



An
Bord
Pleanála

Inspector's Report ABP 311607-21

Development	Dormer extension to side and rear, new roof with raised ridge and dormer, canopy over front door, pedestrian entrance and associated site works.
Location	Valhalla, St. Margaret's Avenue, Dublin 5.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3234/21
Applicant(s)	Joelle Fagan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First and Third Party
Appellant(s)	Joelle Fagan Michelle and Robert Pennie
Observer(s)	None
Date of Site Inspection	8 th February 2022
Inspector	Alaine Clarke

1.0 Site Location and Description

- 1.1. The subject site is located to the east of St. Margaret's Avenue, a mature residential street in the north suburb of Kilbarrack, Dublin. The street is characterised by detached single-storey hipped bungalows, some of which have converted attic space to living accommodation. The street transitions to two-storey semi-detached houses further south along St. Margaret's Avenue. The building line of the house sits forward of the established building line along St. Margaret's Avenue, by c. 5m.
- 1.2. The site was formerly part of the rear garden of No. 33 Kilbarrack Road, located north of the site. No. 33 Kilbarrack Road comprises a similarly styled hipped bungalow to those in the immediate vicinity. There is c. 3.1m between the northern elevation of the subject house and the party boundary with no. 33 Kilbarrack Road. A timber panel and post fence bounds the site to the east and north.
- 1.3. The rear garden on No. 31 Kilbarrack Road is located to the east of the subject site. There is c. 5.1m between the rear elevation and the party boundary with no. 31 Kilbarrack Road.
- 1.4. No.1 Margaret's Avenue, a hipped detached bungalow, is located south of the site, separated by a block wall.
- 1.5. The house the subject of this appeal is a hipped dwelling which extends over two floors, that has the appearance of a single storey house. There are velux windows to the rear and side roof planes. The site comprises an area of 305sq.m and the existing house comprises a stated area of 109sq.m.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - a) A single storey dormer extension to the north and east. The extension would extend to the northern boundary with no. 33 Kilbarrack Road.
 - b) A new roof structure on the entire dwelling with a raised ridge and dormer to the rear. The roof would be extended from a height of 5.2m to 5.6m.
 - c) A new canopy structure over the front door,

- d) A new pedestrian access to the front boundary with associated pillars and new gate,
- e) Increase the height of the existing pillars to the front boundary wall with a new metal railing on top of the existing front boundary wall,
- f) All associated site works.

3.0 Planning Authority Decision

3.1. Decision

On the 20th September 2021 Dublin City Council issued a notification of decision to GRANT permission subject to 8 no. conditions. Relevant to this assessment is condition no. 3:

3. *Development shall not commence until revised plans, drawings and particulars showing the following amendments have been fully submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the commence[ment] of development.*
 - a) *The raised hipped roof of the side extension shall extend to cover the footprint of the bungalow except where it was extended under plan ref. no. 2035/16.*
 - b) *The proposed alteration of the rear roof profile as proposed, shall be omitted. The proposed development shall have one projecting dormer 'box' with one vertical window, to light and ventilate the bedroom set into the rear plane of the extended roof.*
 - c) *The dormer 'box' shall have maximum dimensions of 1.5 metres in width and shall be set below the ridge line of the extended roof. The dormer box shall be set a minimum of 1.0 metre.*
 - d) *The dormer 'box' shall be fully hipped to match the hipped roof profile of the bungalow.*
 - e) *There shall be a further two velux type roof lights with a maximum dimension 1.0 metres(length) x 1.0 metres (width), set into the rear plane of the extended/raised roof.*

- f)
- g)
- h) *The attic level shall not be used for human habitation unless it complies with the current building regulations.*
- i) *The windows to the attic development shall be permanently fitted with opaque glazing to at least 1.8m above finished floor level.*
- j)
- k)

Reason: In the interest of visual and residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer notes the location of the site, the relevant development plan policy, the zoning of the site and references the planning history and interdepartmental reports. The report notes that the side extension, raising of roof, canopy and pedestrian access are acceptable as they are considered to be largely consistent with the character of structure. Considers that the rear roof alteration to provide an additional storey is inconsistent with the character of the house and would result in excessive overlooking of a neighbouring property. Recommends a grant subject to conditions, which include significant modifications to the design (condition no. 3 set out above), subject to agreement with the planning authority.

3.2.2. Drainage Division Report

The Drainage Division has no objection to the proposed development subject to compliance with conditions, including a requirement to drain on a separate foul and surface water system; all drainage to be located within the site boundary.

3.2.3. Transportation Report

The Transportation Report notes that no works are proposed to the existing vehicular entrance and that sufficient space remains for in-curtilage parking, and that works includes the provision of 1000mm pedestrian entrance and raising the height of the

existing pillars to the front boundary wall with new metal railing. The Transportation Division has no objection to the proposed works subject to conditions including that the entrances onto St. Margaret's Avenue shall not have outward opening gates.

3.3. Prescribed Bodies

A referral was made to Irish Water – no report returned.

3.4. Third Party Observations

3.4.1. One third party observation was received by Dublin City Council from Robert and Michelle Pennie of 31 Kilbarrack Road (dwelling immediately east of the appeal site), who raise the following issues:

- The proposed development would cause overlooking of their private amenity space by virtue of the three large windows at first floor, causing a reduction in privacy. Notes that there is no precedent for an elevation such as that proposed, where velux windows prevail, consider that windows would be intimidating;
- The proposal is considered to be excessive in scale, massing and floor area. The layout and orientation of its private open space would constitute over-development of the site;
- The proposed development would result in a reduction in car-parking from 2 spaces to 1 no. space, and an increase in the number of bedrooms from 1 to 3. Reference is made to on-street/on-path parking outside the property.

The observation concludes that they have no objection to the dormer windows being located to the front of the property where the impacts on residential amenity would be minimised.

4.0 Planning History

4.1. Appeal Site

- Dublin City Council Reg. Ref. 2035/16 – retention permission granted for the construction of a single storey extension to the rear of the existing dwelling.

- Dublin City Council Reg. Ref. 2218/04 – permission granted for a detached bungalow at rear of No. 33 Kilbarrack Road, with vehicular and pedestrian access exiting on to St. Margaret’s Avenue.

Condition no. 3 states:

3. The house shall be used as a single dwelling unit only.

Reason: To ensure the development will not be out of character with existing residential development in the area.

Condition no. 10 states:

10. This permission excludes any extensions to the rear or side of the proposed house, together with conservatories, garden sheds, boiler houses or any other such structures which would normally constitute exempt development under the provisions of the Planning and Development Regulations 2001, unless such extensions or structures are authorised by a separate grant of planning permission.

Reason: To provide for the proper planning and development of the area.

4.2. Adjoining Site (No. 33 Kilbarrack Road)

- Dublin City Council Reg. Ref. 3871/21 - Permission is sought for an extension to existing house, including raised roof, dormer and velux windows at first floor level. The application is presently undecided.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The Dublin City Development Plan 2016-2022 is the relevant development plan for the area. The site is located within Zoning Objective Z1 “To protect, provide and improve residential amenities”.
- 5.1.2. Section 16.2.2.3 of the Plan relating to Alterations and Extension (General) includes that alterations and extensions should [inter-alia]:

- *Retain a significant proportion of the garden space, yard, or other enclosure,*
- *....alterations and extensions at roof level, including roof terraces, are to respect the scale, elevational proportions and architectural form of the building.*

5.1.3. Section 16.2.2.4 refers to Boundary Walls and Railings.

5.1.4. Section 16.10.12 of the Development Plan relates to Extensions and Alterations to Dwellings and states includes that extensions should:

- *Not have an adverse impact on the scale and character of the dwelling*
- *Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.*

5.1.5. Section 16.38 and Table 16.1 relates to Car Parking Standards.

5.1.6. Appendix 17 of the Development Plan relates to Guidelines for Residential Extensions. Relevant excerpts include:

- *It is important to make sure that any extension does not unacceptably affect the amenities of neighbouring properties...*
- *Extensions should not result in any significant loss of privacy to the residents of adjoining properties. Generally, windows overlooking adjoining properties (such as in a side wall) should be avoided. Where essential, the size of such windows should be kept as small as possible and consideration should be given to the use of high-level windows and/or the use of obscure glazing where the windows serves a bathroom or landing.*

Regarding roof extensions, principles to be followed include:

- *The design of the dormer should reflect the character of the area...*
- *Dormer windows should be visually subordinate to the roof slope, enabling a large proportion of the original roof to remain visible.*
- *Any new window should relate to the shape, size, position and design of the existing doors and windows on the lower floors.*

5.2. Natural Heritage Designations

5.2.1. The site is located c. 200m west of the following designated sites:

- North Dublin Bay proposed Natural Heritage Area (pNHA) (000206)
- North Bull Island Special Protection Area (SPA) (004006)
- North Dublin Bay Special Area of Conservation (SAC) (000206).

The site is located 1.9km south-west of the following designated sites:

- Baldoyle Bay proposed Natural Heritage Area (pNHA) (000199)
- Baldoyle Bay Special Protection Area (SPA) (004016)
- Baldoyle Bay Special Area of Conservation (SAC) (000199).

5.3. EIA Screening

5.3.1. A pre-screening exercise has been carried out. The proposed development is not of a class of development set out in (Schedule 5, Part 1 or 2 of the Planning and Development Regulations, 2001 (as amended)). An EIA is therefore not required.

6.0 The Appeal

6.1. Grounds of Third Party Appeal

6.1.1. A third party appeal has been lodged by Robert and Michelle Pennie, 31 Kilbarrack Road. The grounds of appeal can be summarised as follows:

- Not all existing velux roof lights on the rear roof plane are indicated on drawings;
- Proposal is an inappropriate intensification on a small back-land site;
- Particular concern relates to the proposed rear elevation where it is considered the proposed windows will cause overlooking of their private amenity space;

- Oppose decision to grant permission by Dublin City Council which requires amended drawings to be agreed with the Planning Authority, which it is stated, denies their right to assess impact of any amended drawings;
- Windows in the attic space will be left open, regardless of opaque glass negating protection against overlooking;
- Request the Board to refuse permission or amend condition no. 3 to omit the proposed alteration to the rear roof profile.

6.2. Grounds of First Party Appeal

6.2.1. A first party appeal has been submitted by the applicant, Joelle Fagan. The grounds of appeal can be summarised as follows:

- Sets out social connections to the area and the family-related need for the extension,
- Others park on St. Margaret's Avenue, including those from local shops and neighbouring visitors; sufficient spaces is maintained on footpath to allow for walkers,
- Provision of sliding gate and pedestrian entrance will increase space for car-parking on the drive,
- Seeks permission for plans as originally submitted.

6.3. Applicant Response

No further submissions were received from either party.

6.4. Planning Authority Response

No submission was received from Dublin City Council in respect of the appeals.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant local policy and guidance, I consider the main issues in relation to the appeals are as follows:

- Principle of the development,
- Design, scale and visual impact,
- Impact on residential amenity,
- Car parking, traffic safety and modifications to front boundary,
- Development Contribution Scheme – New Issue
- Appropriate Assessment

7.2. Principle of the Development

- 7.2.1. The appeal site is located on a site that is zoned Objective Z1 under the provisions of the Dublin City Development Plan, 2016-2022 with the stated objective 'to protect, provide and improve residential amenities'. An extension of the existing house is therefore considered to be acceptable in principle and consistent with the residential zoning of the site, subject to an assessment of the issues raised hereunder.
- 7.2.2. I note Condition no.10 of Dublin City Council (DCC) planning reg. ref. 2218/04 which restricts exempted development in relation to extensions and structures as provided for in the Planning and Development Regulations, 2001, unless such extensions or structures are authorised by a separate grant of permission. I note that condition no. 10 does not restrict other provisions of relevant exempted development as set out in the Planning and Development Act, 2000, as amended, s.4(h) for example. I note that the proposed development is not restricted by condition no. 10, being a separate permission application.

7.3. Design, Scale and Visual Impact

- 7.3.1. The existing dwelling has a stated floor area of 109 sq.m, including the first floor. The proposed development will have an overall stated floor area of 141 sq.m resulting in

an acceptable plot ratio of 0.46, below the development plan indicative standard of 0.5-2.0.

- 7.3.2. The proposed site coverage is 31% and is comfortably below the development plan site coverage standard of 45-60%. I also consider that an adequate amount of private open space would remain to the rear of the proposed development, c. 88.5sq.m. Having regard to the foregoing, I consider that the scale of the proposed development (in terms of plot ratio and site coverage) is generally acceptable.
- 7.3.3. In my opinion, the proposed ground floor extension along the northern boundary is generally acceptable in terms of scale and design, subject to surface water drainage elements being located within the confines of the site. I also consider that the proposed porch canopy is acceptable and is in keeping with the style and character of the dwelling.
- 7.3.4. In my opinion, the proposed first floor rear extension is a significant intervention in the existing roof profile and introduces three large vertical windows where presently there are only velux windows. I consider however, that the extension at first floor while significant, is not out of character with residential development in the area, as the significant alterations to the roof are to the rear of the dwelling and the character of the dwelling in my opinion, is principally read from the front and side elevations. The issue of overlooking and impact on residential amenity is discussed further at section 7.4 below.
- 7.3.5. I note and accept the concerns raised in the DCC Planning Officer's Report who considers that significant modifications to the proposed roof design are required. Condition no. 3 requires, principally, that the alteration of the rear roof profile as proposed shall be omitted and replaced with a box dormer window projecting through the rear roof plane and fitted with opaque glazing to 1.8m above finished floor level. The modifications were conditioned to be agreed in writing with the planning authority.
- 7.3.6. I note that the proposed windows at first floor level are set back c.9.7m from the rear boundary. I note the guidance set out in section 16.10.2 and Appendix 17 of the development plan which requires that roofs should not have an adverse impact on the scale and character of the dwelling and should not adversely affect amenities enjoyed by the occupants of adjacent buildings. Aside from the impact on residential

amenity which is dealt with at section 7.4 below, having regard to the provisions of the development plan, in particular sections 16.10.2 and Appendix 17 and the first floor roof alterations and proposed windows which are confined to the rear of the dwelling, I consider that the proposed development, by reason of its roof design and fenestration arrangement at first floor level, would not be overbearing or visually incongruent and would not be out of character with the existing residential properties in the vicinity.

7.4. Impact on Residential Amenity

- 7.4.1. I note the development plan policy at section 16.10.2 and Appendix 17 seeks to ensure that any extension does not unacceptably affect the amenities of neighbouring properties in respect of privacy, outlook, daylight and sunlight. I note the efforts of DCC to mitigate the perceived impact of the proposal by inserting a requirement to submit revised drawings as set out in condition no.3. This condition requires a redesign of the roof profile with only one hipped projecting dormer box measuring 1.5m in width. Condition no. 3 also requires that the remaining two windows shall be velux type and that windows shall be opaque to at least 1.8m above finished floor level.
- 7.4.2. I accept the concerns of the third party appellants that condition no. 3 of DCC planning reg. ref. 3234/21 means that they are unable to assess the impact of the revised modifications prior to their agreement with the planning authority.
- 7.4.3. I note the applicant's proposal, in her appeal, to work with an alternative solution either by screening of rear windows or additional screening of the rear boundary. As no revised drawings accompany the first party appeal, it is not possible in my opinion, to assess an 'alternative solution' when none has been put forward for consideration.
- 7.4.4. I note that the planning authority were amenable to first floor windows provided they are opaque to a height of 1.8m above finished floor level. I consider that the proposed separation distance of c.9.7m from the first floor windows to the rear/east boundary is an acceptable separation distance and is a material consideration in this assessment. I also note that two of the windows serving the bathroom and landing could be opaque which would further assist with mitigating the impact of the

proposed development on neighbouring residential amenities. In my opinion, the separation distance, together with the use of the proposed attic /first floor as bedroom, landing and bathroom, is a sufficient distance from the rear boundary to respect the residential amenities of neighbouring dwellings, without the need for significant modifications. I consider that the proposed development would not seriously injure the residential amenities of properties in the vicinity or cause significant overlooking and would be in accordance with the proper planning and sustainable development of the area. Should the Board be minded to grant permission, a suitable condition requiring opaque glazing to the landing and bathroom windows is attached to reduce the impact on adjoining residential amenity.

7.5. Car Parking, Traffic Safety and Modifications to Front Boundary

- 7.5.1. Presently, there is provision for two car parking spaces along the northern site boundary. It is proposed to reduce this to one space. I note the concerns of the third party that the proposed reduction of on-site car parking would lead to an overspill of car-parking on St. Margaret's Avenue. I note that the site is located in Area 3 in respect of carparking requirements, Map J of the development plan refers, where 1.5 car spaces is regarded as a maximum parking requirement per dwelling in Area 3 (Table 16.1 refers). I also note that the development plan allows for a reduction of these standards provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety. In this regard, I note the satisfactory report from DCC's Transportation Department. I am satisfied, having regard to the development plan policy on car parking standards, that the proposal to reduce car parking on site to 1 no. space, is acceptable from a traffic safety and amenity perspective.
- 7.5.2. Regarding the proposed modification to the front boundary (i.e., proposed increase in height of the front boundary and new pedestrian entrance), I note that neither the Transportation Department nor the Planning Officer raised any concerns in this regard. I am satisfied that the proposed modifications to the front boundary are acceptable from an amenity and traffic safety perspective and is consistent with the requirements of section 16.2.2.4 which states that new boundary walls or railings should use a design and materials appropriate to the existing or proposed buildings and street-scene.

7.6. Development Contribution Scheme – New Issue

7.6.1. I note that no financial contribution condition was attached by the planning authority. I refer to the Dublin City Council Development Contribution Scheme 2020-2023, wherein Note 3 states that new extensions, including domestic extension, will be charged at the rates indicated subject to circumstances where no contribution or a reduced contribution applies. Section 11 outlines circumstances where no contribution or a reduced contribution applies, including:

- The first 40sq metres of extensions to a residential development (subsequent extensions or extensions over and above 40 square metres will be charged at the residential rate per square metre).

It is noted that the previously permitted extension (DCC reg. ref. 2218/04) together with the proposed floor area under appeal will have an area greater than 40sqm. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

7.7. Appropriate Assessment

7.7.1. Having regard to the nature and scale of the development, being an extension and alteration to an existing house in a built-up suburban area and having regard to the location of the development c.200m from the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In light of the above assessment, I recommend that planning permission be granted in accordance with the following conditions for the following reasons and considerations.

9.0 Reasons and Considerations

- 9.1. Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars submitted with the application on 29th July 2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to 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 proposed first floor bathroom and landing windows shall be permanently fitted with opaque glazing.</p> <p>Reason: In the interest of residential amenity.</p>

3.	<p>The external finishes of the proposed extension shall match the existing dwelling in respect of materials and colour, and any rainwater goods, fascia and soffits shall be finished in a dark colour in order to blend with the roof finish.</p> <p>Reason: In the interests of visual and residential amenity.</p>
4.	<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 interests of residential amenity.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and 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>Entrances onto St. Margaret's Avenue shall not have outward opening gates.</p> <p>Reason: In the interest of public safety.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>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>
8.	<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</p>

	<p>and Development Act 2000, as amended. The contribution shall be paid prior to the 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 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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Alaine Clarke
Planning Inspector

17th February 2022