



An  
Bord  
Pleanála

## Inspector's Report ABP-312159-21

<b>Development</b>	Alterations and extensions to house together with associated site development works.
<b>Location</b>	38, Whitehall Road, Dublin 12
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD21B/0163
<b>Applicant(s)</b>	Jeff and Cathy Murphy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Seamus O'hEalaithe Lorna Larkin.
<b>Date of Site Inspection</b>	1 April, 2022.
<b>Inspector</b>	Stephen Kay

## **1.0 Site Location and Description**

- 1.1. The appeal site is located on Whitehall Road that runs south from Kimmage Road West in the direction of Templeville Road.
- 1.2. The existing house on the site is a semi detached two storey house and has a stated gross floor area of 166 sq, metres. The majority of the existing dwellings in the vicinity comprise similar two storey semi detached houses to that on the appeal site however there are a number of detached houses to the south west. The house immediately to the south west of the appeal site, at the junction of Whitehall Road and Whitehall Gardens, is a detached bungalow (No.40 Whitehall Road).
- 1.3. The stated area of the appeal site is 0.06 ha.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the following:
  - The construction of a first storey extension to the side of the existing house above the existing garage that would extend out to approximately 450mm from the south western site boundary. This extension is proposed to be integrated into the existing hipped roof of the house.
  - The construction of a single storey extension to the rear of the existing house. The design appears to propose that the extension would be integrated with the existing rear extension located at the south east corner of the floorplan such that the single storey element to the rear would run across almost the full width of the house with the existing small set back from the north east boundary with No.36 and a stepped set back from the south west boundary with No.40 by between c.900 and 1500mm. The section drawing through the proposed extension shows a parapet height above the floor level of 3.35 metres. The overall depth of the extension is proposed to be 4.32 metres.
  - The stated total floor area of the proposed development is 45 sq. metres.

## **3.0 Planning Authority Decision**

### **3.1. Request for Further Information**

Prior to the issuing of a Notification of Decision the Planning Authority requested further information on the following issues:

- The submission of a site specific flood risk assessment given the location of the site in an area identified as within Flood Zone A as per the CFRAM mapping.
- Submission of a surface water drainage layout for the site / development which indicates all surface water drains up to the proposed connection to the public infrastructure. In the event that on site soakways are proposed, a number of detailed requirements are specified.
- Details of foul water drainage layout.

The following information was submitted in response to the request for further information issued:

- A site specific flood risk assessment is submitted which indicates that part of the appeal site falls within the 1:100 year flood zone and that the location of the proposed extension to the rear falls within the 1:1000 year flood zone. That the flood risk in this location relates to a fluvial risk associated with the River Poddle that is located c.90 metres to the south of the site. Considered that as per 5.28 of the Flood Risk management Guidelines, that the extension comprises a minor development in an area of flood risk and that the justification test does not apply in this instance. The development will not obstruct any important flow / flood paths and would not lead to a significant increase in persons within the flood zone. Flood resistance / resilience measures are recommended including that the finished ground level of the rear extension should be 0.3 metres above the 1 in 100 flood level (52.97 TBM) and where not feasible flood gates should be provided.
- A surface water drainage plan is submitted, and this indicates that a soakway is proposed to be installed on the site.

- Regarding foul drainage, the layout shows the drainage connecting to the existing AJ at the front of the house.

### 3.2. **Decision**

The Planning Authority issued a Notification of Decision to Grant Permission subject to 10 no. conditions. The following are noted:

Condition No.2 - requires that the flat roof to the rear extension shall not be used as a balcony or terrace.

Condition No. 6 relates to surface water and requires, inter alia, the submission of a plan of the surface water drainage layout to the point of connection to the public sewer.

Condition No.7 requires that the finished floor level would be at least to the 1 in 100 year flood level with appropriate freeboard.

### 3.3. **Planning Authority Reports**

#### 3.3.1. Planning Reports

The initial report of the Planning Officer notes the observations received, relevant planning history and policy. The report states that the planning authority is satisfied that the proposed development would not have an adverse impact on the residential amenity of adjacent properties and that the accommodation is consistent with the requirements of Quality Housing for Sustainable Communities and the South Dublin County Council extension guide. Further information is recommended given a concern regarding potential flooding / surface water issues on the site. A second report subsequent to the submission of further information recommends a grant of permission consistent with the Notification of Decision which issued.

#### 3.3.2. Other Technical Reports

Water Services – Initial report recommends further information relating to flood risk. It is noted that if separation of surface and foul water is not feasible and all other solutions such as infiltration have been considered then the applicant shall submit a

latter from Irish Water stating that they are satisfied with the discharge of surface water to the existing foul water drainage network. Second report subsequent to the submission of further information states that no objection.

Irish Water – Initial report recommends further information. Second report subsequent to the submission of further information states that no objection.

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

The following is a summary of the main issues raised in the observations submitted to the Planning Authority:

- Negative impact on the residential amenity of adjoining properties including loss of light
- That the information was not available on the SDCC website.
- That the application is the 4<sup>th</sup> such application on the appeal site in recent years.
- That there are concerns regarding flooding and the impact of the development on surface water flooding issues that exist on adjoining sites,
- That the development would impact on the availability of sunlight to adjoining properties,
- That the design of extensions needs to be amended / lowered.
- That the privacy and amenity of adjoining properties need to be protected during any construction works.

## 4.0 **Planning History**

The following planning history is noted in the report of the Planning Officer:

### ***Appeal Site***

South Dublin County Council Ref. S99B/0019 – Permission granted by the Planning authority for a single storey extension to the rear of the house on the appeal site.

South Dublin County Council Ref. S01B/0576 – Application for second storey extension to the side of existing house on appeal site. Further information requested and no record of a decision being made.

### ***Adjacent Sites***

South Dublin County Council Ref. SD09A/0049 – Permission refused by the Planning Authority for the construction of a 1 bedroom bungalow at The Laneway, Whitehall Gardens, Kimmage.

South Dublin County Council Ref. S01A/0285 – Permission refused for the construction of a 2 storey house to the rear of No.40 Whitehall Road.

## **5.0 Policy Context**

### **5.1. Development Plan**

The appeal site is located in an area that is zoned objective RES under the provisions of the *South Dublin County Development Plan, 2016-2022*. The stated objective is *‘to protect and / or improve residential amenity’*.

Section 2.4.1 of the Plan relates to residential extensions and Policy H18 states that *‘It is the policy of the council to support the extension of existing dwellings subject to the protection of residential and visual amenities’*.

Section 11.3.3 of the plan states that *‘The design of residential extensions should accord with the South Dublin County Council House Extension Guide (2010) or any superseding guidelines’*.

### **5.2. Natural Heritage Designations**

The site is not located within or close to any European site. The closest such sites are the South Dublin Bat SAC and the South Dublin Bay and River Tolka Estuary SPA which are located c.7.5 km to the east at the closest point.

### **5.3. EIA Screening**

The form of development proposed is not of a class for the purposes of EIA and no screening assessment is therefore required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The following is a summary of the main issues raised in the third party grounds of appeal:

- That the area of the appeal site is prone to flooding and the development would have the potential to exacerbate flooding in the appellants property.
- Requested that the developer at No.38 would not raise the ground level at the front or rear of their property as this would potentially exacerbate flooding issues.
- That the privacy and amenity of the appellants property at No.36 be protected during construction.
- That the privacy on completion would be protected. A 2.0 metre high fence is suggested in this regard.
- That the height of the rear extension and the ridge of the side extension should be reduced / redesigned to ensure that there would not be an impact on daylight and sunlight to adjoining properties.
- That a condition requiring the construction works to be undertaken within a reasonable timeframe should be inserted in any grant of permission.
- Noted that the owner of No.36 has not received any notification of the decision from the planning authority despite having made an observation and this has compromised any attempts to resolve the issues with the applicant. The owner of No.40 states that the issuing of a letter informing of a decision was significantly delayed and that the drawings were not uploaded to the councils website until 2 weeks after the application was received.

- That the effect on the light to No.40 to the south west was not addressed in the report of the planning officer despite being in the observation submitted.
- That the property at No.40 has a bedroom window that is located less than 2 metres from the proposed two storey extension.
- That the decision of the planning authority is flawed, and the planning authority did not have sufficient information available to make an informed decision.
- That the design and layout of the development will result in guttering and eaves being on the boundary with No.40 and will have a negative impact on the amenity of the appellants property as well as requiring access for maintenance.
- That the development will have a negative impact on privacy to the occupants of No.40 to the south west.

## 6.2. Applicant Response

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That the purpose of the extension / development is to improve the overall energy efficiency of the house.
- That the extensions proposed are minimal when compared to other permitted larger extensions along the same road.
- That the improvement in internal layout and space is particularly important in these times of Covid 19.
- That the limited scale of the development and the south facing orientation of the existing house on site and the adjoining properties means that there will be no impact in terms of loss of light.
- Regarding the impact on No.40 to the south west, it is noted that the bedroom window referenced by the appellant already faces onto a two storey gable end of the house on the appeal site. The proposed extension will not therefore have



any additional adverse impact on light to this window given its orientation to the north east.

- Considered that the privacy of the appellants property has been protected in the design.
- That the extension proposed over the garage has been set back from the boundary by 450mm and there will not be any overhanging of gutters or down pipes into the appellants property.

### **6.3. Planning Authority Response**

Response received by the Board stating that the Planning Authority confirms its decision and that the issues raised in the appeals have been addressed in the planners report.

## **7.0 Assessment**

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Design and Visual Impact
- Impact on Residential Amenity
- Flooding and Drainage Issues
- Other Issues
- Appropriate Assessment

### **7.2. Design and Visual Impact**

7.2.1. The proposed development comprises an extension above the existing garage on the western side of the floorplan and the construction of a single storey rear extension. The design and materials of the proposed extension above the garage are in my opinion consistent with the existing house and with the overall character of the area and is acceptable from a visual amenity perspective. The proposed rear extension is of a more contemporary design but is considered to be acceptable given

its location to the rear of the house and the fact that it would not be visible from the street.

- 7.2.2. The principle of the proposed development is considered to be acceptable and consistent with the residential zoning of the site and the stated objective which is '*to protect and / or improve residential amenity*'.

### **7.3. Impact on Residential Amenity**

- 7.3.1. The primary issue of concern raised in the third party appeal submissions on file relate to the impact of the proposed development on residential amenity. In the case of the adjoining property to the east at No.36, it is requested that the amenity of this property would be protected during construction. In the event of a grant of permission it is recommended that a condition restricting the hours of construction activity and such a condition, together with the limited scale and extent of the construction works proposed to the rear of the site would in my opinion be such that the amenity of this property would be adequately protected.
- 7.3.2. In terms of residential amenity post construction, it is noted that there is already a rear extension that is located on the eastern side of the appeal site adjacent to the boundary with No.36. From the submitted drawings, it would appear that the existing side gable of this extension where it faces No.36 is proposed to be retained, with a slight (c.350mm) increase in height and no increase in depth relative to the existing situation. I do not therefore consider that the proposed rear extension would have any material impact on the residential amenity of the adjoining property at No.36 when compared with the existing situation. I also consider that the retention of the side gable of the existing extension would mitigate any negative impacts on No.36 during construction.
- 7.3.3. The appellant at No.36 suggests that post construction a fence of 2.0 metres in height would be provided along the shared boundary with the appeal site. From the submitted drawings and description of development no alterations to the existing boundary which comprises a fence of c.1.6 metres in height are proposed and, for the reasons set out above, I do not consider that there is a necessity that an increased height of boundary is required to protect the amenity of No.36 post development.

- 7.3.4. With regard to the impact on the amenity on the bungalow at No.40 to the west of the appeal site, this appellant contends that the proposed development would have a negative impact on the privacy of their property and its residential amenity and that the proposed development would encroach on the boundary. It is requested that the height of the rear extension and the ridge of the side extension should be reduced / redesigned to ensure that there would not be an impact on daylight and sunlight to adjoining properties.
- 7.3.5. With regard to privacy, I do not consider that the proposed development would have an adverse impact on No.40. No windows are proposed in the south west facing gable of the side extension and while a corner window is proposed in the south west corner of the rear extension, this would be c.1.6 metres from the boundary with No.40 and at ground floor level. The existing boundary in this location comprises a wall with mature hedging on the appellants side of the boundary such that no clear views into the appellants property would be available. Overall, therefore, I do not consider that any significant loss of amenity would arise due to overlooking or loss of privacy.
- 7.3.6. With regard to the impact on light to the appellants property at No.40, particular concern is expressed regarding the impact of the proposed development on an existing bedroom window in the north east facing side elevation of this property. This window is however located c.1.5 metres from the site boundary and, from my observations of the site and as noted by the first party, this window is also located opposite the existing two storey element to the side of the house on the appeal site. The proposed development may have some slight impact on the access of light to this window, but it is noted that the relationship with the existing house to the north east on the appeal site is such that it does not meet the 45 degree rule set out in the BRE Guidance as it is currently intersected at 45 degrees in both plan and elevation by the existing structure on the appeal site. From the appeal, it is also noted that this window serves a bedroom rather than living accommodation. Overall therefore, while the proposed development may have some slight impact in further reducing light to this window any such impact is not considered likely to be significant or such as to have a significant negative impact on residential amenity.
- 7.3.7. The combined effect of the side extension and the single storey rear extension would have the effect of increasing the bulk of the house on the site when viewed from the

appellants property at No.40. I do not however consider that any such impact would be significantly negative given the depth of the existing house at No.40 that currently projects significantly further to the rear of No.38, and the proximity of No.40 to the site boundary. The appellant at No.40 suggests a requirement for a reduction in the height of the side extension however ,for the reasons set out above, I do not consider that such an alteration to the design is warranted on the basis of residential amenity.

7.3.8. With regard to the extension to the rear, the scale of this extension and its set back by a minimum of c.1 metre from the boundary with No.40 is such that I do not consider it likely to have any overbearing visual impact. The rear extension would be located north east of the rear elevation of No.40 and such that I do not consider that there would be any impact on No.40 in terms of loss of light to windows in the rear elevation of this property. Similarly, the relative orientations between the appeal site and the property at No.40 are such that no material impact on the rear amenity space of No.40 in terms of loss of sunlight is likely to arise.

7.3.9. I note the concerns of the third party appellant regarding the proximity of the proposed side extension to No.40 and the issues regarding maintenance. The separation at first floor level to the boundary would be c.450mm so access for maintenance would be difficult without access from the adjoining property. Such issues of maintenance are however issues between the parties to the appeal and are not in my opinion a basis for refusal of permission or a requirement for a significantly increased set back from the site boundary. No oversailing or encroachment of the boundary is considered likely to arise.

#### **7.4. Flooding and Drainage Issues**

7.4.1. The issue of site drainage and potential for flooding is raised by the appellant at No.36 and was the subject of a request for further information issued by the Planning Authority. The further information request issued by the Planning Authority highlights that environs of the appeal site is located in an area identified as within Flood Zone A as per the CFRAM mapping and that the submission of a site specific flood risk assessment is required. A full surface water drainage layout was also requested as well as details of the foul water drainage layout.

- 7.4.2. The results of the site specific flood risk assessment submitted in response to the request for further information indicates that part of the appeal site falls within the 1:100 year flood zone and that the location of the proposed extension to the rear falls within the 1:1000 year flood zone with the flood risk in this location relating to a fluvial risk associated with the R. Poddle that is located c.90 metres to the south of the site. The assessment states that as per 5.28 of the Flood Risk Management Guidelines, that the extension comprises a minor development in an area of flood risk and that the justification test does not apply in this instance. I would agree with this interpretation given the nature and scale of the proposed development and I also note that the development would not obstruct any important flow / flood paths and would not lead to a significant increase in persons within the flood zone. The proposed extension is located within an area identified as a 1:100 flood risk zone and the finished floor level of the proposed extensions would be above the 1 in 100 flood level. Having regard to these factors, I consider that the proposed development is acceptable from a flood risk perspective.
- 7.4.3. I also note the fact that while the construction of the rear extension would result in some increase in floor / ground level in this location, on the basis of the results of the submitted flood risk assessment, the construction of the proposed extension would not have any likely impacts on the flood risk of adjoining properties. Specifically, as noted above, the location of the proposed rear extension is not within the 1:100 flood risk zone and the development would not obstruct or act to divert and potential flood paths.
- 7.4.4. The initial reports on file from both the Water Services Section and Irish Water recommend further information however reports subsequent to the submission of the response by the applicant indicate no objection subject to the submission of details of the surface water layout and submission of details of any soakaway proposed. In the event of a grant of permission it is recommended that details of any soakaway and other elements of the surface water drainage layout would be subject to a condition requiring details to be agreed with the planning authority.

## **7.5. Other Issues**

- 7.5.1. I note the reference in the third party appeal to delays in the issuing of a letter informing them as observers at Planning Authority stage of a decision. The appellants also make reference to delays in the uploading of the application details / drawings to the council website and contend that these delays have significantly impacted on their ability to engage with the first party and to prepare their appeal to the Board. On the basis of the information available I do not see that there is a clear basis to determine that the Planning Authority significantly erred in its processing of the application such that the application could be deemed to be invalid. The issues raised by the first party are noted, however they relate to the processing of the application by the Planning Authority and are therefore considered to be issue between the Planning Authority and the third party appellants in the first instance.
- 7.5.2. I note the content of one of the third party appeals requesting that a condition requiring the construction works to be undertaken within a reasonable timeframe should be inserted in any grant of permission. Such a condition is not in my opinion either necessary or required given the nature of the development proposed.
- 7.5.3. I also note that one of the appeals contends that the decision of the planning authority is flawed, and the planning authority did not have sufficient information available to make an informed decision. It is not clear from the appeal what information is lacking or in what specific manner the application is considered to be deficient. From my review of the appeal file, I do not see how the information in front of the Planning Authority was insufficient for it to have made a decision however any such issue is one between the third party appellants and the Planning Authority.

## **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions:

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area, to the design and scale of the proposed development 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. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as amended by the further plans and particulars submitted on the 18<sup>th</sup> day of October, 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.

**Reason:** In the interest of clarity.

2. The flat roof to the extension to the rear of the house shall be accessed for maintenance purposes only and shall not be used as a balcony or terrace.

**Reason:** To prevent overlooking of adjoining residential properties.

3. The recommendations contained in the site specific flood risk assessment received by the Planning Authority on 18<sup>th</sup> October, 2021 shall be complied with in the development.

**Reason:** To protect against flooding.

4. 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.

**Reason:** To restrict the use of the extension in the interest of residential amenity.

5. The external finishes of the proposed extension including roof tiles/slates shall be consistent with those of the existing dwelling in respect of colour and texture.

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

6. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0900 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the [residential] amenities of property in the vicinity.

7. 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.

**Reason:** In the interest of public health.



8. The developer shall pay to the planning authority a financial contribution of €2,114.80 (two thousand one hundred and fourteen euro and eighty cent) 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. The application of any indexation required by this condition 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.

**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 Kay  
Planning Inspector

4<sup>th</sup> April, 2022