



An
Bord
Pleanála

Inspector's Report

ABP-311974-21

Development	Demolition of first floor extension to side, construction of single story extension to rear, first floor extension to side with rooflight. Retention for part of ground floor extension to side.
Location	68, Foxfield Road, Raheny, Dublin, 5.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3438/21
Applicant(s)	Nuala & Vincent Crimmins
Type of Application	Retention and Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	First Party vs Condition
Appellant(s)	Nuala & Vincent Crimmins
Observer(s)	None
Date of Site Inspection	12 th of February 2022
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The appeal site is c. 7.5km to the north east of Dublin City centre at 68, Foxfield Road, Raheny, Dublin, 5. The site is the curtilage of a 125 sq.m house. It has a stated site area of 386 sq.m.
- 1.2. The site is on the north side of Foxfield Road c. 40m east of the junction with Cedar Walk a road which runs perpendicular to Foxfield Road. The site is a semi-detached two storey dwelling with standard pitch roof and an attached single storey side annex. This road is an established residential area serving a number of similar style houses.
- 1.3. The application house is attached to the house to its immediate east and both are orientated south. The house is accessed via a vehicular entrance and driveway to its southern side. The site is bounded to the public road and path by a front garden, hedgerow, low level wall and a footpath. The western boundary to the site is a wall dividing the site and the rear garden of houses 2 and 2a Cedar Walk. The side annex appears to be built directly onto this shared boundary wall.
- 1.4. The site is bounded to the south by No. 66, a similar style house and low level wall to the front. This house has an attached single storey side garages that shares its boundary with No. 64.

2.0 Proposed Development

- 2.1. The proposed development comprises-
 - Retention for part of the existing ground floor extension to the side.
 - Permission for-
 - the demolition of the first floor extension to the side (4.1 sq.m)
 - construction of 45.4 sq.m of extensions as follows-
 - A single storey extension to the rear
 - A first floor extension to the side
 - Retention permission is sought for part of the existing ground floor extension to the side.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission on the 28/10/21, subject to eleven conditions, generally of a standard nature and including condition 4 which states-

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 1m from the primary front building line.

b) The revised side extension shall follow the eaves height and pitch angle to the roof of the main dwelling. The ridge to the side extension shall be set-down accordingly.

Reason: To protect visual amenities of the area

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officer (22/10/21) reflects the decision of the Planning Authority. The following is noted from the report:

- Generally it is preferable to set side extensions behind the existing front building line in order to preserve the proportions of the dwelling, the rhythm of the street and to avoid having a terracing impact.
- While the proposed development will not open up the potential for a terracing impact to occur, to avoid setting a precedent for the north side of Foxfield Road and to retain the symmetry of the pair of semi-detached dwellings as much as possible, it is recommended that the side first floor level extension be set back by a minimum of 1m from the primary front building line.
- It is noted that there are other historic examples to first floor level extensions to the north side of Foxfield Road. However, it is not considered that these are

appropriate precedent for the proposed development given the substantial period in time since the decisions were made.

- Applying the 25 degree approach outlined within the BRE document 'Site Layout Planning for Daylight and Sunlight', it is not considered that the proposed side 1st floor level extension will significantly reduce levels of daylight.
- Based on the location and orientation of the neighbouring dwelling, it is also noted that there is largely unobstructed access to daylight to the north and south.
- The recommended amendment to the side first floor level extension will further lessen any impacts.
- The proposed side extension will not result in additional or excessive overlooking to opposing properties on Foxfield Avenue or properties to the west on Cedar Walk.
- The scale, height and depth of the rear extension, will not have a negative impact on the residential amenity of occupants of the adjoining dwelling, no. 66.
- Considering the set-back of the rear extension from the boundary with no. 2 Cedar Walk alongside the separation distance, the proposed side and rear extensions will not have an overbearing appearance or significantly reduce daylight to no. 2.
- It is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

4.2. Other Technical Reports

- Drainage Division- No objection subject to condition

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

Two third party observations have been received from No 2 and 2a Cedar Walk properties to the immediate west of the site. These can be summarised as follows-

- The extension to be retained was built on the party wall with 2a Cedar Walk.
- This wall was never constructed to carry the extra height that the applicants built and cracking has appeared in the wall. Photographs submitted.
- The boundary wall is fragile and the proposed construction will create additional problems and cracks to the wall.
- Impacts on existing residential amenity from overlooking, 'sense of congestion', loss of light in morning and afternoons to existing rear gardens.
- Loss of visual amenity
- Storm water run-off concerns
- The stated precedent relies on by the applicants from ABP decision in WEB1504/18. In that decision, the potentially impacted houses were parallel with the subject property. The position of Cedar Walk neighbours is notably different given that 68 Foxfield Road is perpendicular to Cedar Walk.

5.0 Planning History

5.1. This Site-

- None

5.2. Adjoining Site-

- WEB1449/20/ ABP-308263-20, Demolish shed, construct 1-bed dwelling, **Refused**, 30/11/20 for one reason which can be summarised as follows-
 - restricted size and nature of the subject site, substandard internal living space and private open space, the proposal would seriously injure the residential amenity of the prospective occupants.
 - would detract from the established pattern and character of development at this location.

- would constitute haphazard overdevelopment of a restricted site
- the precedent would be contrary to the proper planning and sustainable development of the area.

5.3. Nearby Site- 19, Foxfield Road c. 200m south east of the site.

- WEB1504/18/ ABP-303246-18 at. The proposal was for a first floor extension, canopy over garage and dwelling entrance and widening of vehicular entrance. First party appeal against Condition No. 2-
 - *The side extension and associated roof structure shall be set back behind the primary front building and main roof structure by at least 1 metre; the front roof pitch of the extension shall maintain the angle of the existing roof pitch; with the proposed front eaves line shall be no higher than the existing front eaves line.*

Reason: In the interests of orderly development and visual amenity

The Board decided to **Remove** Condition 2 as it *“did not consider that particular circumstances arose that would necessitate the reduction in the depth of the extension or amendment of the roof profile of the porch”*.

6.0 Policy Context

6.1. Dublin City Development Plan 2016-2022

- 6.1.1. The appeal site has a zoning objective ‘Z1 - Sustainable Residential Neighbourhoods’ within the Dublin City Development Plan 2016-2022, with a stated objective *‘to protect, provide and improve residential amenities’*.
- 6.1.2. Relevant planning policies and objectives for residential development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Appendix 17 of Volume 2 of the Development Plan provides guidance specifically relating to residential extensions.
- 6.1.3. The following Sections are of particular relevance:
 - Section 16.10.12 Extensions and Alterations to Dwellings:

‘Applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:

- *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.’*
- Appendix 17 Guidance for Residential Extensions
 - Section 17.3 Residential Amenity Issues
 - Section 17.4 Privacy
 - Section 17.5 Relationship Between Dwellings and Extensions
 - Section 17.6 Daylight and Sunlight
 - Section 17.7 Appearance
 - Section 17.8 Subordinate Approach
 - Section 17.10 Contemporary Extensions
 - Section 17.11 Roof Extensions: *When extending in the roof, the following principles should be observed:*
 - *The design of the dormer should reflect the character of the area, the surrounding buildings and the age and appearance of the existing building.*
 - *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.*
 - *Roof materials should be covered in materials that match or complement the main building.*
 - *Dormer windows should be set back from the eaves level to minimise their visual impact and reduce the potential for overlooking of adjoining properties.*

6.2. Guidance

- Quantitative methods for daylight assessment are detailed in the following documents:
 - BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' and;

6.3. Natural Heritage Designations

- None Relevant

7.0 The Appeal

7.1. Grounds of Appeal

A first-party appeal has been lodged against condition no. 4 which was attached to the Planning Authority's notification of a decision to grant planning permission. The grounds of appeal can be summarised as follows-

- The extension is designed in accordance with section 17.8 of Appendix 17 of the Dublin City Development Plan (2016-2022) in so far as the proposed extension is no larger or higher than the existing
- The development will not have an adverse impact on the scale and character of the dwelling and will not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.
- It is not considered that historic examples to first floor level extensions to the north side of Foxfield Road as cited in the DCC Planners Report are appropriate precedents given the substantial period of time since those decisions were made.
- The Board is referred to ABP-303246-18 at 19 Foxfield Road where the Board removed a similar condition for a first extension to the side.
- The opposite side of the street is close enough for the precedent to be relevant.

- Photos of a number of first floor extensions on Foxfield Road with no set back are provided.
- The Board is also referred to ABP-300726-18, 247889 and 248885 where the council's decision to set back extensions was removed.

7.2. **Planning Authority Response**

- None received

7.3. **Observations**

- None

8.0 **Assessment**

8.1. **Introduction**

- 8.1.1. This is a first-party appeal '*specifically*' against Condition No. 4 attached to the Planning Authority's decision to grant permission. Having regard to the nature and scale of the proposed development and the content of condition no. 4, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance would not be warranted. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

8.2. **Condition 4**

- 8.2.1. The Planning Authority consider the proposed amendments as set out in the condition 4 to be necessary to protect the visual amenities of the area. The Planning Report details the amendments will avoid setting a precedent for the north side of Foxfield Road and will retain the symmetry of the pair of semi-detached dwellings as much as possible. The report also details the amendments will lessen the impacts of the development on the residential amenity No. 2 Cedar Walk i.e. it would not significantly reduce levels of daylight.

- 8.2.2. The proposed first floor extension will be c. 2.8m wide over the existing side annex. It will extend the same depth as the existing house from the front building line to the rear building line. It will have a height of 8.904m in keeping with existing ridge level. The side extension will be set back 0.81m of the shared western boundary wall. The proposal will provide a study, utility and seating area at ground level and a bedroom and bathroom at first floor level. The extension will be finished in brickwork and tiles to match the existing house.
- 8.2.3. Section 16.10.2 of the DCC Development Plan requires development to be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) i.e. BRE209.
- 8.2.4. Section 16.10.12 of the DCC Development Plan deals with 'Extensions and Alterations to Dwellings' and details that such proposals will only be granted where the planning authority is satisfied they will not have an adverse impact on the scale and character of the dwelling and will not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.
- 8.2.5. Appendix 17 of the Development Plan provides further guidance for residential extensions. Section 17.6 details that depending on orientation, two storey extensions can have a serious impact on the amount of sunlight received by adjoining properties.
- 8.2.6. BRE209 provides a number of measures that contribute to assessing Daylight and Sunlight impacts. Having examined the grounds of appeal, BRE209 and the fact the DCC Planning Report considers condition 4 will lessen the daylight and sunlight impacts, it is appropriate to consider the following BRE209 measures-
- Diffuse Daylight to the rear of No. 2 and 2a Cedar Walk
 - Sunlight to Amenity Spaces of No. 2 and 2a Cedar Walk
- 8.2.7. ***Diffuse Daylight to 2 and 2a Cedar Walk***
- a) Section 2.1.21 of BRE 209 details that obstructions such as the proposed first floor extension can limit access to light from the sky to existing properties. Figure 20 of BRE209 provides a 'Decision Chart' or flow chart for considering

diffuse daylight in existing buildings and the impact of proposed developments.

- b) Using Figure 14 of BRE209 I consider No 2 Cedar Walk to be the property most likely to be impacted by the proposed extension.
- c) The first measure recommended in Figure 20 is if the new development is more than three times its height above the lowest window. I note the presence of windows at ground level on the rear return of No. 2 which appears to be c. 15m from the proposed extension. These windows are considered most at risk of a significant impact on daylight. As per section 2.2.4 of BRE209 the height of the eaves of the proposed extension is 8.904m and the centre of the rear window to No. 2 is considered c. 1.5m above the ground. The distance of the proposed development from the rear windows of No. 2 is not more than three times its height above that window i.e. c. 15m is not more than c. 22.2m
- d) The next recommended measure requires a check if the development subtends more than 25 degrees at the lowest window as demonstrated in Figure 14. To assess this, Figure 20 requires the angle from the centre of the window to the height of the proposed development to be calculated. This can be done using trigonometry (where I know the height of the development- 8.904m and the separation distance to the window- c. 15m). I do not know what the height of the centre of the window is. BRE209 recommends a height of 1.6m for a floor to ceiling window or patio door. In the absence of specific detail on these windows I consider this to be a reasonable figure to use to calculate the angle. I estimate the angle 1.6 above ground to the rear height of the proposed development to be c. 26 degrees. The development therefore does subtend by more than 25 degrees at the lower window of the rear elevation of No. 2.
- e) It is important to highlight this measurement is taken to the apex of the pitch roof of the extension. This is to identify the worst case scenario. In reality given the height at the eaves of the pitch roof is c. 5.7 the majority of the proposed extension is not considered to subtend an angle more than 25 degrees from the lower window of the rear elevation of No. 2

- f) Notwithstanding the above, it is appropriate to consider the next recommended measure of the Figure 20 Decision Chart. This is the level of skylight received to existing buildings. This is called the Vertical Sky Component or VSC. BRE209 recommends that existing neighbouring properties should retain a VSC of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels and that electric lighting will not be needed more of the time. The application and appeal does not include an assessment of diffuse light or provided VSC values to No. 2.
- g) VSC values are clearly dependent on the angle from the centre of the window to the height of the proposed development. For the rear lower window of No. 2 to the apex of the pitch roof I have estimated this to be c. 26 degrees. Having considered table F1, Figures F1 & F2 of BRE209 I am satisfied that the equivalent VSC to the lower floor window in No. 2 would be c. 27%.
- h) Based on these VSC values, Figure 20 Decision Chart indicates that daylighting to the lowest and closest window at the rear of No. 2 Cedar Walk is unlikely to be affected. I therefore consider no further daylight investigations are required to this property.

8.2.8. Sunlight to Rear Gardens of Neighbouring Property

- a) Concerns relating to overshadowing and loss of light to the private amenity space of No. 2 and 2a Cedar Walk have been identified in DCC's Planning Report and by observers to the appeal. These spaces are rear gardens of and run along the western boundary of the application site.
- b) Section 3.3 of BRE 209 considers the impact of development on sunlight to existing amenity spaces such as private gardens. Section 3.3.7 recommends that at least half of the amenity space should receive at least two hours of sunlight on March 21st (the Equinox) and in scenarios where detailed calculations cannot be carried out it is suggested that the centre of the area should receive at least two hours of sunlight on March 21st.

- c) The application is not accompanied by an assessment of sunlight to this space. Having considered the location of the gardens at No.2 and 2a to the west of the application site and the siting of the proposed development to the side of the existing house, I consider the proposed development will not significantly obstruct sunlight to the rear amenity spaces of No. 2 and 2a on March 21st. As such the proposed extension would not restrict at least half of these rear amenity spaces from receiving at least two hours of sunlight on March 21st or the centre of the spaces would receive at least two hours of sunlight on the same date.

8.2.9. Conclusion on Daylight and Sunlight Impacts

- a) Having considered the above I am satisfied the proposed development will not have a negative impact on the residential amenity of existing property in the area in terms of impacts from daylight and sunlight.

8.2.10. Appendix 17, Section 17.8 of the Development Plan details that an extension should play more of a 'supporting role' to the original dwelling and should be no larger or higher than the existing. The first floor side extension as proposed, in terms of scale and design, is no larger or higher than the existing dwelling. The extension will be flush with the existing front and rear building line of the existing dwelling and is considered appropriate and in keeping with the scale and character of the house.

8.2.11. Having regard to all of the above, I do not consider the amendments as set out in Condition 4 to be warranted and the development as originally proposed would not detract from the visual or residential amenity of the area.

8.3. Appropriate Assessment

8.3.1. Having regard to the minor nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed 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

9.1. Having inspected the site and reviewed the drawings and documents on file, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and based on the reasons and considerations set out below, it would be appropriate to use the provisions of Section 139 of the 2000 Act, as amended to –

REMOVE condition number 4 and the reason therefor.

10.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the 'Z1 - Sustainable Residential Neighbourhoods' zoning for the site, the pattern of development in the area and the provisions of the Dublin City Development Plan 2016-2022, it is considered that the proposed development would not seriously injure the residential and visual amenities of the area and would therefore, be in accordance with the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

14th of February 2022