be granted.

An undated **Transportation Planning** Section report has been provided, which advised the section had no objection to the development.

### 3.3. **Prescribed Bodies**

3.3.1. Irish Water made a submission dated 10<sup>th</sup> June 2021, which requested a number of conditions should permission be granted.

### 3.4. **Third Party Observations**

3.4.1. A number of third party submissions were received, the issues raised within which can be summarised as follow: -

- An Bord Pleanala previously granted permission for an extension of the subject house but condition No. 2 significantly reduced the scale and depth of the ground floor element to a max. of 10m from the rear wall of the house. This condition addressed concerns over overdevelopment of the site and overbearing impacts

on the adjoining houses at 2 and 4 St. Patrick's Terrace. The condition also required other alterations to the development.

- The current proposed development ignores and is in breach of the requirements of the Board's Order.
- Examples of similar extensions which are intended to justify the development relate to different contexts and are not relevant to this development. The development was considered to be out of character
- The proposed extension is dominant and incongruous. Its depth and overall scale were considered excessive.
- The development will have a negative impact on residential and visual amenities, in particular at 2 and 4 St. Patrick's Terrace, including overshadowing and overbearing impacts.
- The accuracy of the shadow analysis was questioned.
- Concern was expressed that the applicant was attempting to justify the scale of development proposed, by referring to unapproved proposals as part of the previously approved development.
- Concerns were expressed that the proposal would involve building over the existing foul sewer.
- Concerns were expressed that the development may impinge on the property rights of adjoining landowners.
- Proposals to remove small trees and shrubs along a shared boundary wall and replace with a 2.1m high wall were considered unacceptable. One observer also stated that a shared boundary treatment with the subject site is 1.3m high and not 2m as stated by the applicant.

#### 4.0 Planning History

F20A/0048 - (ABP Ref. ABP-307334-20): Permission granted on 22<sup>nd</sup> September 2020 for demolition of single storey garden shed and construction of a part single storey, part two storey extension to the rear. The development also included internal alterations, drainage works,

landscaping and boundary treatments. Condition No. 2 of the Board's Order required the following amendments: -

*2. The proposed development shall be amended as follows:*

*(a) The length of the proposed single storey rear extension shall be reduced to a maximum of ten metres from the existing rear elevation.*

*(b) The proposed extension shall be sited a minimum of one metre off the side boundaries.*

*(c) The kitchen window shall be relocated to the rear elevation.*

*(d) There shall be no overhanging of the first-floor extension over the party boundaries.*

*(e) First floor side elevation windows shall be obscure glazed.*

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

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The site is zoned 'TC' Town and District Centre under the Fingal County Development Plan 2017-2023, with an objective to '*Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*'
- 5.1.2. Section 12.4 provides guidance in relation to house extensions, outlining that extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. For ground floor extensions, the section states that they will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space. First floor extensions will be assessed against a number of factors including overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries, remaining rear private open space, and its usability and external finishes and design.

5.1.3. Objectives DMS42 and PM46 relates to house extensions, outlining that it is an objective to: -

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

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

## 5.2. Natural Heritage Designations

5.2.1. The subject site is not located within or adjacent to any designated European Site.

## 5.3. EIA Screening

5.3.1. The proposal is for a domestic extension. This type of development does not constitute an EIA project and so the question as to whether or not it might be sub-threshold does not arise.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows: -

- A first party appeal is lodged in respect of condition 2 of the Planning Authority's decision.
- The principal of an extension of the house was deemed to be acceptable under Reg. Ref. F20A/0048 (ABP Ref. ABP-307334-20). The applicants are seeking a new design that better suits their needs.
- The development provides increased separation off the boundaries to the east of the site. The extension is also of a simpler design and form and incorporates improved boundary treatments.
- The ground floor extension is of reduced depth to that previously proposed under Reg. Ref. F20A/0048 and it has been redesigned to ensure that it is not one long bulk elevation of 15.5m. The side elevation consists of several volumes and

setbacks, which break up its scale and massing. The level of separation from adjacent properties has been increased.

- The first floor extension is considered to be an appropriate height, in the context of an adjoining extension and will not represent an overbearing structure.
- The ground floor extension is consistent with the development of the area. The positioning of the living room at the northern end allows the applicants to access their garden, which widens into a very large garden to the rear of the extension.
- The applicants have provided a letter as part of the appeal, to outline their individual circumstances for seeking omission of the condition.
- With the exception of the ground floor extension, the Planning Authority looked favourably on the proposed development, outlining that the development accords with the zoning and would not impact on adjoining properties. The Transportation department and Water Services did not object to the development.
- The Board is requested to omit condition No. 2 from the Planning Authority's decision.

## 6.2. Planning Authority Response

- 6.2.1. The Planning Authority made a submission dated 13<sup>th</sup> August 2021, requesting the Board to uphold its decision. In the event that permission is granted, the Board is also requested to retain condition No. 7 of its decision.

## 6.3. Observations

- 6.3.1. Observations have been received from Cathy & Liam Hoey and Mary O'Reilly, the contents of which are summarised separately below.

### Submission by Cathy & Liam Hoey

- Statements within the appeal documents that state that condition No. 2 of ABP-307334-20 and condition No. 2 of F21B/0175 are unfounded or are not evidence-based are disputed. The condition attached by the Planning Authority sought to limit the development, to avoid overdevelopment and to address residential amenity concerns.

- The Board is requested to consider the appeal de novo and to address the observer's concerns. Concerns relate to: -
  - The comparative analysis of current proposed and previously proposed elevations does not show the previously approved development.
  - The accuracy of the shadow analysis submitted with the application is questioned. The first floor element is considered to be of a more dramatic scale and impact than is represented.
  - The proposal would involve building over the existing foul sewer.
  - Concerns regarding the impact of the development on the observer's property rights have not been addressed. The applicant is not entitled to encroach or oversail the property boundary.
- References to health concerns are not a basis for disregarding planning considerations associated with the scope and extent of impact of the development. This matter was also not raised previously by the applicants.
- Statements within the appeal that the development is consistent with other permitted developments in the area are disputed. There are no developments similar to that proposed in the area. The observer notes that references to precedent cases elsewhere in the county have been omitted from the appeal.

Submission by Mary O'Reilly

- Condition No. 2 required the submission of revised floor plans and elevations. As these drawings were not submitted, the observer did not have an opportunity to appeal the decision.
- Concerns are expressed regarding the impact of the development on the observer's residential amenity.
  - The extension is incongruous and out of scale with the pattern of development within the terrace.
  - The proposal does not take account of the requirements of condition No. 2 of Board Order ABP-307334-20, which reduced the depth and width of the extension.
  - The development will have undue visual and overshadowing impacts.



- On a previous application at the site, Reg. Ref. F15A/0289 (which was withdrawn), the planning stated in their report that the rear extension should be reduced to 6m. This proposed depth is considered acceptable to the observer.
- The observer responds to a number of elements of the appeal: -
  - The extension is of poor quality and design. It does not compliment the style and detail of the existing house and is a dominant addition.
  - Pictures provided with the appeal indicate that the extension will have a serious visual impact on the view from the observer's kitchen, bedroom and rear patio area.
  - It is incorrect to state that the adjoining rear extension measures 5.7m deep. It is 5.5m deep. The proposed extension will have a tunnelling effect between the observer's extension and the proposed extension. The depth and height of the extension are considered unacceptable.
  - Proposed boundary treatments are unacceptable

#### 6.4. Further Responses

6.4.1. None.

### 7.0 Assessment

- 7.1. This is a first party appeal against condition 2 of the Planning Authority's decision to grant permission for application Reg. Ref. F21B/0175. Under Section 139 of the Planning and Development Act, 2000, as amended (the Act), the Board has the discretion over whether to consider these conditions in isolation from the remainder of the development.
- 7.2. One of the third party observers has requested that the Board should consider the appeal de novo and that consideration should be given to each of the issues raised within their submission.
- 7.3. As has been set out previously, the Board has previously granted permission for an extension of the subject house, which was of a broadly similar form to the current proposal. Condition No. 2 of the Board's Order amended the development and in

particular required that the single storey rear extension element should have a maximum depth of 10m.

- 7.4. I have given consideration to the Observer's request but, in view of the Board's previous Order in respect of a proposed extension at the site and having regard to the nature and intent of condition 2 of the Planning Authority's decision on application Reg. Ref. F21B/0175, I consider that determination by the Board as if the application had been made to it in the first instance would not be warranted in this instance and the appeal can be assessed under the provisions of Section 139 of the Act.

**Condition No. 2**

- 7.5. The condition amended the proposed development, requiring that the ground floor living room should be omitted. The omission of the living room would have the effect of reducing the depth of the extension by c.4m, to a depth of approx. 10.6m from the rear plane of the dwelling.
- 7.6. The applicants state that the principal of an extension of the house has been deemed to be acceptable and that they are seeking a new design that better suits their needs. It is further stated that the revised design consists of several volumes and setbacks, which break up its scale and massing. The level of separation from adjacent properties has also been increased.
- 7.7. The Planning Authority's submission on the appeal requests that its decision should be upheld.
- 7.8. I have given consideration to the requirements of condition 2 and to the underpinning rationale for the condition, provided in the planning officer's report. The proposed extension is of a revised design to that proposed under Reg. Ref. F20A/0048 (ABP Ref. ABP-307334-20), which was itself required to have its ground floor depth reduced to a maximum of 10m, by condition No. 2 of the Board's Order.
- 7.9. The current proposed extension has a stated depth of c.15.5m from the rear plane of the dwelling. It is of an unusual form and design, incorporating a number of volumes and setbacks. The proposed roof is primarily flat, with a stated height of 3.63m, although there is a feature monopitch element towards the rear, with a stated maximum height of 4.63m. Both of the observers express concerns that the

extension will impact on residential amenity and that its overarching design and form are out of character.

- 7.10. The application drawings indicate the ground and first floor elements being set off both side property boundaries by a minimum of c.1.2m and a series of shadow images have been provided, which models the extent of shadow cast by the extension at various times on 21<sup>st</sup> June and 21<sup>st</sup> December. Section 3.3 of '*Site Layout Planning for Daylight and Sunlight*' (BRE, 2011) advises that 50% of a rear garden should receive at least 2 hours of sunlight on 21<sup>st</sup> March. Whilst the assessment does not state whether this target would be achieved, I am satisfied that both adjoining rear gardens, which are both a substantial size and width, would continue to receive adequate sunlight, in accordance with the BRE recommendations.
- 7.11. Notwithstanding this, I consider the proposed extension is excessive in its scale and length, when viewed in the context of the existing house and other houses within the terrace, a number of which have themselves been extended previously. The Inspector on the previous appeal expressed similar concerns regarding the then proposed extension and also expressed concerns that the development would have set an undesirable precedent for extensions within the terrace that would impact on its character and the pattern of development of the area. I share these concerns and whilst I note the applicants' argument that the incorporation of several volumes and setbacks serves to break up the scale and massing of the extension, I do not consider they justify an extension of the proposed scale and depth, on this plot.
- 7.12. Section 12.4 and Objective PM46 of the development plan are relevant to the assessment of domestic extensions and together they seek to ensure that such extensions do not have a negative impact on adjoining properties or on the nature of the surrounding area. I consider the proposed extension fails to accord with Section 12.4 and Objective PM46, for the reasons outlined, and I agree with both the Inspector and the Planning Authority, that the extension should have a reduced depth. In view of the above, I recommend that condition No. 2 should be retained.

## 8.0 Recommendation

- 8.1. I recommend that condition No. 2 of Reg. Ref. F21B/0175 be retained.

## 9.0 Reasons and Considerations

The proposed ground floor extension is excessive in its scale and length, when viewed in the context of the existing house and other houses within the terrace and would set an undesirable precedent for extensions within the terrace that would impact on its character and the pattern of development of the area, contrary to Objective PM46 of the Fingal County Development Plan 2017-2023.

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Barry O'Donnell  
Planning Inspector

26<sup>th</sup> October 2021.