



An
Bord
Pleanála

Inspector's Report

ABP-310876-21

Development	Construction of a First Floor extension over existing single storey extension to the side and rear of the existing house with pitched roof.
Location	146, Mckee Avenue, Finglas East, Dublin 11.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB1465/21
Applicant(s)	David Austin
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeal
Appellants	Brian Lally
Observer	None
Date of Site Inspection	24 th September 2021
Inspector	Susan Clarke

1.0 Site Location and Description

The site is located at 146 McKee Avenue, Finglas East, Dublin 11 and has a stated area of 301 sq m. The dwelling is one of a pair of semi-detached dwellings fronting onto a green public open space area. It is a 2-storey 2 bay dwelling with a single storey side/rear extension. It has a total gross floor area of 107 sq m. There is a concrete paved area to the front of the house. The vehicular access is shared with 144 McKee Avenue, Finglas East, Dublin 11. There is a patio area to the side of the house and large rear garden. Part of the side patio appears to be located within an area identified as being a wayleave/right-of-way on the Ordnance Survey map submitted with the application that provides for a connection between McKee Avenue and North Road.

The area is mixed use in nature with residential dwellings in the immediate vicinity, but large industrial areas are located further east of the site. Many of the houses in the area have been extended and modified over time. In particular, a number of the properties have rear and side extensions.

2.0 Proposed Development

2.1. The proposed development consists of:

- Construction of a new First Floor extension to the side and rear of the house over an existing single storey Ground Floor extension,
- Internal modifications,
- Associated site works to facilitate the development.

The extension will measure 40 sq m, with a matching eave height as the existing house, but with a reduced ridge height of 7.4m. The First Floor extension would project a maximum of 5.4m from the side elevation of the dwelling and 3.5m from the rear elevation of the dwelling. The footprint of the proposed development will not extend beyond the footprint of the existing Ground Floor extension and would not appear to infringe on the wayleave/right-of-way as shown on the Ordnance Survey map.

3.0 Planning Authority Decision

3.1. Decision

The Local Authority issued a Notification of Decision to Grant Permission on 21st June 2021 subject to nine standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Report (18th June 2021)

The Planning Officer's report reflects the decision of the Planning Authority. The Planning Officer considered that the proposed First Floor extension is reasonable and would not have a detrimental impact on the amenity of the area by way of undue overlooking, overshadowing, and was not considered to be an overbearing development.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water: No comments received.

3.4. Third Party Observations

3.5. Four Third Party observations were submitted to the Local Authority in respect of the application. Three of the observations were submitted in support of the application. The fourth observation was submitted by the Appellant, Mr Brian Lally. Mr Lally's observations are set out in the Third-Party Appeal. See Section 6 below.

4.0 Planning History

Subject Site: 146 McKee Avenue, Finglas East, Dublin 11

Reg. Ref. WEB1041/16: Planning permission was granted on 9th May 2016 for the proposed construction of a new single storey 61sqm extension to the side and rear of the existing house with pitched roof and rooflights, subject to nine conditions.

Neighbouring Site: 156, North Road, Finglas, Dublin 11

Reg. Ref. WEB1025/17: Planning permission was granted on 24th April 2017 for the construction of a part single storey, part 2-storey extension to side / rear of existing dwelling with internal modifications and associated site works subject to seven conditions.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

5.2. Land Use Zoning

The site is subject to land use zoning “Z1” (Sustainable Residential Neighbourhoods) which has the objective “to protect, provide and improve residential amenities”. Within Z1 zones ‘Residential’ is a permissible use.

Chapter 16 includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design. Applicable to the proposed development are the following:

- Indicative plot ratio for Z1 zones is 0.5 to 2.0.
- Indicative site coverage for the Z1 zone is 45-60%.

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.

5.3. **Natural Heritage Designations**

None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. A Third-Party Appeal has been lodged by of Mr Brian Lally 148 McKee Avenue, Finglas, Dublin 11. The planning grounds of appeal can be summarised as follows:

- The extension is enormous and totally disproportionate to the small site and surrounding houses.
- It is an attempt to build a second house on the site.
- The height of the extension appears to exceed the height of the gutters of 146 McKee Avenue and will substantially block the morning light from entering the rear of the house at 148 McKee Avenue, which will negatively impact on the lives of the neighbouring occupants.
- The extension will overshadow and tower over the back garden of 148 and permanently block out a view of a good part of the southerly sky.

- The extension would devalue the adjoining property.
- The proposed development is unnecessary. The additional accommodation could be provided for in the attic. The garden shed could be converted into a home study.
- The entire proposed structure looks odd and ugly and totally out of keeping with the surrounding properties.
- The architectural drawings have not been prepared by a qualified architect.
- The proposal will create a very large open balcony type space on top of the existing flat roofed extension. Concern raised in relation to the enforcement of Condition No. 3 attached to the Notification of Decision to Grant Permission restricting the use of the balcony space for amenity purposes.
- Previous permission issued in respect of the site (Reg. Ref. WEB1041/16) has not been complied with. Notably instead of constructing a pitched roof, a flat roof was developed on the single storey extension. In addition, there are differences between the windows and doors that were permitted and those that were constructed.

Other matters were raised in the appeal that are not relevant to whether the proposal is in keeping with the proper planning and sustainable development of the area.

6.2. Applicant Response

The applicant's response to the appeal disputed the veracity of some of the comments in the appeal.

6.3. Observations

- None.

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. Nature and scale of the proposed development
2. Impact on Residential Amenities of No. 148 McKee Avenue
3. Appropriate Assessment.

Each of these issues is addressed in turn below.

7.1. Nature and scale of the proposed development

7.1.1. Quantitative Development Management Standards

As outlined above, the applicable plot ratio and site coverage standards for the site that are set out in the development plan are 0.5 to 2.0 and 45%-60%, respectively. Based on the Planning Application Forms and drawings submitted in respect of this application and Reg. Ref. WEB1041/16, I calculate that the development will result in a plot ratio of 0.6 and site coverage of 35%. As such in terms of quantitative development management standards, the proposed development would not be considered as overdevelopment. Furthermore having regard to the separation distances between the neighbouring properties and the proposed extension, I do not consider that the development will have an overbearing impact and thus will not reduce the area's residential amenity in this regard. The development will result in the provision of a study, shower room, and an en-suite bedroom. I do not consider the additional accommodation to be unreasonable or excessive. Should the Board be minded to grant permission for the development, I recommend that a condition be attached to the decision that the property should be used as a single residence, similar to Condition No. 9 attached to the Notification of Decision to Grant Permission.

7.1.2. Architectural Treatment

In terms of the overall scale and architectural treatment of the proposed extension, I do not consider the proposal excessive for the corner site (which benefits from a large rear garden) or surrounding area. The property is not a Protected Structure, nor are there any such Structures in the area. Furthermore, the area is not an Architectural Conservation Area. The ridge height of the existing property will not be breached by the proposed extension. The development is appropriately setback from neighbouring properties. It does not appear that the development would impinge on the adjoining lands over which a right of way is shown on the Ordnance Survey maps of the area.

The proposed materials for the extension will match the existing property, and as such they will be in keeping with the character of the area and not cause any adverse visual impacts. As such, I do not consider that the proposed architectural design will negatively impact the area's architectural character or amenities.

7.2. Impact on Residential Amenities of No. 148 McKee Avenue

7.2.1. Overlooking and Loss of Privacy

Concern was expressed by the Appellant in relation to the balcony area at First Floor Level. It is argued that this space would cause overlooking, a loss of privacy, and result in noise, potential anti-social behaviour, and disturbance to surrounding residents. The Council conditioned (No. 3) that this space is not to be used for amenity purposes. Should the Board be minded to grant permission for the proposed development and attach a similar condition to the decision to the condition No. 3 of the Council's decision, I do not consider that the terrace area will significantly reduce the residential amenity of adjoining property. Potential unauthorised use of this space would be subject to control by the council under the Part VIII of the planning act, as are outstanding issues relating to previous development.

In terms of overlooking from windows, there are no windows proposed along the northern elevation and as such, there will be no direct overlooking onto 148 McKee Avenue. The windows to the rear of the extension will be setback 19.8m from the rear windows (west elevation) of No. 116 North Road and as such will not result in a loss of privacy. Furthermore, having regard to the separation distance between the proposed extension and the boundary with No. 148 McKee Avenue, and the orientation of the rear windows, I do not consider that there will be significant overlooking of the adjoining property. The proposed side window will be constructed with obscure glazing and as such there will be no direct overlooking the rear garden of No. 144 McKee Avenue. The easterly window associated with the proposed study will overlook the front of the property and the green open space area. In summary, I do not consider that the proposed development will result in significant overlooking or a loss of privacy for neighbouring properties and thereby the area's residential amenity will not be impacted in this regard.

7.2.2. Overshadowing

The grounds of appeal express concern that the proposed development will restrict daylight penetration to No. 148 McKee Avenue, in particular the living accommodation to the rear of the dwelling and will result in significant overshadowing. No. 148 McKee Avenue benefits from a southwest facing rear garden. The proposed extension is located south of the adjoining property. However, the extension will be setback 5.8m from the boundary. In my opinion, having regard to the scale and location of the development setback from the boundary wall with No. 148 McKee Avenue, no undue loss of light or overshadowing would occur to the neighbouring property. I am satisfied that the proposed development will not alter the quantum of daylight to such a significant degree that would adversely affect amenities enjoyed by the occupants of neighbouring dwelling.

7.2.3. Conclusion

I consider that the proposed development would result in no undue overbearing impacts or overshadowing on the neighbouring properties or adversely impact the area's residential or visual amenities, including No. 148 McKee Avenue. Furthermore, having regard to the foregoing, I do not concur with the Appellant's arguments that the proposal will reduce the property values of the neighbouring dwellings.

7.3. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, serviced nature 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, scale and location of the proposed development to the side and rear of the existing dwelling, and the provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the development would not detract from the character of the area, unduly reduce privacy or result in adverse overshadowing of property in the vicinity including 148 McKee Avenue, or otherwise seriously injure the amenities of property in the vicinity of the site. 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 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>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity.</p>
3.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.</p>

	Reason: In the interest of the amenities of the area.
4.	<p>Access to the ground floor roof shall only be permitted for necessary maintenance purposes only. For the avoidance of doubt, the ground floor roof shall not be used for amenity purposes without a separate grant of permission.</p> <p>Reason: To protect the residential amenities of adjoining residential properties</p>
5.	<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>
6.	<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>
7.	<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 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</p>

	<p>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

29th October 2021