



An  
Bord  
Pleanála

## Inspector's Report ABP-312561-22

### Development

Removal of existing garage and kitchen to side of dwelling and construction of a two storey extension to the front and side, alterations to the front elevation, single storey rear extension and dormer window to rear roof slope to serve attic conversion and widening of existing vehicular access. .

### Location

42 Ballytore Road, Rathfarnham, Dublin 14. .

### Planning Authority

South Dublin County Council.

### Planning Authority Reg. Ref.

SD21B/0570.

### Applicant(s)

Paul Manley and Sarah Jane Varden.

### Type of Application

Permission .

### Planning Authority Decision

Grant Permission.

### Type of Appeal

Third Party

### Appellant(s)

Ann Marie Kenny

### Observer(s)

None.

**Date of Site Inspection**

1<sup>st</sup> April, 2022.

**Inspector**

Stephen Kay.

## **1.0 Site Location and Description**

- 1.1. The appeal site is located on Ballytore Road, a residential area in Rathfarnham to the south of the River Dodder. The existing residential property on the site comprises a two storey semi detached house that is of a similar design and scale with those in the vicinity of the site although there are also a number of detached houses in the general vicinity of the site.
- 1.2. The stated area of the existing house on the site is 114.3 sq. metres and the stated area of the site is 0.034 ha.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the following elements:
  - The demolition of the existing garage to the side of the house,
  - Construction of a two storey extension to the side and front which extends the existing hipped roof to maintain the existing ridge height. To the front, the two storey extension is proposed to extend c.1200mm beyond the existing front building line.
  - New bay window to the front of the under a new lean to roof with some additional minor changes to the fenestration at first floor level in the front elevation. The lean to roof would extend out to match the depth of the new two storey side extension.
  - Single storey extension to the rear with rooflights. This rear extension would have a maximum height of c.3.5 metres on the flat roof part and c.4.4 metres on the monopitch element in the centre. The extension is proposed to be c.3.7 metres in depth where it adjoins No.40 and c.4.4 metres where it adjoins No.44.
  - The construction of a dormer window to the rear roof slope to facilitate the conversion of the attic. An additional rooflight to the front roofslope is also proposed.
  - The widening of the existing vehicular access to 3.5 metres.

- The proposed alterations would result in an increase in the floor area of the house on the site from 114.3 sq. metres to 195.9 sq. metres.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority issued a Notification of decision to Grant Permission subject to 5 no. conditions which are generally standard in nature and scope. The following condition is noted:

Condition No.2 – states that the changes to the vehicular access are omitted from the development and the permission granted. The stated reason for this condition is that the proposal would require the removal of a street tree and that this would be contrary to section 6.18 of *Living with Trees South Dublin County Councils Tree Management Policy 2021-2026*.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The report of the Planning Officer notes the observations received relating to the development and the planning history of the site and relevant policy provisions. The development is considered to be consistent with the zoning of the site and the proposed extension over the garage is considered acceptable. Report notes that the protruding two storey feature is not a feature of the area but considers that it can be accommodated given the separation between the houses, the depth of this element (1.2 metres) and the size of gardens. The design and scale of the proposed rear extension is considered to be acceptable, and it is noted that it passes the 45 degree test as per the BRE Guidance. The dormer is also considered to be acceptable and the previous reason for refusal are considered to have been addressed satisfactorily. A grant of permission consistent with the Notification of Decision which issued is recommended.

### 3.2.2. Other Technical Reports

Water Services Department – Report recommends further information. Regarding surface water drainage / soakaway and proposals for complete separation of foul and surface water drainage.

Parks and Landscape / Public Realm Department – Recommendations relating to the impact on street tree(s) and that an arborist report should be submitted and that proposals for the protection of the tree during construction should be submitted.

Roads – No objection.

Irish Water – No objection.

## 4.0 Planning History

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

- South Dublin County Council Ref. SD18B/0072 – Permission refused by the Planning authority for a two storey extension to the side of house, bay window to the front, single storey extension to the rear, dormer extension and attic conversion and widening of the vehicular access to the site. Permission refused for two reasons (1) relating to the impact of the rear extension on the residential amenity of adjoining properties, the nature and design of the alterations to the front elevation and the scale of the proposed dormer and (2), that the development would set an undesirable precedent.

## 5.0 Policy and 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.7km 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 appeal received on behalf of the occupant of the adjoining property at No.40 Ballytore Park:

- Issues raised in the observation submitted to the Planning Authority were not addressed in the council decision,
- That the report of the planning officer acknowledges a number of shortcomings in the proposed development but does not address these by way of condition or required alteration.
- That the two storey feature has no local precedent.
- That the original submission to the Board included a contingency submission and these were not taken into account. These are restated for the Board and propose the relocation of the dormer 1 metre further to the east and the relocation of the west elevation of the rear extension 1 metre from the site boundary.

- Requested that the Board refuse permission for reasons relating to the excessive length and scale of the extension would be such as to have significant overbearing and impacts on shadowing of the appellants property and that the proposed dormer would be out of keeping with the character of the dwelling and would seriously injure the residential amenities of properties in the vicinity.
- That the proposed development would set an undesirable precedent for other similar forms of development.
- Copy of observation to the Planning Authority included which raises concerns regarding size of extension, scale, impact on neighbouring property, excessive height, length and proximity to boundary and visual dominance and overshadowing.

## **6.2. Planning Authority Response**

The following is a summary of the main issue raised in the response received from the Planning Authority:

- That the appellants contingency submission (relating to positioning of dormer and set back of the rear extension from the site boundary) are not considered in themselves to be objectionable, however the development as originally proposed is considered to be consistent with the zoning objective of the site and the suggested changes are not considered to be required to protect the residential amenity of surrounding properties.

## **6.3. First Party Response**

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

- That the proposal is consistent with the provisions of the South Dublin County Council House Extension Design Guide as it relates to the front, side, rear and dormer extension elements of the proposal.

- That the front extension is simple in scale and form, would integrate with the existing roof and would be limited to 1.2 metres in depth. Precedent for other similar forms of front extension are highlighted.
- Regarding the side extension it should be noted that a 1 metre gap to the site boundary will be maintained, that the existing hipped roof will be extended and that the site is not located at a corner and not very visually prominent. The proposed side extension is therefore considered to be consistent with the Guide and not such as would impact on residential amenity.
- That the rear extension complements the design and scale of the existing house, is of modest height and flat roof design, would result in the retention of a significant garden area (93 sq. metres) and is consistent with the extension Guidance. Examples of other permitted rear extensions in the vicinity of the site are highlighted.
- Similarly, it is contended that the proposed dormer is consistent with the SDCC Guidance. Specifically, the dormer will have a plaster and zinc finish, will facilitate accommodation consistent with the requirements of the Building Regulations, will be below the pitch of the roof line, would be well set back from the eaves and has been designed to align with the fenestration in the rear elevation below.
- Precedent cases where permission for single storey rear extensions of similar or larger scale than that proposed are provided including at 14 and 33 Ballytore Road.
- That the south facing rear of the house on the appeal site and adjoining properties is such that there would not be significant overshadowing of the rear gardens of adjoining properties.
- That the design and location of the dormer is such that it will not result in overlooking of the adjoining properties.



## **7.0 Assessment**

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

- Principle of Development
- Design and Impact on Visual Amenity
- Impact on residential Amenity,
- Other Issues
- Appropriate Assessment

### **7.2. Principle of Development**

- 7.2.1. The appeal site is located on lands that are zoned Objective RES under the provisions of the South Dublin County Development Plan, 2016-2022. Residential development is a permitted use under lands zoned Objective RES and an extension to an existing residential use would be permitted in principle.
- 7.2.2. 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' and the principle of the form of development proposed is therefore supported in principle under the development plan.
- 7.2.3. I note that the third party appellants contend that the issues raised in their observation submitted to the Planning Authority were not addressed in the council decision. I note that the issues raised in this submission to the Planning Authority, including the contingency submission related to changes to the dormer and rear extension, are very similar to the grounds of appeal submitted to the board and these issues are addressed in the following sections of this assessment.

### **7.3. Design and Impact on Visual Amenity**

- 7.3.1. The design proposed incorporates a number of elements that would have a potential impact on the visual amenity and character of the residential area in which the site is located. In particular, the development includes an extension to the side and front of

the existing semi detached house and alterations to the front elevation in the form of the addition of a bay window at ground floor level with lean to roof above.

Development to the rear in the form of the single storey rear extension and the rear dormer would not be visible from the street but would have a potential impact on the visual amenity of surrounding properties.

- 7.3.2. With regard to the side and front extension, the appellants contend that this feature has no local precedent and should not be permitted. I note the fact that the depth of the projecting element of the side extension forward of the existing front building line is relatively limited at c.1.2 metres. I also note the fact that the side and front extension would be integrated into the existing hipped roof profile and that the proposed lean to front roof and projecting bay window at ground floor level would help to integrate the projecting element into the building. These factors, together with the separation from the adjoining semi detached property to the east and the fact that the site is located in a middle of a run of houses combine such that I consider that the design proposed is acceptable and such that it would not have a significant negative impact on the residential or visual amenities of the area.
- 7.3.3. In addition to the above, and as highlighted I the first party response to the grounds of appeal, I note that there is precedent for development of a similar form with a side and front extension to that proposed being permitted by the Planning Authority. Specifically, I note that there are a number of houses in the vicinity where there has been permission granted for a lean to roof across the front of the house (notably No.77 Ballytore Road) and also for a projecting two storey side extension (No.32 Ballytore Road).
- 7.3.4. Having regard to these precedents and given the design proposed including integration into the existing roof profile, limited projection to the front of the existing building line, location of the site relative to other properties and proposed materials I do not consider that the side and front extension proposed would impact negatively on the residential and visual amenities or character of the area.
- 7.3.5. Similarly, the design of the proposed bay window, lean to roof above and other minor alterations to the front elevation of the dwelling, including the addition of a small rooflight, are in my opinion acceptable and not such that they would impact negatively on the visual amenities or character of the area. The impact of the

proposed development to the rear including the dormer and single storey rear extension on residential amenity is considered in detail in the sections below, however I do not consider that the design and scale of these works is such as to have a significant negative impact on visual amenity for adjacent residential properties.

#### **7.4. Impact on Residential Amenity,**

- 7.4.1. The main basis of the appeal submitted is that the proposed rear extension and rear dormer would have a significant negative impact on the amenity of the adjoining property to the west at No.40 Ballytore Road. As referenced above, the appeal also highlights that the original objection to the Planning Authority included a contingency submission which proposes the relocation of the dormer 1 metre further to the east and the relocation of the west elevation of the rear extension 1 metre from the site boundary.
- 7.4.2. Firstly, with regard to the two storey side extension proposed, this extension is proposed to be integrated into the existing roof profile of the house and would be set back from the eastern site boundary by c.1 metre. The two storey element would not extend beyond the existing rear building line of the house on the appeal site or that on the adjoining site to the east. For these reasons, I do not consider that this element of the proposed development would have any negative impact on the residential amenity of adjoining properties.
- 7.4.3. With regard to the proposed rear extension, this extension is single storey in design and indicated as having a maximum height of c.3.5 metres to parapet height on the side closest to the appellants property and c.4.4 metres on the monopitch element in the centre. The extension is proposed to be c.3.7 metres in depth where it adjoins No.40 and c.4.4 metres where it adjoins No.44.
- 7.4.4. The depth of 3.7 metres adjoining the appellants property is not in my opinion excessive in terms of the likely impact on the amenity of No.40. Specifically, the existing boundary wall between the appeal site and No.40 is c.2.0 metres in height closest to the house and, as per the submitted drawings, reducing to c.1.7 metres c.1.7 metres beyond the building line, albeit that the height of this wall is hard to identify on site due to the presence of a high hedge that is located in the appellants

garden. Not allowing for the screening impact of this existing hedge, the additional gable facing the appellants property would measure c.1.5 metres to 1.8 metres over the 3.7 metre depth of the extension, such that it would not in my opinion constitute a visually overbearing element.

- 7.4.5. In terms of overshadowing and loss of light, the report of the Planning Officer makes reference to the proposed extension meeting the 45 degree rule in terms of impact on the nearest windows in the appellants property. The closest such window is a patio window in the ground floor of the appellants property and while the 45 degree rule is just about met in elevation when measuring to the centre of this patio door, the 45 degree line would be broken in plan. Some slight reduction in light to this window could therefore be anticipated to arise with the development as proposed and the Board may consider the attachment of a condition requiring a reduction in the width of the extension and a separation of 1 metre to the boundary with the appellants property at No.40. Such an alteration would mitigate any potential impact in terms of light to the appellants property and would also further mitigate the visual impact from their property and from the layout drawings it would appear that this alteration could be required without having a significant adverse impact on the internal layout of the proposed extension. On balance, do not consider such a modification to be necessary to ensure that the residential amenities of the appellants property would be protected.
- 7.4.6. On the eastern side, the rear extension would be set back by c.1 metre from the boundary and the adjoining dwelling is also set back by c.1 metre from the boundary such that I do not consider that there would be any negative impact on light to this property (No. 44). the development
- 7.4.7. With regard to sunlight, the first party appeal response notes the fact that the rear of the house on site faces due south and concludes that there would be limited impact on adjoining properties in terms of loss of sunlight to the rear gardens of these adjoining houses. While no shadow assessment is provided with the application or appeal, I agree with this assessment and consider that any loss of sunlight to the rear gardens would be limited to the early morning (No.40) or later afternoon / evening (No.44) and would not be such that the impact arising would be significant or close to the threshold specified in the BRE Guidelines.

7.4.8. Finally, the appellants contend that the proposed dormer would lead to overlooking and loss of amenity and that it would be out of keeping with the character of the dwelling. The scale of the dormer proposed is relatively large measuring approximately 4 metres in width. It is however proposed to be located below the ridge line of the existing roof and would be c.1.6 metres up the roofslope away from the eaves. The dormer is proposed to be finished in zinc and in my opinion both the design and materials are consistent with the councils extension guide. Overall, therefore I do not agree with the appellants that the proposed dormer would either give rise to a loss of amenity by reason of overlooking or that it would constitute a visually incongruous form of development that would be out of keeping with the existing dwelling or the character of the area.

## **7.5. Other Issues**

- 7.5.1. It is noted that Condition No.2 attached to the Notification of Decision Issued by the Planning Authority requires that the widening of the existing vehicular access to the site to 3.5 metres is omitted from the development with the stated reason relating to the potential impact on an existing street tree and compliance with section 6.18 of Living with Trees South Dublin County Councils Tree Management Policy 2021-2026.
- 7.5.2. The proposed development includes for an increase in the width of the existing vehicular access from the current c.2.94 metres to 3.5 metres by the relocation of the western gate pier. There is an existing tree located in relatively close proximity to this extended entrance and while the tree is located c 2.5 metres from the proposed widened entrance and such that I am not clear that any adverse impacts would be likely to arise, it is the case that the Council have a specific policy in place. This policy which has been updated to cover 2021-2026, is referenced in Policy HCL15 of the development plan and requires that permissions for accesses would not be allowed where there would be a negative impact on a street tree. The way that the issue has been left in the Planning Authority decision the first party would have to come back for a revised permission for the access and while I am not clear that the existing proposal would have a likely impact on the existing tree it is my opinion that the most appropriate action is that the requested widening of the access would be

permitted by the relocation of the existing pier on the opposite (eastern) side of the access. From my observations of the site no additional path dishing works would be required to facilitate widening on this side and the relocated gate pier would still be 500mm from the boundary with the adjoining property to the east.

- 7.5.3. I note that the report on file from the Water Services section of the council recommends that further information would be requested regarding the surface water layout and that details of the soakaway would be submitted for agreement. I note that there is a report on file from Irish Water stating that it does not have any objection to the proposed development and given this and the nature and scale of the proposed development, the issues raised by the water services department are in my opinion such as can be addressed by way of condition and associated compliance submission.
- 7.5.4. The scale of development proposed is such that it is not exempt under the provisions of the South Dublin County Council Development Contribution Scheme. In the event of a grant of permission it is therefore recommended that a condition requiring the payment of a financial contribution would be attached.

## **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 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, would be acceptable in terms of traffic safety and convenience. 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 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 proposed development shall be amended as follows:

(a) The widening of the vehicular access shall be facilitated by the relocation of the gate pier on the eastern side of the existing access rather than that on the western side as proposed. The maximum width of the revised access shall be 3.5 metres. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect existing street trees and the visual amenity of the area. .

3. The first floor window on the east facing elevation of the proposed side extension elevation shall be glazed with obscure glass.

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

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 the same as those of the existing dwelling in respect of colour and texture. The permitted dormer shall be clad in zinc.

**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 €4,346.78 (four thousand three hundred and forty six euro and seventy eight 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

3<sup>rd</sup> April 2022