



An
Bord
Pleanála

Inspector's Report ABP 312349-22.

Development	A Two storey extension and a two storey, three bed end of terrace house.
Location	12 Dolphin Road, Drimnagh, Dublin 12
Planning Authority	Dublin City Council
P. A. Reg. Ref.	WEB 5041/21
Applicant	Bronagh and Geoff Waddell
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Sean and Veronica Cunnane.
Date of Site Inspection	4 th March, 2022
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The application site which has a stated area of 477 square metres is that of an end of terrace two storey house brick faced house with a two storey return with a side and rear garden located at the junction of Dolphin Road, (R111) and Herberton Drive a residential road. There is a large flat roofed shed in rear garden space and a gated vehicular entrance on the Herberton Drive frontage.
- 1.2. At the rear of the property there is an access lane which is to the side of a single storey structure with access onto Herberton Road. The lane is also to the side of the adjoining property, and end of terrace two storey house on Herberton Drive. On the corner of Dolphin Road and Herberton Drive there is a two-storey house, (No 42, the appellant party's property) with vehicular access at the front corner and with a single storey structure adjacent to the rear boundary onto a rear access lane similar to that at the rear of the application site property.
- 1.3. The house overlooks the Grand Canal on the opposite side of the road and is a short distance to the northeast of the junction with Crumlin Road the southwest. The front boundary is adjacent to a cycle path, has a vehicular entrance circa six metres in width and the front curtilage is under hard standing. The houses in the terrace of six originally had pedestrian gates and stone walling along the frontage but removal of frontage and vehicular entrances have been constructed at all but one of these properties. Dolphin Road is a heavily trafficked route and is part of a road network extending along the side of the Canal from the west of the city as far as the Docklands whereas Herberton Drive is a relatively narrow road with two storey houses with front and rear gardens on both sides. Most of the front boundaries have been altered to provide for off street parking in the front garden and as a result on street parking space is restricted.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposal for construction of a two-storey house with a stated floor area of 166 square metres, which, with that of the existing house being stated to be 130 square metres results in a total floor area of 296 square metres for both dwellings. The total stated floor area for the proposed

extension is 27.5 square metres. The stated plot ratio is 0.62 and site coverage is 35.6 per cent.

3.0 Planning Authority Decision

3.1. Decision

By Order dated, 16th December, 2021, the planning authority decided to grant permission subject to conditions generally of a standard nature. Condition No 3 contains the requirement for the vehicular entrance width not to exceed here metres and for gates to be inward opening only.

3.2. Planning Authority Reports

- 3.2.1. The report of the Transportation Planning Division contains a recommendation for a maximum width of three metres for the vehicular entrances at the site frontage and it is stated that loss of on street pay and display parking facilities would remain unaffected. However, in the report it is noted that the width of the existing entrance is 6.5 metres whereas a width of 3.6 metres was indicated on the application drawings. No objection otherwise is indicated and a condition is recommended for inclusion if permission is granted.
- 3.2.2. The planning officer in his report notes the inconsistencies between the details for the front boundary and with of the opening for the vehicular access for the existing dwelling on the application site drawings and at the site. Otherwise, he considers the dwelling footprint design and form, private open space provision to be acceptable in terms of qualitative development management standards and in terms of impacts on the amenities of adjoining properties and the established pattern and character of the area.

3.3. Third Party Observations

- 3.3.1. Observations lodged indicate concerns to overdevelopment, overlooking and overshadowing, incompatibility with existing development and exacerbation of problems with obstruction of traffic flows, demand for parking and safety concerns.

4.0 Planning History

- 4.1.1. Following first party appeal, the planning authority decision to refuse Permission for an extension and for a two storey house to the side was upheld based on reasoning of substandard attainable residential amenity for future occupants including lack of private open space, and serious injury to visual and residential amenities due to incompatibility with the existing pattern and character of development having regard to the footprint forwards of the front building line of development on Herberton Drive. P. A. Reg. Ref 1184/08 PL 228718 refers)
- 4.1.2. Permission was subsequently granted for a new entrance, gates, driveway and onsite parking and drive under P. A. Ref. Ref 05/2897
- 4.1.3. A prior application under P. A. Reg. Ref. 1508/21 for an extension and additional dwelling was withdrawn prior to determination of decision.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site is located within an area subject to the zoning objective “Z1: to protect, provide for and improve residential amenities”.
- 5.1.2. Policies, objectives and standards for residential development is set out in sections 16.1 Design principles, 16.2 Residential quality standards and for corner site development in section 16.10.9 Policies, objectives and standards for residential extensions and alterations are set out in section 16.10.12 and appendix 17.
- 5.1.3. Indicative plot ratios for ‘Z1’ zoned lands is 0.5-2.0 and for site coverage, 45%-60%
- 5.1.4. Chapter 5 contains policies and guidance for quality housing and in section 5.5 for in sustainable residential areas in which there are several policy objectives promoting quality, sustainable residential development.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by Veronica and Sean Cunnane of No 32 Herberton Road on their own behalf on 4th January, 2022 according to which:

- The proposed development would obstruct sunlight access to the rear gardens of No10 and 11 Dolphin Road especially in evening hours.
- No 42 Herberton Road (the appellant party property) would be overlooked from upper floor west facing windows in the proposed dwelling.
- The terrace of house would, as a result of the proposed development appear unbalanced where it directly overlooks the Canal.
- The proposed development would lead to traffic congestion at a very busy junction, and it should be noted that ambulances and fire tenders frequently use Dolphin Road.

6.2. Applicant Response

6.2.1. A submission was received from the applicant's agent on 31st January, 2022 in which it is requested that the decision to grant permission be upheld. The submission includes a detailed account of the site location and context, the planning application and its assessment and, according to the appeal grounds:

- The development proposal is compatible with surrounding development and the streetscape and accords with section 16.10.2 and 16.10.9 of the CDP regarding residential extensions and additional dwellings in built up areas and with DOEHLG guidance issued in 2007.
- With regard to the claims as to impacts on sunlight and daylight access at Nos 10 and 11 Dolphin Road it is stated that the rear return (at No 12) is to remain unaltered and there is no doubt that the proposed development accords with the standards in: "*Site Planning for Daylight and Sunlight: A Good Practice Guide*" BRE 2011 in that at least 50% of the open space would receive at least two hours of sunlight access on 21st March.

- With regard to the impact on the terrace of dwellings the proposed development accords with CDP policies and standards, namely QH5, QH8, QH13, and Qh21 (chapter 5). Both the proposed dwelling and the proposed extension aligns with the front and rear building lines and ties into the roof which it compliments at ridge and eaves height. The design complements the three terraces bounding the canal with minimal change and no negative impact on streetscape.
- With regard to overlooking residential amenities at adjoining properties would not be affected. There will be twenty-two metres separation distance to the adjoining appellant party property from the side elevation and its three windows (one of which is an obscure glazed bathroom window). The rear elevation of the proposed house is nine metres from the side elevation and front garden at No 71 Herberton Road.
- An additional vehicular entrance would not impede traffic or lead to traffic hazard. The maximum entrance width of three metres required is acceptable to the applicant.

6.3. **Planning Authority Response**

There is no submission from the planning authority on file

7.0 **Assessment**

- 7.1. The issues central to the determination of a decision can be considered below under the following two broad subheadings followed by environmental impact assessment screening an appropriate assessment screening.

Vehicular Access and Impact on Public safety

Layout, Form and Design - Impact on Visual and Residential Amenities.

7.2. **Vehicular Access and Impact on Public safety.**

- 7.2.1. It is noted that in the vicinity both along Dolphin Road and along Herberton Drive, the majority of properties have had their entrances widened to facilitate off street parking. As a result, there is very limited on street parking available for shared public use associated with commercial and residential development.

7.2.2. There is no evidence that the to demonstrate that the existing entrance at the front of the site which is over six metres in width has the benefit of planning permission and it appears that the alterations are unauthorised. Turning movements generated by use on-site parking for two dwellings instead of one would be increased and in the proposed arrangement providing for two entrances, which would be restricted to a maximum each of three metres.

7.2.3. An additional vehicular entrance on Dolphin Road close to the junction with Herberton Drive is undesirable in that it increases vehicular movements across a cycle lane, including reversal of a vehicle out onto it and consequent obstruction to the safe and free flow and endangerment of public safety of all road users. In addition, it would be contrary to the facilitation of prioritisation of safe sustainable travel. The existing, entrance on the corner of Dolphin Road at the appellant party property at No 42 Herberton Drive potentially is a source of obstruction and risk to public safety of road users. As such it is noted that in the Transportation report there is no recommendation for a grant of permission, nor for refusal but it is clear that the Division has serious concerns about vehicular access but has taken the existing vehicular access into account.

7.2.4. Consideration could be given to exclusion of vehicular access and on street parking outright. However, this option also gives rise to concern in that it can lead to unauthorised parking on the Dolphin Road and Herberton Drive, which is also a source of obstruction and traffic hazard. Vehicular access off Herberton Drive adjacent to the land would result in the property being deficient in private open space provision.

7.3. **Layout, Form and Design - Impact on Visual and Residential Amenities.**

7.3.1. The footprint and west facing façade for the proposed dwelling with its building line at 3.3 metres from the road frontage boundary is substantively similar, other than for a forward projecting element, to that shown for the dwelling for which permission was previously refused following appeal under P. A. Reg. Ref 1184/08/PL 228718. As such this current proposal also breaches the established building line along Herberton Drive and is visually conspicuous and does not fully integrate into the established pattern and character of development although, to a lesser degree than the previous unsuccessful proposal. However, given the separation from the

Herberton Drive dwellings by the lane and the 6.5 metres depth of the rear garden it is considered that there is scope for the proposed development to be accepted in that it would not have overbearing impact or create sense of enclosure of the adjoining property to the rear on Herberton Drive. Furthermore, overlooking of these properties at the rear on Herberton Drive would not occur and any potential for overshadowing impact would be imperceptible given the relative orientations and site layouts for the existing dwelling and proposed dwelling. Overlooking and overshadowing of these Herberton Drive are not at issue.

7.3.2. The contentions in the appeal in respect of No 42 Herberton Drive opposite the site, are not accepted. There is a separation distance in excess of twenty-two metres between the footprint of the proposed dwelling on the application site and that of the appellant party at No 42 Herberton Drive. At upper floor level the three proposed windows are not directly opposite the side elevation and upper floor side elevation windows of the appellant party's dwelling, whereas the remaining upper floor level window is for a bathroom and would require opaque glazing. Similarly, it is considered that overshadowing impact to No 42 Herberton Road, if any would be marginal and that preparation of a sunlight and daylight study is unwarranted

7.3.3. The private open space provision, at the rear of the dwelling is limited in amenity potential and size but complies with minimum CDP standards in this regard. Owing to the projection of the west facing elevation forward of the building line of the houses on Herberton Drive at the rear, the amenity potential is relatively limited in so far as it can be understood as and enjoyed as rear private open space but it can be satisfactorily enclosed and screened by appropriate boundary treatment.

7.3.4. There is no objection in principle to the proposed extension to the existing dwelling.

7.4. Environmental Impact Assessment Screening.

7.4.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.5. **Appropriate Assessment Screening.**

7.6. Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. 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**

Notwithstanding the reservations about the proposed entrance and off-street parking, bearing the foregoing and national policy, since the determination of the decision on the prior application providing, where possible, for consolidation of development on built up areas, including mature residential areas in which there are side garden or infill development, it is considered that permission can be granted. Conditions can be included for removal of the shed and blocking up of the entrance off Herberton Drive and for removal of exempt development entitlements.

9.0 **Reasons and Considerations**

Having regard to the Dublin City Development Plan, 2016-2022 according to which the site location is within an area subject to the zoning objective A; *to protect and/or improve residential amenity*", and, in particular to Policy Objective, QH 8 therein which provides for higher density development which respects the character of surrounding development on vacant or under-utilised sites it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the residential and visual amenities of the area, would not endanger public safety by reason of traffic hazard and, would be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions.**

1. The development shall be completed and retained 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. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

Reason: In the interest of residential amenity, having regard to the restricted configuration and size of the site.

3. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

4. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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.

Jane Dennehy

Senior Planning Inspector
6th March, 2022.