



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311384-21

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<b>Development</b>	Demolition of extensions, conversion of garage to habitable use, construction of extension to side and rear, widening of vehicular access gate, new pedestrian access gate to laneway and associated site work
<b>Location</b>	105 The Stiles Road, Clontarf, Dublin 3
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	WEB 1354/21
<b>Applicant(s)</b>	Peter & Valerie Hayes
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party vs. Grant
<b>Appellant(s)</b>	Mairead O'Carroll & David Coldrick
<b>Observer(s)</b>	Linda McEvoy
<b>Date of Site Inspection</b>	10 <sup>th</sup> February 2022
<b>Inspector</b>	Stephen Ward

## 1.0 Site Location and Description

- 1.1. The appeal site is located approximately 3.5km northeast of Dublin city centre on The Stiles Road in the Clontarf residential area. It has a stated area of 596 sq.m, with approximately 10m of frontage onto The Stiles Road, and an overall site depth in excess of 60m. It contains a two-storey semi-detached house with single-storey extensions to the side and rear. The house also features a single-storey side garage with flat roof and a double-height front-bay window projection. The dwelling is finished with red-brick at ground floor level, dash at first-floor level, and concrete profile roof tiles.
- 1.2. The front garden side boundaries are enclosed by railings, while there is a low wall and vehicular entrance along the roadside boundary. There is extensive mature planting on the neighbouring side of the front garden to the south, and on the inner side of the roadside boundary wall. To the rear is a 40m-deep garden area. It is flanked by high boundaries on both sides, a concrete block wall to the south and a concrete post and timber fence to the north. The site backs onto a rear service lane which is bounded by a high stone wall.
- 1.3. The immediate surrounding area is characterised by similar rows of two-storey semi-detached houses, fronting onto narrow tree-lined streets and served by laneways to the rear. The houses on the adjoining properties, No.'s 107 and 103, are constructed on similar building lines and levels to the appeal site.

## 2.0 Proposed Development

- 2.1. It is proposed to carry out alterations and extensions to the existing 2-storey semi-detached dwelling. In summary, the proposed works involve the following:
  - Demolition of single storey extensions to the side and rear
  - Conversion of existing garage to habitable use
  - Construction of part single storey, part 2-storey extensions to the side and rear to include roof windows
  - Widening of existing vehicular access gate to front boundary
  - New pedestrian access gate to laneway at the rear.

2.2. The proposed works involve various internal and external alterations to the existing dwelling, including the installation of double-glazed windows. It is stated that 141m<sup>2</sup> of the existing building will be retained and the proposed extensions would be 97m<sup>2</sup>, resulting in a gross floor area of 238m<sup>2</sup>. The external finishes to the front and side of the development would include plastered/rendered walls and roof tiles to match the existing dwelling. The rear (west) elevation of the proposed flat-roof section to the rear would be finished in brick.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By order dated 17th August 2021, Dublin City Council (DCC) issued notification of the decision to grant permission. Condition no.'s 6 and 8 state as follows:

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

*a) The first floor level extension to the side shall be set-back by a minimum of 0.5m from the primary front building line to the dwelling.*

*b) The raised parapet feature shall be kept as low and unobtrusive as possible especially where projecting forward of the front roof plane of the side extensions front roof plane.*

*c) The proposed window at first floor level to the rear to serve the bathroom shall have a maximum height no greater than the largest existing window at first floor level to the rear. The window to serve the bathroom shall be permanently fitted with opaque glazing.*

*d) The external finish of the side extension shall harmonise with the existing house in respect of materials and colour*

*Reason: In the interests of residential and visual amenity of the area*

*8. The following requirements of the Transportation Planning Division of Dublin City Council shall be complied with:*

*a) Driveway entrance shall be a maximum of 3metres in width and shall not have outward opening gates.*

*b) Footpath and kerb to be ditched and widened entrance provided to the requirements of the Area Engineer, Roads Maintenance Division.*

*c) 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.*

*d) The developer shall be obliged to comply with the requirements set out in the Code of Practice.*

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

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

#### Further Information

- 3.2.1. Following initial DCC reports, a request for further information was issued on 1<sup>st</sup> June 2021. It requested the applicant to clarify whether the proposed extensions would be unduly negative to 3<sup>rd</sup> parties' access to daylight when benchmarked against best practice guidance and noting the baseline impacts from the existing development on site. The applicant was requested to have particular regard to the nearest southern opes of No. 103 and the nearest rear ground floor patio window of No. 107.

#### Planner's Report

- 3.2.2. The final planner's report (16<sup>th</sup> August 2021) can be summarised as follows:
- The volume of extension is not exceptional for the area.
  - In order to ensure that the side extension appears subordinate to the existing dwelling and to avoid a potential terracing effect, the side extension should be recessed back 0.5 metres from the front building line and front eaves overhang. This can be dealt with by condition.
  - The rear extension is subordinate and not readily visible from the public realm. It will not materially affect the visual amenities of the streetscape.
  - The alterations to the front entrance and addition of a rear entrance will not affect the visual amenities of the area.
  - The further information response includes a daylight/sunlight analysis in accordance with the BRE document 'Site Layout Planning for Daylight and

Sunlight'. It assesses windows in No.'s 103 (windows A & B) and 107 (window C).

- The study has outlined that the existing Vertical Sky Component (VSC) for windows A (15.6%) and B (13.5%) is already substandard and would be reduced to 4.1% (0.26 times former value) and 1.9% (0.14 times former value) respectively. It also states that the existing Average Daylight Factor (ADF) for windows A (0.35%) and B (0.39%) is already substandard and would be reduced to 0.09% and 0.1% respectively.
- It is agreed that other glazing in the rear extension of No. 103 provides additional light. The layout and position of windows to No. 103 is unfortunate and have been left somewhat vulnerable to obstruction even in the case of an extension as 'exempted development'. The proposed extension is in keeping with the scale and pattern of development and a refusal on the basis of impacts on windows A & B would essentially restrict the potential for any future extension to the rear. On the basis of the existing inadequate levels of daylight to the kitchen space, it is unlikely that the proposal would significantly reduce levels of amenity for the occupants of No. 103.
- The assessment of No. 107 applies the 45° approach to establish that the proposal would not reduce daylight levels to the extent that would adversely impact on the amenity of its occupants.
- The design and position of windows generally avoids overlooking of adjoining properties. However, the 1<sup>st</sup> floor bathroom rear ope may be regarded as somewhat oppressive and should be significantly reduced in scale.
- There would be sufficient private open space to serve the development.
- The report concludes that the proposal would not seriously injure the residential amenities of neighbouring properties or amenities of the area. It recommends a grant of permission subject to conditions, which forms the basis of the DCC decision.

### Technical Reports

- 3.2.3. The Engineering Department (Drainage Division) outlines that there are no objections subject to standard conditions.

The Transportation Planning Division highlights the continued reliance on on-street parking at this location and the need to protect existing trees, streetscape character and pedestrian safety. It concludes that exceptional site circumstances do not exist to warrant a maximum entrance width of 3.6m. There is no objection subject to conditions, including a maximum entrance width of 3 metres.

### 3.3. **Prescribed Bodies**

None.

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

One 3<sup>rd</sup> Party submission was received from the appellants. The issues raised are covered in section 6.0 of this report.

## 4.0 **Planning History**

There would not appear to be any relevant planning history pertaining to this site. The following applies to other sites in the immediate vicinity:

**P.A. Reg. Ref WEB1255/21:** Permission granted (June 2021) at 107 The Stiles Road for demolition of the existing single storey return to the rear of the existing part two storey / part single storey dwelling house, the construction of a new single storey extension (to include wheelchair accessible facilities) to the rear linking the dwelling house to the existing single storey detached shed, conversion of the existing shed for use as a part of the dwelling house and as a study / office, interior alterations to the dwelling house, exterior alterations to the existing shed, the construction of a new accessible access ramp to the front of the dwelling house along with alterations to the existing front entrance door, all with associated site works and landscaping.

**ABP Ref. 304371-19:** Permission granted in July 2019 for single and two-storey side and rear extensions, replacement windows, doors and garage roof and widening of vehicular access at 109 The Stiles Road.

**ABP Ref. 300253-17:** Permission granted in April 2018 for a first-floor rear extension over the existing ground-floor rear extension and roof extensions, including a hipped-side dormer and a flat-roof rear dormer to No.101 The Stiles Road.

**ABP Ref PL29N.238627:** Permission granted in July 2011 for demolition of a garage and other extensions and the construction of a single-storey extension to the rear and a two-storey extension to the front of No.101 The Stiles Road. Permission included a condition requiring the ground-floor extension to be set off the northern boundary by 1m.

**P.A. Reg. Ref 1090/92:** Permission granted (September 1992) for kitchen extension at 103 The Stiles Road.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The operative Development Plan for the area is the Dublin City Development Plan 2016-2022. The site is zoned as 'Z1', the objective for which is '*To protect, provide and improve residential amenities*'.

5.1.2 Section 16.2.2.3 of the Plan is part of the general design standards and principles. It deals with 'Alterations and Extensions', which should be designed to respect the existing building, its context and the amenity of adjoining occupiers. Of relevance to the current application, it is stated that development should:

- Respect street uniformity, patterns and rhythms
- Retain a significant portion of garden / yard / enclosure
- Not detract from the architectural quality of the existing building
- Be confined to the rear in most cases
- Be clearly subordinate to the existing building in scale and design

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. Appendix 5 of the Development Plan addresses road standards for various classes of development.

5.1.4 When assessing residential accommodation, the Development Plan refers to the need to consider the standards in the Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice' (2nd Edition, 2011).

## 5.2. Natural Heritage Designations

The site is located c. 600m north of the South Dublin Bay and River Tolka Estuary SPA and the North Dublin Bay Proposed Natural heritage Area. There are several other Natura 2000 sites within the inner Dublin Bay area.

## 5.3 Environmental Impact Assessment – Preliminary Examination

Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

6.1.1. The decision of DCC to grant permission has been appealed by Mairead O'Carroll and David Coldrick of No. 103 The Stiles Road. The appeal has been prepared by Sheehan Planning and seeks that the application be refused and/or amended. It also seeks clarification on proposals for the shared front garden boundary between no. 103 and no. 105. The grounds of appeal can be summarised under the following headings:

#### Applicant's deficient daylight report

- The report did not assess the impact of the development on a recently permitted extension to no. 107 or the daylight at the kitchen/living room at the northern elevation of No. 103. The main source of light to the kitchen/living room in No. 103 are the windows on the southern elevation.



- The report shows that the proposal will significantly diminish daylight to no. 103 (windows A & B) to such an extent that it would be impossible to achieve reasonable daylight even if the entire wall was glazed.
- The assessment fails the 25° approach to assessment of daylight impacts.
- The development will further reduce the ADF for windows A and B and the justification for this underplays its seriousness. A solicitor's letter suggests that legal precedent in England and Wales would indicate that a reduction of ADF to less than 0.2% would infringe on a right of light to a degree that is actionable by way of restitutionary damages, injunctive relief prior to commencement of a project, or subsequent demolition. Notwithstanding potential civil legal action, it is expected that the Board would protect the amenities of the appellant's property in accordance with the Z1 zoning objective for the area.

#### Irrational DCC decision to grant permission

- The planner's report is contradictory with regard to the significant reduction to levels of daylight/amenity to No. 103 and asserts, without any assessment, that other glazing will ensure adequate levels of daylight.
- The references to potential exempted developments in the planner's report are irrelevant to the current case.
- It is not accepted that a refusal would essentially restrict future extensions on the site, and this is an irrelevant consideration. An alternative proposal may well not significantly affect light to No. 103.
- The planning authority decision has not protected or improved the appellant's residential amenity in accordance with the Z1 zoning objective.
- The impacts on the existing/permitted development at No's 103 and 107 have not been sufficiently considered.

#### Contrary to the policies and objectives of the Development Plan

- The scale of the extension is inconsistent with the size and character of adjoining properties.

- While some 2-storey extensions have been permitted in the area (including no. 109) several of those extensions could not reasonably be said to fit with the character and pattern of development.
- The appellants are concerned that the extension will block light to the existing south facing 2<sup>nd</sup> floor window to their stairs and the ground floor south-facing kitchen/living room windows.
- The extension will result in the removal of original design features (including a chimney) which add to the character and style of houses in the area.

#### Additional concerns about light on No. 103

- The height of the extension will interfere with the operation of solar panels.
- The development will impact on their garden, which is heavily planted.
- The development may have an adverse, unjustified impact on property value.

#### Planning history and pattern of development

- The proposed extension is considerably larger in scale than any recent applications referred to by the applicant that were granted under the current Development Plan.
- Under ABP Ref. 29N.238627 (No. 101 The Stiles Road), the Board granted permission but reduced the size of the side and rear extensions (condition 3) for reasons of visual and residential amenity.
- DCC advised in pre-planning consultations for another case (No. 100 Lawrence Road) that a full width contemporary extension would be unacceptable as it would sever the relationship between the garden and the original structure (protected structure). The proposed development would similarly constitute overdevelopment. On this basis it is distinguishable from other cases referred to by the applicant.

## **6.2. Applicant Response**

The applicant's response to the grounds of appeal has been prepared by Hughes Planning and Development Consultants. The issues raised can be summarised as follows:

- The design is consistent with the architectural form of the streetscape and is of a similar scale and mass to existing extensions.
- It is suggested that there are several precedents in the area for the proposed development. Relevant aspects of the following cases are highlighted:
  - P.A. Reg Ref: WEB1255/21 at 107 The Stiles Road
  - ABP Ref. PL29N.238627 at 101 The Stiles Road
  - P.A. Reg Ref: 2625/13 at 121 The Stiles Road
  - P.A. Reg Ref: 4246/17 at 127 The Stiles Road
  - P.A. Reg Ref: 3763/09 at 54 The Stiles Road
  - P.A. Reg Ref: WEB1528/16 at 45 The Stiles Road
  - P.A. Reg Ref: 2523/21 at 48 The Stiles Road
- The proposal is consistent with the zoning for the area and the Development Plan standards relating to dwelling extensions.
- The height and scale is in keeping with existing and permitted development and impacts on neighbouring properties would be acceptable, as evidenced in the Planner's reports for both the current case and other precedent cases.
- The daylight impacts on the existing windows in No. 103 are considered acceptable given that daylight access is already inadequate. No. 103 includes existing south-facing windows close to the shared boundary and any development (including exempted development) to the rear of No. 105 would impact on the windows in No. 103.
- The impacts caused by overshadowing would be most noticeable during summer months and least noticeable during the winter. Due to the angle of sun in mid-winter, the shadow environment in all urban and suburban environments is generally dense.
- An updated Daylight Report is included to assess the impact of the development on the permitted extensions to No. 107, which would be acceptable in terms of residential amenity. Using the 45-degree test, it is concluded that the proposal would not significantly impact on No. 107 as the vertical 45-degree line from the proposed development (at No. 105) does not extend past the 1.6m high point at the centre of the new patio doors and screen permitted at the rear of No. 107.

- The reference in the Planner's report to the potential impacts of exempted development is a relevant consideration to the decision to grant permission.
- The setback of the first-floor side extension (as per conditions of the permission) would ensure the avoidance of a terracing effect and would acceptably reduce the impacts on light to the appellant's stairwell window.
- The rear element of the development will not be visible from the front and will not impact on the streetscape.
- The removal of the gable end chimney would be consistent with several other dwellings along this road.
- With regard to impacts on light to the adjoining rear gardens, it is submitted that the case should be assessed in a similar manner to that permitted at No. 101 given the similar scale and positioning of the dwellings. No. 103 would retain a garden depth of 33m, which exceeds the Development Plan requirements and would not be significantly impacted in terms of daylight.
- The operation of the appellant's solar panels will continue.
- Extensions of this scale are not uncommon along The Stile Road, such as the gross floor area of 275.5m<sup>2</sup> permitted at No. 121.
- It is requested that the Board considers the scale and dimensions of the extension permitted at No. 45 The Stiles Road.
- No. 105 is not a protected structure and can accommodate an extension of more varied scale and style.
- It is clarified that no works are proposed to the shared boundary between the applicants and the appellants, and the existing railings to the front are to be retained.

### 6.3. Planning Authority Response

None.

### 6.4. Observations

One observation has been received on behalf of Ms Linda McEvoy, of No. 107 The Stiles Road, who agrees with the appeal and requests that permission be refused. It

has been prepared by Sheehan Planning and raises many issues that have already been covered in the grounds of the appeal. The following additional issues apply:

- A recent extension to No. 109 has already diminished light to No. 107. Such a large extension to No. 105 may well adversely affect light to the permitted extension to No. 107. The cumulative impact of these developments would result in an unreasonable diminution of the residential amenities of No. 107.
- The proposed development is of an inappropriate scale relative to the permitted extension at no. 107, which was designed to recapture the loss of light caused by the extension to No. 109. It is imperative that development at No. 105 does not impinge on the attempts to mitigate loss of light.
- An updated report should be requested from the applicant to fully assess the impact of the development on No. 103 and 107. If any such report indicates that daylight/light will be materially diminished, permission should be refused.

## 6.5. Further Responses

Responses to the applicant's response have been received from Sheehan Planning on behalf of the appellant and the observer. The issues raised in each response are largely similar and reiterate points previously submitted. The additional points can be collectively summarised as follows:

- The suggested precedents (along Stiles Road) are not appropriate to justify adverse impacts on light to adjoining properties and are addressed as follows:  
  
No. 107 – Was proposed in response to the loss of light caused by No. 109 and is smaller than the current proposal.  
  
No. 101 – Was permitted under a different development plan and did not involve an unacceptable degree of overshadowing. The cumulative impact of this extension and its impact on No. 103 should be considered.  
  
No. 121 - Was permitted under a different development plan and was smaller than the current proposal.  
  
No. 127 – Materially different to the current proposal and would not affect adjoining properties in the same way.

No. 54 – Was permitted under a different Development Plan.

No. 45 – Smaller than the current proposal and would not affect adjoining properties in the same way.

No. 48 – Was not a full-width extension and was set back from the boundary.

- The proposal is inconsistent with and materially contravenes Development Plan policy to protect the amenities of adjoining properties (including access to light) and to ensure that extensions are subordinate to the existing building.
- The solicitor's letter accompanying the appeal outlines that the reduction in daylight would be actionable in damages. This has not been addressed by the applicant and should be considered by the Board.
- The UK method for assessing loss of light from a legal perspective is the Waldram method, which suggest that the threshold of adequate light is represented by the sky factor value of 0.2%, and that if a new obstruction leaves a room with less than 50% of its working plane with 'adequate' light then this could be regarded as an actionable injury. While No. 103's kitchen is on the threshold of being 'inadequate', the proposed development would render remedial action impossible.
- The applicant has not addressed the reasoning/irrationality underpinning the DCC decision to grant permission.
- Light impacts on the garden of No. 103 are only part of the concern and it is unclear why the applicant contends that the development should be assessed in accordance with a previous assessment relating to No. 101.
- Ms McEvoy (No. 107) remains concerned about the impact of the development on the permitted extension to her property, notwithstanding the additional daylight report contained in the applicant's response. The report fails to address the potential overshadowing from the 1<sup>st</sup> floor extension to the permitted extension through the intended rooflights. It also indicates significant overshadowing of the permitted terraced area in No. 107. The impacts could be avoided by retracting the proposed extension from the extreme protrusion from the existing rear boundary line.

- The applicant's response does not deal with the cumulative impact of the development and No. 109 on Ms McEvoy's property.
- The proposed pedestrian access to the rear would be a security risk. It should be omitted in the event of a grant of permission.
- The approved working hours (7am to 6pm) are highly oppressive and should be limited to 8am to 5.30pm on weekdays.

## 7.0 **Assessment**

### 7.1 **Introduction**

7.1.1 The proposal involves alterations and extensions to an existing dwelling, which would, in principle, be acceptable in accordance with the Z1 zoning objective for the area. Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues for assessment in this appeal case are as follows:

- Visual amenity
- Daylight/Sunlight
- Residential amenity
- Access

### 7.2 **Visual amenity**

7.2.1 I acknowledge that the proposed development involves a significant increase in gross floor area compared to the existing dwelling. This additional floorspace is largely distributed through three elements, i.e. the ground floor conversion and 1<sup>st</sup> floor extensions to the side; the single storey flat-roof element to the rear; and the 2-storey linking element to the rear. In this regard, I am conscious of development plan guidance (section 16.10.12 and Appendix 17) which outlines that such proposals should respect the character of existing and surrounding development and should be clearly subordinate to the existing building in scale and design. I consider that the

massing of the proposed additional space in separately identifiable elements helps to break down the overall scale of the development.

7.2.2 The front elevation incorporates several design features to integrate with the existing building. The roof tiles of the 1<sup>st</sup> floor side extension would match those of the existing dwelling, and the double-door garage appearance would be retained at ground floor level. However, the design also takes deliberate measures to emphasise the primacy of the existing dwelling. The proposed ridge level of the 1<sup>st</sup> floor side extension steps down from the main existing ridgeline and the side extension would be setback 300mm from the main front façade. Condition no. 6 of the DCC decision requires this setback to be increased to 500mm, which would have a resultant reduction in the proposed ridge height, and I would have no objection in this regard. A plaster finish is also proposed to the 1<sup>st</sup> floor side extension, which would help to distinguish it from the main dwelling.

7.2.3 Having regard to the above, I consider that the proposed 1<sup>st</sup> floor side extension and the alterations to the front of the dwelling would be acceptable. The proposed development would integrate successfully with the existing dwelling and surrounding development and would not be excessive in scale. From the streetscape (i.e. along The Stiles Road), I am satisfied that the rear extensions would not be visible and there would, therefore, be no cumulative visible impact with the side extension. The proposed development would appear subordinate to the existing dwelling and would avoid a terracing effect with any existing or future development at No. 103. I do not consider that the existing chimney is of such significance to require its retention and there would be no significant loss of built fabric.

7.2.4 The rear extensions would only be visible from the rear service lane, which is not a prominent or sensitive route in terms of public realm. The proposed extensions would be significantly setback at least 25 metres from the lane, which is bounded by a high boundary wall. Having regard to the separation distance and limited visibility involved, I do not consider that there would be any significant visual impacts to the rear of the site. The existing dwelling is not a protected structure and I do not consider that the relationship between the rear garden and the dwelling requires protection. Therefore, I have no objection to the full-width extension in the rear garden on grounds of visual amenity.



7.2.5 Having regard to the above, I consider that the scale and massing of the proposed extensions can be accommodated on this large suburban site. When viewed from the public realm, the proposed development would integrate with the existing dwelling while maintaining subordination and would not seriously detract from the scale and character of surrounding development. Accordingly, I have no objection to the development on grounds of visual amenity.

### 7.3 Daylight/Sunlight

7.3.1 The impact of the development on the availability of light to adjoining properties is a central issue in this case. In this regard, section 16.10.12 of the development plan outlines that applications to extend dwellings will only be granted where the proposal will not adversely affect the amenities enjoyed by adjacent building occupiers, including impacts on access to daylight and sunlight. Section 16.10.2 also states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment (BRE) Report, 2011).

7.3.2 At the outset I would highlight that the BRE guidelines allow for flexibility in their application, stating in paragraph 1.6 that *'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'*. The BRE Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

7.3.3 I have considered the reports submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party appeal and observations which have raised concerns in relation to daylight and sunlight.

### Impacts on No. 103

- 7.3.4 With regard to '*light from the sky*', Section 2.2.4 of the BRE guide outlines that loss of light to existing windows need not be analysed if the distance of each part of the new development is three or more times the height above the centre of the existing window. In cases where this test cannot be satisfied, the BRE Guide recommends a modified assessment as to whether the angle to the horizontal subtended by the new development at the centre of the existing window is less than 25°. If so, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building. The applicant has clearly accepted that the angle of obstruction to windows A & B would clearly exceed the 25° test and that further assessment of the impact is therefore required.
- 7.3.5 The applicant has carried out a Vertical Skylight Component (VSC) assessment for these windows. VSC is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight.
- 7.3.6 The applicant's study has outlined that the existing Vertical Sky Component (VSC) for windows A (15.6%) and B (13.5%) is already substandard and would be reduced to 4.1% (0.25 times former value) and 1.9% (0.14 times former value) respectively.
- 7.3.7 The applicant has also carried out an Average Daylight Factor (ADF) assessment for these windows. ADF is the ratio of total daylight flux incident on the working plane to the area of the working, expressed as a percentage of the outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky. The BRE and the BS guidance sets out minimum values for ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The BRE guide does not give any advice on the targets to be achieved within a combined living/dining/kitchen area. However, BS guidance outlines that where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and kitchen the minimum ADF should be 2%. Having inspected No. 103,

I confirm that the room served by windows A and B functions as a combined kitchen/living/dining space.

- 7.3.8 The applicant's assessment adopts the 2% target for the room and outlines that the existing ADF for windows A (0.35%) and B (0.39%) is already substandard and would be reduced to 0.09% and 0.1% respectively. While I acknowledge these figures, I would highlight that the BRE guide recommends the VSC assessment for existing buildings as it relies on obstruction only. ADF is generally not recommended for loss of light to existing buildings as it depends also on room/window dimensions, surface reflections and glazing.
- 7.3.9 The applicant's assessment conclusion highlights the existing substandard daylight conditions for these windows as a result of their proximity to the boundary. It also states that the presence of other glazing on the opposite (northern) side of the room has not included in the assessment, but the contribution of such openings should be considered in the overall assessment of the matter. The applicant contends that the proposal would result in the continuance of existing substandard conditions whereby supplementary electrical lighting will be required at times, which would not result in significant adverse impacts on the amenity of the property.
- 7.3.10 No assessment of sunlight impacts to windows A & B has been provided. Section 3.2 of the BRE Guide outlines that obstruction to sunlight may become an issue if a living room of an existing dwelling has a main window facing within 90° of due south, and any part of a new development subtends an angle of more than 25° to the horizontal measured from the centre of the window in a vertical section perpendicular to the window. I consider that these criteria would apply to windows A & B and that sunlight is likely to be reduced in a similar manner to daylight.
- 7.3.11 I am satisfied that the applicant's assessment has demonstrated that existing light to these windows is compromised, and that the proposed development would result in a significant further reduction. This appears to be accepted by all parties. I would also accept the applicant's contention regarding the relevance of the existing door and window openings on the northern side of the room. Upon inspection of the room, I consider that these openings make a significant contribution to the overall levels of light in the room. They have not been factored into the applicant's assessment and would not be impacted by the proposed development. I acknowledge that an

extension is currently under construction on the adjoining site to the north (No. 101). However, this has previously been deemed acceptable by the Board (Ref No. PL29N.300253) and I am satisfied that there would be no significant cumulative impacts on No. 103 as a result of the proposed development at No. 105.

- 7.3.12 Again, I highlight the stated need for flexibility in the application of standards as stated in the BRE Guide itself. Furthermore, section 2.3.3 of the Guide states that another important issue is whether the existing building is itself a good neighbour, standing a reasonable distance from the boundary and taking no more than its fair share of light. In this case, windows A & B are within c. 1.4 metres of the shared boundary wall. And while this would not be an uncommon occurrence, I would consider it unreasonable to prohibit a 2-storey extension to No. 105 on this basis.
- 7.3.13 I accept that a 2-storey extension to No. 105 could be achieved with an increased setback from No. 103. However, I consider that the above-garage first-floor extension adjoining the shared boundary is acceptable given that it is to the side of the house, where such arrangements adjoining the boundary are commonly accepted. To the rear, I consider that the 2-storey link extension would be setback a reasonable distance of 1.55m from the shared boundary. And while the single-storey flat-roof element to the rear adjoins the shared boundary, I do not consider that its limited height of 3.55m would result in any unacceptable impacts.
- 7.3.14 In conclusion regarding the kitchen/living/dining room to the rear of No. 103, I accept that there is limited light availability to windows A and B, and that this would be further reduced as a result of the development. However, I do consider that the other openings on the northern side of the room make a significant contribution to the overall light levels within the room. Furthermore, having regard to the suburban location of the site, I consider it unreasonable to expect existing light levels to be maintained and, in this context, I consider that the proposal for No. 105 is reasonable, and a refusal would not be warranted on this basis.
- 7.3.15 Regarding other light impacts on No. 103, I note that section 3.3 of the BRE Guide states that existing gardens and open spaces would be adequately sunlit if at least half of the space receives at least 2 hours of sunshine on 21<sup>st</sup> March, and that if, as a result of the new development, an existing space does not meet the above and the area which receives 2 hours of sunshine on 21<sup>st</sup> March is reduced to less than 0.8

times its former value, then the loss of sunlight is likely to be noticeable. Having regard to the limited extent of 2-storey development proposed to the rear of No. 105 and its separation distance from the rear garden of No. 103, together with the extensive size of the garden in No. 103, I am satisfied that the proposed development would comply with the BRE standards outlined above and that the garden in No. 103 would not be unacceptably affected by loss of light.

7.3.16 I note the presence of another stairwell window in the side elevation of No. 103 at first floor level. However, section 2.2 of the BRE guide outlines that the standards provided are intended for rooms where daylight is required, and that circulation areas need not be analysed. I am satisfied that this window is not sensitive to light impacts, and I have no objection in this regard.

7.3.17 I note the presence of solar panels on the south-facing roof plane of the rear return on No. 103. The appellants have not provided any evidence of the extent of any impacts on these panels. Again however, I do not consider it reasonable to expect that the existing operation of the panels should remain unaffected by the proposed development, which I consider to be acceptable in this suburban context.

#### Impacts on No. 107

7.3.18 Given that the nearest side of the proposed extension is perpendicular to the nearest existing window in No. 107 (i.e. Window C) the applicant's assessment has used the modified '45° approach' in accordance with section 2.2.14 of the BRE Guide. Under this approach, the BRE Guide recommends measuring the 45° angle from both the top of the new extension (in elevation) and the end of the new extension (in plan). If the centre of the existing window lies on the extension side of both these 45° lines, then the extension may well cause a significant reduction in the skylight received.

7.3.19 The applicant's measurements indicate that while the 45° line from the end of the single storey element would extend beyond Window C in plan, the 45° line from the top of the 2-storey element would not extend beyond the centrepoint of Window C. I am satisfied with these measurements and that, on that basis, the proposed development is unlikely to have a significant impact on daylight to Window C.

7.3.20 I also note that there is a north-facing kitchen window in the rear return to No. 107. This window would face the proposed extension and the 25° approach is the appropriate test in such cases. I have calculated that the height difference between

the top of the proposed 2-storey extension and the centrepoint of this window would be 5.75m, and that the separation distance would be 11.15m. On this basis I have calculated that the angle of obstruction would be 27°. This would only marginally exceed the 25° threshold, and I would highlight that the extent of obstruction is limited to just c. 4m (i.e. the extent of the 2-storey extension to the rear). Given the marginal nature of these figures, I am satisfied that daylight is unlikely to be significantly affected and no further assessment is required in this regard.

7.3.21 The applicant has also demonstrated the 45° test in relation to the permitted extension to the rear of No. 107. The results would be similar, in that 45° line from the end of the single storey element would extend beyond Window D in plan, but the 45° line from the top of the single storey element would not extend beyond the centrepoint of Window D. Neither the horizontal or vertical 45° measurements from the 2-storey element would impact on Window D. I also note that the extensive glazing in the permitted extension at No. 107 would be covered by a significant overhang, and that there would now be no windows directly facing the 2-storey extension proposed to No. 105. Accordingly, I am satisfied that the proposed development is unlikely to have a significant impact on daylight to the permitted extensions to the rear of No. 107.

7.3.22 With regard to sunlight, there are no windows to the rear of No. 107 facing within 90° of due south. Accordingly, the sunlight to these windows would not be significantly affected by the proposed development. Similarly, given the location of the proposed development to the north of No. 107, I do not consider that sunlight to its garden would be affected as per the standards set out in section 3.3 of the BRE Guide.

7.3.23 I note the concerns raised about the cumulative impact of the proposed development and the recently constructed extension to the rear of No. 109. However, the impacts of the extension to No. 109 have previously been deemed acceptable by the Board (Ref No. 304371-19) and I have outlined that the proposed development would not result in significant impacts. Accordingly, I am satisfied that there would be no significant cumulative impacts on No. 107.

7.3.24 I note the presence of an existing rooflight along the southern boundary of No. 107. This serves a circulation area, which is not sensitive to light impacts and would be well distanced from the proposed development. And while additional rooflights have

been included in the permitted extension to No. 107, I consider that the applicant's updated daylight assessment (i.e. images 004 & 005 of updated report) satisfactorily demonstrates that the 45° lines (both vertical and plan) from the 2-proposed storey extension will not impinge on the permitted rooflights.

#### Daylight/Sunlight conclusion

7.3.25 I again highlight the advisory, non-mandatory nature of the BRE Guide in this instance. I have assessed the potential daylight/sunlight impacts to adjoining windows and the sunlight impacts on adjoining open spaces, and I have considered the application documents and the 3<sup>rd</sup> party concerns in this regard. Having regard to the details outlined in my assessment, I am satisfied that the proposed development will not result in any unacceptable daylight/sunlight impacts for neighbouring properties. As the issue of determining rights to light is a matter for the courts, I do not consider that the Board is in a position to draw any conclusions in relation to the legal matters raised.

### **7.4 Residential Amenity**

#### Overlooking and Privacy

7.4.1 The rear garden is currently defined by high boundary walls, which would be retained in the proposed development. I am satisfied that this will adequately protect from any overlooking impacts at ground floor level. At first floor level, no new windows are proposed to face north or south and the flat-roof element to the rear is not proposed as an accessible roof garden.

7.4.2 Having regard to the above, I am satisfied that the proposed development would not adversely impact on the privacy or amenity of surrounding properties by reason of overlooking.

#### Construction disturbance

7.4.3 Temporary disturbance associated with small scale projects such as this is a common and unavoidable aspect of suburban development. I am satisfied that these impacts would not be unacceptable subject to conditions relating to construction management, including the application of standard working hours.

## Property Value

7.4.4 Having regard to my assessment as outlined in sections 7.2 to 7.4 of this report, I have outlined that the proposal would not detract from the visual amenity or character of the area. Nor would it result in unacceptable impacts on residential amenity in terms of privacy, sunlight/daylight, disturbance, or otherwise. Accordingly, I see no evidence that the proposed development would have any impacts that would adversely affect the value of property in the vicinity

## **7.5 Access**

7.5.1 It is proposed to install a new pedestrian access off the service lane to the rear of the site. These would be minor works which would not have any real impact in terms of visual amenity. Furthermore, there is no reasonable evidence to suggest that this would adversely impact on residential amenity, whether through security concerns or otherwise. Accordingly, I have no objection to this element of the development.

7.5.2 At the front of the site it is proposed to widen the existing vehicular entrance from 2.55m to 3.6m. The Planning Authority has amended this aspect as per condition 8(a), which limits the access to a maximum width of 3 metres. The Transportation Planning Division highlighted the continued reliance on on-street parking at this location and the need to protect existing trees, streetscape character and pedestrian safety. It concluded that exceptional site circumstances do not exist to warrant a maximum entrance width of 3.6m.

7.5.3 I have considered the development plan policies and guidance regarding the design of vehicular entrances, including the DCC guidance on 'Parking Cars in Front Gardens'. I note that wider entrances are generally discouraged within an allowable range of 2.5m to 3.6m, and that maximum widths will generally only be acceptable where exceptional site conditions exist. Guidance also outlines that existing trees, on-street parking, streetscape character and traffic safety should be considered.

7.5.4 I would concur with the planning authority's view that exceptional circumstances do not exist to warrant a maximum entrance width of 3.6m. I consider that the requirement for a maximum width of 3m is reasonable as per condition 8(a) of the DCC decision.



## 8.0 Appropriate Assessment

Having regard to the minor scale of the proposed development, and to the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 Recommendation

I recommend that permission should be **granted**, subject to conditions, for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

Having regard to the pattern and character of development in the area, the design and scale of the proposed development, and the provisions of the Dublin City Council Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the Z1 zoning objective for the site, would not seriously injure the visual amenities of the area or the residential amenity of surrounding properties and would not endanger public safety or convenience by reason of traffic generation. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. 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

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. The proposed development shall be amended as follows:

(a) The first-floor level extension to the side shall be setback at least 500mm from the primary front building line of the existing dwelling.

(b) The driveway entrance shall be a maximum of 3 metres in width.

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

**Reason:** In the interests of clarity, to protect visual amenity, and to protect traffic safety and convenience.

3. Water supply and drainage requirements, including surface water collection and disposal, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

4. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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 site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

7. 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 referred to the An Bord Pleanála to determine the proper application of the terms of the Scheme.

**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

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Stephen Ward  
Senior Planning Inspector

22<sup>nd</sup> February 2022