



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312200-21

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<b>Development</b>	Construction of extension and ancillary site works
<b>Location</b>	39, Lower Churchtown Road, Churchtown, Dublin 14
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21B/0525
<b>Applicants</b>	Darina Renaghan and Charlie O' Brien
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Katrina Sheehan
<b>Observer</b>	Brona Whitehead
<b>Date of Site Inspection</b>	01/04/2022
<b>Inspector</b>	Máire Daly

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of circa. 0.0466 ha and is located at No. 39 Churchtown Road Lower, Churchtown, Dublin 14, within an established residential area to the east of Milltown Golf Club where the prevailing pattern of development is characterised by conventional housing predominantly composed of two-storey semi-detached and terraced dwelling houses of varying designs.
- 1.2. A two-storey, red-brick, mid-terrace dwelling house of area c. 75.8sq.m is located on site, with off street carparking located to the front of the site and a fenced front garden. The site is rectangular in shape, with a long rear garden stretching for a length of c. 45m to the east. The Luas Green line runs in a north south direction along the rear (eastern) boundary of the property.

## 2.0 Proposed Development

- 2.1. The proposed development comprises:
  - A single storey flat roof rear extension of gross floor area 61 sq m, of parapet height c.3.439m and length c.10.9 metres from the existing rear wall elevation.
  - A 400mm metal capping rear metal projection is also proposed above the patio doors to the rear elevation. A frameless roof light is proposed in the south side of the flat roof.
  - All ancillary site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The planning authority granted permission subject to 11 no. conditions, most of which were standard in nature apart from Condition no. 7 which stated the following:

*A two-metre-high block wall, capped and rendered shall be constructed for the entire extent of the proposed extension along both side boundaries and the extension constructed entirely within it.*

*REASON: In order to protect adjoining residential amenity.*

Conditions no. 8, 9, 10 and 11 relate to development contributions.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The report of the Planning Officer dated November 2021 reflects the decision of the planning authority. The main points are summarised as follows:

- The area planner considered that due to the existing extensions located along the boundary walls of the site to the north and south, the proposed extension would not appear significantly overbearing in nature, however in order to soften the impact further, a two-metre boundary wall should be conditioned along the party boundaries and the extension contained within these.
- Given the flat roof nature of the proposed extension a condition was suggested for inclusion on any grant of permission which would restrict any use of this roof as a balcony or roof terrace.
- The proposed extension is not visible from the street; therefore, it would not impact negatively on the visual amenity of the area.

### **3.2.2. Other Technical Reports**

- Drainage Department – Report dated 14<sup>th</sup> October 2021 stated no objection subject to standard conditions.

## **3.3. Prescribed Bodies**

- None.

## **3.4. Third Party Observations**

3.4.1. Two submissions were received from interested third parties (the neighbouring property owners at no.38 and no.40 Churchtown Road Lower) and the principal grounds of objection contained therein can be summarised as follows:

- The site notice is vague and therefore misleading.

- The proposed extension which is to have a blank wall 11m long and exceeding 3m in height would have a significant and negative impact on the visual amenity of the resident at no.40. The proposed development therefore represents over development of the site.
- Concerns raised that construction would damage the boundary walls, existing hedges and the neighbouring extensions.
- Request extension be placed 500mm from the boundary line in order to preserve neighbouring site's residential amenity.
- Request to reduce extension to 6-7m in length to remain in keeping with existing extensions in the area.
- The design will result in significant overshadowing of both the rear garden, as well as the ground floor rooms of the adjoining property at no.38. The application should be assessed in accordance with BRE guidance document 'Site Layout Planning for Daylight and Sunlight'.
- The proposed development will be overbearing and no details are provided of the proposed parapet and whether same will over-sail the shared boundary with no.38.
- Request the extension's roof be pitched in order to prevent balcony use.
- The proposal is contrary to the zoning objective for the site.

## 4.0 Planning History

### 4.1. Planning History on site:

- None relevant.

### 4.2. Planning History on adjoining site to east:

- P.A Ref: D17B/0410: Permission granted in May 2018 at No.41 for alterations and extensions to existing two storey/part single storey mid terrace dwelling comprising a) Construction of a new 12.4sq.m. single storey extension to the front, and b) All associated site works.
- P.A Ref: D11B/0247: Permission for retention granted in September 2011 at no. 40 for single storey front entrance porch of area 5 sq.m.

- P.A Ref: D10B/0370: Permission granted in November 2010 at no.42 for single storey extension to the front and a single and two storey extension to the side and rear of the existing retained dwelling.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The subject site is zoned A: *To protect and/or improve residential amenity*. Residential development is acceptable in principle under this zoning.
- 5.1.2. I note that the Dun Laoghaire Rathdown County Development Plan 2022-2028 was officially adopted by the Council on 10<sup>th</sup> March 2022 and is to come into effect 6 weeks from that date, however for the purposes of this appeal the assessment is to be carried out under the operative Plan which is the current Development Plan 2016-2022. An examination of any updated relevant policy and zoning within this new plan (2022-2028) was carried out. I note that the zoning and policies for the relevant development are the same as currently apply.
- 5.1.3. The principles of residential development are set out in Section 8 of the operative Development Plan (2016-2022). Section 8.2.3.4(i) as follows:
- Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining.
  - External finishes shall normally be in harmony with existing.

### 5.2. Natural Heritage Designations

- 5.2.1. None relevant.

### 5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of the proposed extension and the absence of any significant environmental sensitivity in the vicinity, the absence of any connectivity to any sensitive location and the availability of public services, 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 third-party appeal has been prepared and submitted by MHOC Consult on behalf of Katrina Sheehan of no. 40 Churchtown Road Lower and may be summarised as follows:

- The planning authority failed to take due consideration of the provisions of paragraph 8.2.3.4 Additional Accommodation in Existing Built-up Areas as outlined in the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- Dimensional discrepancies in the lodged drawings were not noted by the planning authority - these related to a lack of figured dimensions for the rear extents of the proposed extension and furthermore scaling of the drawings, as the plans indicate that the proposed extension would be 10.6m in length, whilst the sectional side elevations indicate a length of 9.5m.
- Existing Section AA proports to indicate an extension to the rear of no.40 which in fact does not exist. This extension is in fact to the rear of no.42.
- A cursory examination of the existing extensions to the adjoining properties indicates that their extent is less than 4m in each case. The third-party states that they would have no objection to an extension of equal length to theirs and submits that the existence of very modest extensions to the adjoining properties is not a reasonable basis for permitting an extension of more than 2.5m longer or 0.5m higher than that of which exists in the area.
- The proposed mitigation of a 2m high capped and rendered wall for the full length of the proposed extension will in fact have significantly worse visual impact and would also be un-buildable as the appellant would not permit

access to the applicants to her garden for either construction or rendering of such a wall.

- It is submitted that the brick facing proposed by the applicant would be far less intrusive in terms of visual amenity and would be buildable without trespass onto the appellant's site.

## **6.2. Applicant Response**

6.2.1. The applicant's response to the grounds of appeal can be summarised as follows:

- The submitted survey drawings and proposal drawings both have the required principal dimensions included. The proposed extension elements are shaded yellow for clarity.
- The provisions of the development plan have been complied with and the applicants are of the opinion that the planning officer's professional qualifications and experience would mean that the relevant sections of the development plan were considered prior to forming an opinion.
- The applicants' response contains examples of similar extensions in the immediate area including aerial photographs and reference numbers.
- A brick finished wall was originally proposed which can be constructed from the applicants' site with no intrusion onto the lands at no.38 or no.40. The applicants therefore suggest that the condition of the additional 2m high boundary wall along the length of the extension (condition no.7) would not be the desire of the appellant and agree with their opinion in this regard and the applicants would welcome the omission of this condition in line with the appeal.

## **6.3. Planning Authority Response**

6.3.1. A response to the third-party appeal from the Council dated 07<sup>th</sup> January 2022 was received by the Board. The response can be summarised as follows:

- The Board is referred to the previous Planner's Report.
- It is considered that the grounds of appeal do not raise any new matters which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

## 6.4. Observations

6.4.1. 1 no. observation was received from Brona Whitehead, the adjoining resident at no.38 Churchtown Road Lower and can be summarised as follows:

- Due to the length and height of the proposal considerable loss of light is expected especially during the summer months.
- Concern regarding Condition no.7 attached to the planning authority's grant of permission which pertains to the 2-metre-high boundary wall – concerns regarding impeding future development of the observer's site if the wall is built, overhang into her property and disturbance of existing boundary railing.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Design
- Impact on Adjacent Residential Amenity
- Appropriate Assessment – Screening

### 7.2. Design

7.2.1. The grounds of appeal and observations received contend that the proposed extension by virtue of its length at c.10.9m and height at c. 3.439m is inappropriate and out of character with the existing extensions to the rear of the adjacent terraced houses and would have an impact on the residential amenities of adjoining properties.

7.2.2. On site visit I noted the existing rear extensions in the area and while the proposal would see an extension of greater length than those constructed, I would not consider this unacceptable in the area. The existing rear gardens along this terrace of dwelling houses are sufficient at c. 40m/45m in the case of the subject and the adjoining sites to accommodate this length of the extension, and the proposed extension of c. 61sq.m would provide important additional floor space to the



residents of the property on an otherwise restricted site. The height of the proposed extension at c.3.4m would be higher than those of the extensions to the rear of the adjoining properties, however I would not consider this height acceptable when considering the principles of residential development are set out in Section 8 of the operative Development Plan and in particular Section 8.2.3.4(i). Given the extent of the flat roof element that may be permitted however I would suggest a condition is attached to any grant of permission restricting the use of this roof space.

- 7.2.3. The appellant raised concerns regarding measurement discrepancies on the submitted drawings. The applicant's response also noted this. Having examined the submitted drawings I note that there are in fact some discrepancies in relation to the scale of the Proposed Elevations and Section AA (Drawing no.1629-05) and also that the extension to the rear of the no.40 is incorrectly shown on Proposed Elevations and Section AA (Drawing no.1629-03). I have noted these discrepancies and also note that the correct measurement have been presented on the submitted proposed Plans (Drawing no.1629-04). Therefore, having reviewed all drawings I am satisfied that the submitted drawings allow for a comprehensive assessment to be carried out. If the Board are minded to grant permission, in the interest of clarity I would suggest that updated revised drawings in relation to those with the discrepancies referred to above, are submitted to the planning authority prior to commencement.

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

- 7.3.1. The proposed extension will span the entire width of the site at c. 6.135m, while still allowing for retention of the dividing boundary walls to the north between no.38 and to the south between no.40. I note the planning authority have attached a condition in relation to same boundary wall in which the applicant would be required to construct a new 2m high boundary wall along the extent of the extension's length both on northern and southern boundaries. This requirement has been met by some concern from the appellant and also the applicants. According to the submitted plans (Drawing no.1629-05) the boundary walls currently have a height of c.1.9m and from an inspection of the site I noted that these walls do not stretch the full length of the site but instead give way to wooden fencing on the northern boundary and hedging on the southern boundary. I consider the additional requirement imposed by the planning authority unnecessary and having noted the concerns of both the appellant

and applicants in this regard I am satisfied that the original proposal with the boundary treatments to be agreed between the applicant and neighbouring property owners satisfactory in this case.

7.3.2. I note the observer to the appeal who is resident at no.38 Churchtown Road Lower to the immediate north of the subject site, has raised issue with possible overshadowing impacts, given the height and length of the proposed extension. The existing rear extension at no.38 is located adjacent to the boundary wall with no.39 and constructed to approximately half the width of the rear garden. A fence of c. 1.9m in height currently runs along the boundary between no.39 and the subject site. While I acknowledge that the proposed extension will be c. 3.4m in height, given the orientation of the site and also the availability of sufficient amenity/garden space to the rear of no.38 to the north, I would not consider that the residential amenity of this property in terms of access to daylight and sunlight would be affected to such a degree as to warrant a refusal of permission.

7.3.3. Overall, I do not consider the proposal would result in any significant injurious impact on the residential amenity of the adjacent dwellings and I consider the principle of the development is in line with Section 8 of the operative Development Plan.

#### **7.4. Appropriate Assessment**

7.4.1. Having regard to the nature and limited scale of the proposed extension and the location of the site in a developed 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 give rise to a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

8.1. I recommend that planning permission should be granted based on the following reasons and considerations and subject to the attached conditions.

### **9.0 Reasons and Considerations**

9.1. Having regard to the residential zoning objective for the area, the design and appearance of the proposed extension, and the pattern of development in the

vicinity, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the residential amenities of property in the vicinity and would not adversely impact on the character of the area. The proposed development, therefore, would 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 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. Revised Elevation and Section drawings of correct scale shall be submitted to the planning authority for their written agreement prior to commencement of development.

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

3. The flat roofed area shall not be used or accessed as a roof garden/patio.

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

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

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

5. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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.

6. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets 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 interest 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 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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Máire Daly  
Planning Inspector

03<sup>rd</sup> April 2022