



An  
Bord  
Pleanála

## Inspector's Report ABP-312527-22

### Development

Permission & Retention: Planning permission is sought for a 2-storey extension to side of house, porch to front and associated site works. Retention for 2- storey extension to rear together with all associated works.

### Location

No. 304, Swords Road, Santry, D9.

### Planning Authority

Dublin City Council North.

### Planning Authority Reg. Ref.

WEB1841/21.

### Applicant(s)

Melissa Rooney.

### Type of Application

Planning Permission & Retention Permission.

### Planning Authority Decision

Grant with conditions.

### Type of Appeal

Third Party.

### Appellant(s)

Maureen & Lyn Mullery.

### Observer(s)

None.

### Date of Site Inspection

25<sup>th</sup> day of February, 2022.

### Inspector

Patricia-Marie Young.

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## **1.0 Site Location and Description**

- 1.1. No. 304 Swords Road, the 434.9m<sup>2</sup> rectangular shaped site appeal site, is located on the eastern side of Swords Road directly opposite the south easternmost corner of the Omni Park Shopping Centre. It is also located c125m to the south of Lorcan Road and c190m to the north of Shanowen Road in the city suburb of Santry c5km to the north Dublin's city centre.
- 1.2. The site contains an unoccupied semi-detached dwelling that is setback from the public domain by a front garden area that is unkempt containing building materials. There is an under-construction side and rear two storey extension. In addition to the rear boundary there is an uncompleted single storey building. I observed no works on-going at the time of my inspection.
- 1.3. Between No. 304 Swords Road and No. 302 Swords Road, the neighbouring property to the south, there is a pedestrian pathway that provides connection to Lorcan Road. There is also a restricted in width service alley running behind the subject property.
- 1.4. The subject property forms part of a group of two-storey semi-detached pairs with single storey side garages that bound this stretch of Swords Road. The surrounding area contains a mixture of mainly single storey but also on the opposite side of this stretch of the Swords Road there is a mixture of land uses present.

## **2.0 Proposed Development**

- 2.1. Planning permission & retention permission for the following:
  - Permission for the construction of a two-storey extension to the side of the existing dwelling to include boot room, home gym and utility to ground floor, two bedrooms a wc and hot press to first floor, an entrance porch to the front and associated site works.
  - Retention of an existing two-storey extension to the rear of an existing dwelling including Kitchen to ground floor and Bedroom, Wardrobe and En-suite to first floor and associated works.
- 2.2. The planning application form indicates that the floor area of buildings to be retained on site is 174m<sup>2</sup>; the gross floor area of buildings proposed is 76m<sup>2</sup>; and, would give rise to a total floor area of 250m<sup>2</sup>. It also indicates a proposed site coverage of 23.1.

- 2.3. On the 24<sup>th</sup> day of November, 2021, the Planning Authority received the applicant's further information response. This was accompanied by revised public notices. Of note the revisions include the setting back of the first-floor level side extension by 0.3m from the common boundary and reduces its height by 250mm. It also introduces high level windows at ground floor level and additional high-level windows at first floor level to improve passive surveillance.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. On the 15<sup>th</sup> day of December, 2021, the Planning Authority **granted** permission and granted retention permission subject to conditions including:

Condition No. 4: Requires that the first-floor window serving the bathroom be fitted with obscure glazing.

Condition No. 5: Indicates that the permission does not include the existing detached garden structure to the rear.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The **final Planning Officer's report** dated the 14<sup>th</sup> day of December, 2021, is the basis of the Planning Authority's decision. It includes the following comments:

- Whilst the applicant has not setback the side extension from the boundary the height has been reduced to 5.86m and obscure glazed windows have been included in the side elevation which help break up this elevation without causing any adverse residential amenity impacts.
- The residential amenity impacts that would arise of the adjoining property, i.e., No. 306 Swords Road, and neighbouring properties would be minor, in terms overbearing, overshadowing, and overlooking.
- No undue visual amenity impacts would arise on the site's setting.
- A grant of permission is recommended.

The **initial Planning Officer's report** dated the 5<sup>th</sup> day of October, 2021, concludes with a request for additional information seeking:

Item No. 1:                Seeks the applicant to reconsider the potential negative impact of the proposed two storey side extension to the adjoining laneway in terms of setback from common boundary, height, and passive surveillance. It also notes concerns in relation to the accuracy of the drawings.

Item No. 2:                Concerns are raised in relation to the lack of detail in relation to the rear extension to be retained and completed. It is also sought that the height is reduced and seeks demonstration that no undue overshadowing of the property to the north would occur.

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

**Drainage:** The management of surface water is not acceptable.

### **3.3. Prescribed Bodies**

3.3.1. None.

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

3.4.1. During the course of the Planning Authority's determination of this application it received two third party observation. These are attached to file, and I consider that the substantive planning issues raised are the same as those raised by the appellants in their appeal submission to the Board.

## **4.0 Planning History**

### **4.1. Site and Setting**

4.1.1. No recent planning history pertaining to the site and/or no relevant appeal cases relating to the site setting.

## **5.0 Policy & Context**

### **5.1. Development Plan**

- 5.1.1. The Dublin City Development Plan, 2016-2022, is applicable and under which the site is zoned: 'Z1'. The objective for 'Z1' zoned lands is: *"to protect, provide and improve residential amenities"*.
- 5.1.2. Section 16.2.2.3 of the Plan deals with the matter of 'Alterations' and 'Extensions' to existing dwellings. It sets out these should be designed to respect the existing building, its context, and the amenity of adjoining occupiers. In addition, Section 16.10.12 of the Development Plan also deals with 'Alterations and Extensions to Dwellings' and recommend that proposals should respect the character of the area and should protect the residential amenity of adjoining properties.
- 5.1.3. Appendix 17 'Guidelines for Residential Extensions' sets out detailed advice and guidance on extensions to existing dwellings.

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

- 5.2.1. There are no Natura 2000 sites of any relevance to the proposed development.

### **5.3. EIA Screening**

- 5.3.1. Having regard to the location of the site is an area zoned for residential development and the availability as well as capacity for water supply and mains drainage with the site having an existing connection to these to serve the proposed development, I conclude that no significant environmental impacts will arise and the requirement for the submission of an EIAR may be discounted at a preliminary stage.

## **6.0 The Appeal**

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

- 6.1.1. The 3<sup>rd</sup> Party's grounds of appeal can be summarised as follows:
- The proposed development as granted would materially and negatively impinge on the residential amenity of the appellants home which adjoins the site to the north.

- The design, scale, height, and form of the proposal would be visually incongruous when viewed from their property.
- The proposed development would result in a negative impact on their residential amenities by way of loss of privacy, loss of light and overshadowing.
- This proposal represents overdevelopment of the site.
- The proposal would be contrary to the zoning of the site that provides protection for existing residential properties from inappropriate development.
- Alongside the partially constructed extension there is also a partially constructed structure to the rear of this property.
- The main living space of the appellants property is located to the rear and the rear garden is a much used amenity for them.
- The applicant has misrepresented their property in the submitted drawings.
- The applicant's additional information response did little to improve the visual and residential amenity outcomes from this development.
- The provision of high-level windows does not give rise to passive surveillance of the adjoining pathway.
- The shadow analysis provided is misleading and of poor quality.
- The further information does not address the inaccurate drawings provided.
- The applicant has also omitted the rear garden shed structure from this application.
- The rear extension has the potential to undermine the boundary wall.
- The extension has been built on a boundary wall and extends higher than the eaves of the main dwelling and the appellants property.
- The applicant has no consent for these works.
- The Board is sought to refuse permission for the development sought.

## 6.2. **Applicant Response**

6.2.1. The First Party's response can be summarised as follows:

- A number of properties on Swords Road and Lorcan Road have been extended at the side and rear.
- Reference is made to the local planning provisions to which it is contended that this proposal complies with.
- Reference is made to the Planning Authority's decision.
- It is contended that this development would not give rise to any adverse residential or visual amenity impacts.
- It is not accepted that the existing neighbouring WC at No. 306 Swords Road has been inaccurately depicted.
- The proposed development is considered to be a modest and appropriately sized extension to the subject property.
- It is not accepted that any undue overshadowing would arise on the appellants property and the majority of the appellants rear private amenity space would not be overshadowed.
- The first floor windows follow the same layout as the original first floor level rear elevation.
- The reduction in property value is not a material consideration in the determination of planning applications.
- The recently constructed shed structure to the rear of the property is built in accordance to exempted development requirements.
- The applicant will ensure that the boundary wall and treatment between No. 304 and 306 Swords Road will remain intact and undisturbed.
- This proposal is consistent with precedents for similar developments in its setting.
- The amendments already made to the design ensure that it would remain subservient to the host dwelling.

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

#### **6.3.1. None.**



## **7.0 Assessment**

### **7.1. Overview**

7.1.1. I am satisfied that the substantive issues arising in this appeal case are:

- Principle of the Development Sought
- Amenity Impact – Visual and Residential

7.1.2. The matter of 'Appropriate Assessment' also requires examination.

7.1.3. The development for which planning permission and retention permission are sought are restricted to permission to the side of the dwelling for a front single storey porch and two storey extension in place of a single storey side garage structure and the retention of an existing part constructed two storey rear extension. I note that at some point in recent time the side garage structure has been demolished. The demolition of this structure formed part of facilitating this component of the proposed development. Yet the public notices do not include retention permission for its demolition.

7.1.4. Retention permission is however proposed for a partially constructed up to eaves height rear two storey extension. Of concern this component of the proposed development appears to have been constructed onto and over the boundary line of No. 306 Swords Road, the appellants property. Yet no consent has been provided with this application that would show that the applicant has obtained their consent for these works. In relation to works extending outside of the red line site area I note that this also occurs on the southern elevation of the proposed extension. Similarly no consent has been provided for the encroachment on what appears to be public land by the applicant.

7.1.5. I am not therefore satisfied that the applicant has adequately described the development to which this application relates and that they have not demonstrated that they have sufficient legal interest in the land to bring forward as sought under this application in the manner proposed by them. With this including oversailing beyond the red line area of the site.

7.1.6. While I accept that the roof structure could be modified to provide an integrated guttering system that did not project to the same level onto No. 306 Swords Road I

consider that should the Board be minded to grant permission for the development sought, in particular the completion of this part constructed two storey rear extension that clarity should be sought on this matter and/or the applicant requested to setback this extension from this boundary in a manner that ensured no encroachment or oversailing of land and/or structures which they have not demonstrated sufficient legal interest.

- 7.1.7. In relation to other recent development works that have been carried out recently on site and for which permission would be required, this I consider is an enforcement for the Planning Authority to deal with as they see fit.
- 7.1.8. On the matter of this application seeking both planning permission and retention permission I consider it important to note prior to my main assessment of the development sought under this application that the Development Management Guidelines for Planning Authorities, 2007, make it clear that, in dealing with applications for retention, they must be considered "*as with any other application*". This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed. Therefore, no account can, or should, be taken of the fact that the development has already taken place.
- 7.1.9. For clarity I also note that my assessment below is based on the development as revised by the applicant's additional information response received by the Planning Authority on the 11<sup>th</sup> day of November, 2021, as this includes minor improvements to the initially sought proposal in terms of visual and residential amenity impact.
- 7.1.10. In conclusion, having inspected the site and its setting, had regard to all documentation on file alongside having had regard to all relevant planning provisions I am satisfied that the Board can confine its determination of this appeal case to the assessment of visual and residential amenity impact. I concur with the Planning Authority's Planning Officer that the deficient drainage details and measures could be dealt with by way of condition. In addition, a condition requiring a revised design to omit the one of the two proposed doors in the principle façade alongside restricting the use of the dwelling to a single dwelling unit could deal with the matter of the design being one that even as revised still has the potential to accommodate two independent dwelling units. Conditions dealing with such matters should be imposed by the Board should it be

minded to favourably consider this development as a whole or in part and 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.

## **7.2. Principle of the Development Sought**

- 7.2.1. The appeal site forms part of a site that is zoned for residential development (Note: 'Z1') with the objective of seeking to protect, provide and improve residential amenities. The development sought under this application essentially comprises of alterations and additions to No. 304 Swords Road, an existing though unoccupied dwelling house. In general, this type of development is deemed to be acceptable on residentially zoned land, subject to safeguards.

## **7.3. Amenity Impact - Residential & Visual Amenity Impact**

- 7.3.1. The appellant in this case raises concerns that this development would give rise to adverse residential and visual amenity impacts. Which would in turn diminish their residential amenities. They further consider that the visual amenity impacts are such that they would also diminish the visual amenity of the site's setting.
- 7.3.2. In relation to residential amenity impact the appellant raises several concerns including that the proposed development would be visually overbearing when viewed from their property. This overbearance would arise in their view from the height, the built form, the scale through to mass of the extension to the rear. Together with its visual incongruity with the semi-detached pair it forms part of.
- 7.3.3. In this regard I note that Section 16.2.2.3 of the applicable Development Plan which deals with the matter of 'Alterations' and 'Extensions' to existing dwellings sets out such applications should be designed to respect the existing building, its context, and the amenity of adjoining occupiers. Of relevance to the current application, it is sets out that developments relating to alterations and extensions to an existing dwelling should:
- Respect street uniformity, patterns, and rhythms.
  - Retain a significant portion of garden / yard / enclosure.
  - Not detract from the architectural quality of the existing building.
  - Be confined to the rear in most cases.

- Be subordinate to the existing building in scale and design.

7.3.4. In addition, Section 16.10.12 and Appendix 17 of the Development Plan provides more specific requirements but still advocating that such developments should be subordinate to the main dwelling and setting. In a manner consistent with one another they advocate that extensions to a dwelling house should perform a 'supporting role' in the scale and design of the host house. Moreover, Section 17.7 of Appendix 17 sets out that the appearance of residential extensions should not dominate the existing building, they should seek to harmonise with the existing house and ideally adjoining buildings.

7.3.5. I therefore raise a significant concern that the extension for which retention is sought and for which permission is proposed is not consistent with the requirements of these local planning provisions and guidance for such applications.

7.3.6. In this case whilst a minor improvement was achieved between the development as sought under the initial application to the Planning Authority and the applicant's further information response by way of the reduction in height of the flat roofed two storey elements and a very minor setback of the side extension from the boundary with the adjoining pathway (Note: c220mm). Notwithstanding, these amendments in my view do not go far enough to address the visual amenity concerns this proposal gives rise to and most particularly in terms of consistency with the above stated Development Plan requirements.

7.3.7. In this regard, I raise concerns that the existing and proposed extensions still project to the side and rear above the eaves of the main dwelling and in so doing are visually overbearing, visually incongruous, and out of pattern with development to this group of semi-detached pairs on this stretch of the Sword Road (Note: c400mm). On this point I note where side and rear extensions have been permitted, they have not exceeded the eaves height but rather sat clearly below the eave's height of the main dwelling. Thus maintaining a level of visual subservience to their host dwelling.

7.3.8. Of further the two-storey side extension extends forward of the front building line of No. 304 and No. 306 Swords Road. It also contains a separate doorway immediately to the south of the proposed flat roofed porch. This porch I note projects further beyond the building line of the proposed side extension. Together these elements give the side extension a level of visual separation and an appearance of an

independent unit. This is at odds with side extensions present in this group of semi-detached properties that front the eastern side of the adjoining stretch of the Swords Road. Where it is the case that the majority of these properties have maintained the single storey side element which is a feature of their original design.

- 7.3.9. The design includes no setback at ground level from the side extension with it being positioned over the shared boundary wall which at this point adjoins a pedestrian pathway. I note where construction has occurred to date on site there is an issue of overhanging onto the public domain. With this being evident from the structure that is partially constructed on the rear boundary. Therefore, this is a concern in terms of this element of the development sought and also gives rise to issues with oversailing as well as encroachment onto a common/shared boundary and beyond it in the absence of demonstrated legal consent for this to be carried out.
- 7.3.10. In addition, the lack of setback from the southern side boundary and the incongruous staggering of a single side wall and a slightly stepped back first floor level adds in my view to the lack of harmony in the design resolution proposed. With this being in terms of the main dwelling and in terms of its presentation with a streetscape scene that is characterised at this point by the group of matching in design, built form through to appearance semi-detached properties that have maintained a high level of their original integrity since their construction and occupation.
- 7.3.11. Further, in the absence of a meaningful setback from the side boundary at ground and first floor level the sense of space that is achieved by the single storey side garages would be diminished at this point where particularly at first floor level they maintain a sense space and light for the adjoining public pathway making it more attractive to use in a significantly developed urban landscape. I also note that this pathway provides an important linkage and connectivity for residential properties to the east. In particular Lorcan Road. Thus, providing a more direct route to public transport stops, services as well as amenities present on Swords Road and beyond. As such this pathway plays an important role in this locality in terms of creating qualitative hierarchy of spaces, linkages, and connectivity. In turn such pathways help to reduce reliance on the use of private vehicles.
- 7.3.12. The introduction of windows at first-floor level of the extension by way of the applicant's further information response I consider is positive. Notwithstanding, the overall design

of the side and rear extension is one that includes to the rear at first-floor level large in width and height window openings which would in my view add to the visual overbearance and over dominance of this highly angular non-subservient side and rear extension. In a design manner that is at odds with the pattern of two storey extensions where they have occurred in this group of semi-detached properties which have less void to solid relationships above ground level. And, if permitted as sought, whilst arguably giving rise to improved passive surveillance of the adjoining pathway would notwithstanding, result in a significant level of additional overlooking as well as perception of being overlooked from the rear of No. 306 Swords Road.

- 7.3.13. Moreover, the applicant by way of their further information has failed to demonstrate that no adverse diminishment of daylight or no adverse levels of overshadowing would arise from the development sought were it to be permitted in the form proposed. This is of particular concern for the adjoining property of No. 306 Swords Road which bounds the site on its northern side. It is clear in the photographs provided by the appellant that there is a material level of additional overshadowing and in turn I accept loss of daylighting to the interior of this property.
- 7.3.14. I note that this was a concern raised by the Planning Authority as part of their further information request as no shadow analysis or otherwise had been provided to demonstrate that the proposed development would not result in any significant adverse impacts on properties in its vicinity.
- 7.3.15. In response to this the applicant provided a shadow analysis simply showing shadows over the rear elevation of the adjoining property. The drawings submitted as part of this analysis also maintains the inaccurately depicted structures to the rear of No. 306 Swords Road.
- 7.3.16. I am cognisant that Section 3.2 of the Urban Development and Building Height Guidelines (2018), I note that Section 3.2 of the Guidelines states that the form, massing, and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. I am also cognisant that the Guidelines clearly state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning

for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

- 7.3.17. The shadow analysis provided is not based on either methodology and its scientific basis is unclear and as such I do not accept that the applicant has demonstrated that no material adverse overshadowing and loss of daylighting would occur to the adjoining property to the north. I also do not accept that the design as revised has been modified based on best scientific data to minimise adverse and material impacts arising on this property. Furthermore I do not accept based on the relationship between these properties with one another through to the orientation and aspect of these properties that no undue overshadowing would arise from the development sought under this application.
- 7.3.18. In terms of overlooking, as previously noted above I consider that the design is one that would give rise to overlooking of the adjoining property of No. 306 Swords Road by way of the significant level of glazing proposed at the first-floor level. The level of which is not in keeping with the pattern of window openings at the first-floor level of the rear elevation of this group of semi-detached properties.
- 7.3.19. Whilst I am cognisant that in a suburban setting like this there is a level of overlooking as well as perception of being overlooked from levels above ground floor what is a concern in this case is that the design has not included any measures to minimise the level of nuisances that would arise from it on adjoining and neighbouring properties.
- 7.3.20. The design and layout of the first-floor level in my view is not one that is carefully considered including having regard to the sensitivity of properties in its vicinity to change.
- 7.3.21. In this case given the proximity of the first-floor level to the adjoining property to the north and the proximity of the significant level of glazing it is not unreasonable to conclude that the main rear private amenity space of this adjoining property would be additionally and significantly more overlooked than its present situation.
- 7.3.22. As set out above the local policy guidance in the Development Plan in relation to alterations and extensions of existing dwelling houses, in particular Section 16.2.2.3 and Section 16.10.12 require proposals like that sought under this application to respect the scale and architectural form, to be subordinate to the host dwelling through to must not have an adverse impact on the character of the host dwelling and their

setting or adversely affect the amenities enjoyed by occupants of adjacent buildings. Further, the residential zoning of the site also seeks to protect the established residential amenities of properties.

7.3.23. I do not concur with the Planning Authority in this case that this development is consistent with the zoning and policy provisions relating to this type of development. Whilst I accept that residential developments are in general deemed to be acceptable, notwithstanding, this is subject to safeguards. Including that such developments are consistent with the land use zoning objectives, the relevant design through to layout requirements and that they do not give rise to any serious or undue material adverse impacts on the amenities of their setting.

7.3.24. I am also not convinced that conditions alone would resolve the issues that arise in terms of the design and layout of the extensions sought under this application for planning permission and retention permission given it is one which is substandard in the round.

7.3.25. In addition, as set out previously the fact that works have already been carried out in the absence of planning permission is not a consideration in determining the merits of the development based on the proper planning and sustainable development of the area.

7.3.26. In conclusion, I recommend that planning permission and retention permission be refused as, if permitted as sought under this application, it would be visually incongruous, overbearing and of character with its streetscape setting as well as would give rise to serious injury on the established residential amenity of No. 306 Swords Road.

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

7.4.1. Having regard to the distance of the site from European Sites, to the small scale of the proposed development and to the absence of any direct pathway from the site to the designated sites I consider that the proposed development individually, or in combination with any other plans or projects, would not be likely to have any significant effect on any European Site.

#### **7.5. Other Matters Arising**



- 7.5.1. **Use:** Should the Board be minded to consider this development favourably as a whole or in part I consider that there is merit in the argument that the exterior and interior design as well as layout of the extensions is one that could be easily used as a separate dwelling unit or as a separate commercial unit. I therefore recommend that alongside the omission of the additional front door from the side extension facing onto Swords Road sought under this application as I have previously recommended that it also imposes a condition to restrict the use of No. 304 Swords Road to one dwelling by way of condition in the interests of clarity and proper planning as well as sustainable development of the area.

## 8.0 Recommendation

- 8.1. I recommend that planning permission and retention permission be **refused**.

## 9.0 Reasons and Considerations

The proposed side and first floor extension and the retention of the rear two-storey extension would be an incongruous and visually obtrusive addition to the host dwelling and the streetscape scene that it and the group of originally matching semi-detached pairs forms part of and would, in itself cause serious injury to the residential and visual amenities of the area. It would, therefore be, contrary to both the policies and objectives of the current Dublin City Development Plan 2016-2022, in particular Section 16.2.2.3 and Section 16.10.12, which require proposals like this to be subordinate to the host dwelling; to respect the scale and architectural form of the host dwelling and that of their its setting and to not result in any adverse impact on the amenities enjoyed by occupants of adjacent buildings. For these reasons this development would be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector - 28<sup>th</sup> day of February, 2022.