



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313353-22

<b>Development</b>	Retention and completion of extension, alterations and all associated site works
<b>Location</b>	100 Kickham Road, Dublin 8, D08 E2H8
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3173/22
<b>Applicant(s)</b>	Ronan Kerrigan
<b>Type of Application</b>	Retention and Permission
<b>Planning Authority Decision</b>	Split Decision (Grant & Refuse)
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Anthony Farley
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	08 <sup>th</sup> of March 2023.
<b>Inspector</b>	Karen Hamilton

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## **1.0 Site Location and Description**

- 1.1. The subject site includes a two-storey end of terrace dwelling located along Kickham Road, Dublin 8. The site fronts onto a small cul-de-sac which provides access to c. 16 terrace dwellings. The subject site has a single storey rear/ side extension, the subject of a retention. The extension runs along the north of the rear garden of an adjoining terrace dwelling, No 99 Kickham Road.
- 1.2. There is a large front garden which wraps around the corner of the site. Vehicular access is provided along the north of the site into the side garden. The front boundary includes an iron railing with a pedestrian gate. Most dwellings within the vicinity of the site have off street parking for c. 1 car.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise of both the retention of an extension and new permission for a new vehicular access as summarised below:

Retention of:

- (a) single storey extension to the rear;
- (b) alterations to the side elevation including relocation of the entrance door and addition of a first floor window;

Completion of:

- (c) boundary treatment including new wall and gate to private open space and new vehicular access, all to the existing two storey end of terrace house

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Split decision to

- GRANT retention permission for the single storey side and rear extension for 9 no reasons of which the following condition is of note:

Condition No 3 restricts the rear to be split from the main dwelling,

- REFUSE permission for the new vehicular access with dished footpath and in-curtilage car parking for the following reason:

The development comprising the new vehicular access and in-curtilage parking is considered to be excessive in terms of the provision of a secondary vehicular access to the site from Kickham Road and the provision of in-curtilage parking and would therefore be contrary to the overall aims and objectives to the Dublin City Development Plan 2016-2022. The secondary access would have a negative impact on pedestrians and on street parking. The development would also set an undesirable precedent for similar sites throughout the City. Accordingly, the proposed development is considered to be contrary to the proper planning and sustainable development of the area.

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

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

The report of the area planner reflects the split decision and is summarised as follows:

- The extension is considered acceptable and having regard to the orientation there is unlikely to be any overshadowing on adjoining properties.
- The extension extends out into the rear garden and the applicant proposes to screen off the additional garden.
- The proposal includes an additional vehicular entrance for two on-site parking spaces.
- The site is in car park Zone 2 as per Development Plan Map J where the maximum car parking spaces of 1 space per dwelling.

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

Transport Planning Division: Refusal recommended for the additional vehicular entrance.

Drainage Division: No objection subject to conditions.

### **3.3. Prescribed Bodies**

None received

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

Two submissions were received from residents of the adjoining property to the south of the site. The same third party has submitted the appeal to the PA decision. The issues raised are similar to those in the grounds of appeal and are summarised below in Section 6.1.

## **4.0 Planning History**

### **Enforcement file: E0742/21**

Unauthorised development consisting of the construction of a single storey extension and associated works

### **PL29S.233237 (Reg Ref 2034/09)**

Permission refused for the demolition of a single storey extension to the rear and new vehicular entrance for one reason detailed below:

Having regard to the pattern of development in the area, it is considered that the proposed dwelling and the 1.m boundary wall necessary to secure private open space would breach the building line in the visually restricted cul-de-sac and would be unacceptably obtrusive. Furthermore, the proposed development would create an undesirable precedent for similar development on the other corner plots. The proposed development would be out of keeping with the general layout and character of the estate, would seriously injure the visual amenity of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

### **Reg Ref 1310/08**

Permission refused for the alterations to the existing house to provide a new pitched roof to existing single storey extensions to the rear, demolish the side porch, new window opening, demolition of domestic shed to rear and all other associated works for the following reason:

The proposed new dwelling, by virtue of its siting forward of the front building line of No's 101-106 Kickham Road, would be out of character with the existing pattern of development in the vicinity and would set a precedent for similar developments of this nature on the three opposing sites, which would result in a loss of visual amenity to existing residents and, by virtue of the siting of private open space behind the building line, would not provide for a satisfactory standard of residential amenity to future occupiers. The proposal would therefore be seriously injurious to the residential and visual amenities of the area and to the proper planning and development of the area.

## **5.0 Policy Context**

### **5.1. Dublin City Development Plan 2022-2028**

#### Zoning

The site is zoned Z1 sustainable residential neighbourhood, where it is an objective "To protect, provide and improve residential amenities"

#### Development Standards

Section 15.5.3: Alterations, Extensions and Retrofitting of Existing Non- Domestic Buildings. Alterations and extensions should:

- Respect any existing uniformity of the street, together with significant patterns, rhythms or groupings of buildings.
- Not result in the loss of, obscure, or otherwise detract from, architectural features which contribute to the quality of the existing building.
- Retain characteristic townscape spaces or gaps between buildings.
- Not involve the infilling, enclosure, or harmful alteration of front lightwells.
- Incorporate a high standard of thermal performance and appropriate sustainable design features.

#### Car parking

Map J: Site is within Car parking Zone 2.

Appendix 5: 5.0 Car parking standards

- Zone 2 is a highly accessible location

Table 2: Maximum car parking standards

- 1 space per dwelling.

## 5.2. **Natural Heritage Designations**

There are no European sites within the vicinity of the site.

## 5.3. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 6.0 **The Appeal**

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

The grounds of appeal is submitted by the resident of the property to the south and the issues raised are summarised below;

- The works are unauthorised and DCC was contacted when the applicant was undertaking the works.
- The wall of the proposal extends 3m and leaves the kitchen in darkness.
- The house has been vacant for over 6 years.
- The main sewer pipe has been dug out and covered.
- The extension is a fire risk as the extension has plastic cladding.
- The planning inspector never visited the adjoining site to inspect the impact (loss of light).
- The Velux windows protrude from the extension in the roof.



- A background to the interactions between the appellant and the applicant is included in the grounds of appeal.
- A copy of the original third-party submission is included.

## 6.2. Applicant Response

A response to the third-party appeal was received from a third party, on behalf of the applicant, as summarised below:

### 6.2.1. Context Explanation

- The issue of unauthorised development is not a matter for An Bord Pleanála.
- It was considered the extension was exempt development.
- Due to the location of the door at the side of the dwelling it was assumed that the extension was constructed behind the frontage of Kickham Road.
- DCC issued a split decision denying the secondary car park.

### 6.2.2. Planners Report

- Issues like the grounds of appeal have been addressed in the planning officers report.
- The size of extension and remaining garden are noted by the planner.
- It was assessed that the proposed development would not have a negative impact on the residential amenity of the adjoining resident.

### 6.2.3. Response to the grounds of appeal

- The plans and sections submitted indicate that the extension has a flat roof, extends 4.3m along the boundary and has an overall floor dimension of 11.8m.
- The extension is not above the kitchen or above the main roof line.
- There is an existing boundary wall
- The proposal will have no impact on the neighbour.
- The Transport Section did not identify any potential traffic hazard.

- There are a lot of houses with on-site parking
- On curtilage parking removes the parking of cars along the street.

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

None received

### 6.4. **Observations**

None received

## 7.0 **Assessment**

The main issues relevant to the grounds of appeal is considered as follows:

- Unauthorised works
- Impact on Residential Amenity
- Vehicular Access
- Drainage
- Appropriate Assessment

### 7.1. **Unauthorised works.**

- 7.1.1. The proposed development includes the retention of a rear/ side extension at an end of terrace dwelling along Kickham Road. The grounds of appeal note the previous enforcement action undertaken by Dublin County Council (DCC) in relation to the rear extension and the enforcement notice which required the removal of a wall to the rear of the site. The applicant's response to the grounds of appeal notes the nature of the extension to be retained and the enforcement action and does not consider this is a matter for the Board.
- 7.1.2. I note the application, and retention of the rear/ side extension, has been submitted on foot of enforcement action undertaken by DCC. The information contained in the enforcement notice is a matter for the PA and I am satisfied that the proposal as

submitted has sufficient information to allow an assessment of the proposed development, subject to the normal planning considerations below.

## **7.2. Impact on Residential Amenity**

- 7.2.1. The extension is a single storey extension to the rear of No. 100 Kickham Road. The grounds of appeal are submitted from a resident of No. 99 Kickham Road to the south of the site. The main concern relates to the reduction in sunlight from the rear kitchen of No 99 Kickham Road. It is considered the extension will have a negative impact on the residents of the adjoining property. I have addressed the impact of the proposal in detail below.

### Overlooking

- 7.2.2. The site is located to the north and extends along the boundary with No 99 Kickham Road. The existing boundary wall (c. 1.8m in height) between No 100 and No 99 has been retained and the extension is c. 3m high, c. 1.2m above the existing side boundary. No windows are located along the southern boundary of the extension and there is no potential for overlooking from the Velux windows.

### Overshadowing

- 7.2.3. The extension is located along the north of No. 99. Whilst the grounds of appeal consider the proposal will reduce the sunlight into the rear of No.99, I note the location of the extension and the single storey height which I consider will ensure no loss of light (i.e., the movement of the sun south). Upon site inspection, during midday, there was no noticeable overshadowing impact on the appellants property.

### Overbearing

- 7.2.4. The area planner report notes the appellant has limited rear garden space due to a previous extension and shed on the site. Upon site inspection, the limited size of the rear garden of No 99 Kickham Road was evident, which I consider is a characteristic of the properties along the terrace. The height of the extension at c.3m. Whilst I note it will be visible from the rear kitchen and garden, I do not consider the height is considered excessive for a rear extension within an urban area. Therefore, I do not consider the rear extension would have such a significant overbearing impact to cause a negative visual impact on the adjoining residential amenity.

### Design and Layout

- 7.2.5. Section 15.5.3 of the development plan provides guidance for extensions and alterations to existing dwellings. It is required that the uniformity and character of the existing area is respected. I note the proposed extension is like other extensions in the vicinity and the exterior materials and design of the extension is generally in line with the existing dwelling. The grounds of appeal note the plastic cladding along the northern boundary, adjoining No. 99, which they consider is a fire risk. The issue of compliance with Building Regulations is evaluated under a separate legal code and therefore is not a concern for the Board in considering this appeal. I consider the extension is in keeping with the development guidance of the development plan.

### Proposed Use

- 7.2.6. The report of the area planner addressed their party concerns in relation to the division of the property for multiple use. Condition No 3 was included to ensure the extension was ancillary to the existing dwelling. In the event of a grant of permission I consider a similar condition is included.

### Conclusion

- 7.2.7. Having regard to the location of the subject site to the north of the adjoining dwelling and the height of the extension, it is not considered the proposal will have a significant negative impact on the residential amenity of those residents of properties in the vicinity of the site.

## **7.3. Vehicular Access**

- 7.3.1. The dwelling is located on a corner site where the side of the dwelling fronts onto Kickham Road and the front faces a cul-de-sac along Kickham Road. There is currently a vehicular access along the north of the site, onto the cul-de-sac and a pedestrian access along the west onto the main Kickham Road.
- 7.3.2. The proposal includes a vehicular entrance into the site along the main Kickham entrance, beside the existing pedestrian access. The proposal does not include any works along the public realm, although the report of the Roads Department notes a requirement for the footpath to be dished.

- 7.3.3. The site is in Zone 2 of Map J of the development plan. The Dublin City Development Plan 2016-2022 was the development plan at the time of the decision of the PA. The Dublin City Development Plan 2022-2028 is the current plan and I note no significant alteration to the car parking strategy since the planning decision. The report of the planner and the Transport Section notes the maximum car parking standards in the development plan for sites in Zone 2 (Map J) and the absence of any justification for an additional space on the site.
- 7.3.4. The applicant's response to the grounds of appeal notes the split decision and the refusal for the additional parking space. It is considered that the refusal is not justified as there was no potential for traffic hazard with lots of houses with on-site parking.
- 7.3.5. I note the car parking standards for Zone 2 are listed as a maximum permissible. These areas are defined as being highly accessible to public transport and services. I consider the carparking rate reasonable to control car use within the city. Upon site inspection I noted the location of on-site parking for dwellings is generally restricted to one space. I also note the submitted plans and particular fail to include those works required along the public realm including ditched footpaths, boundary treatment. I consider these works have the potential for a negative impact on the movement and flow of pedestrian and traffic along the front of the site and will involve the removal of shared on-street parking
- 7.3.6. Having regard to the current vehicular access into the site, available parking within the curtilage, the proposal for an additional entrance along the front of the site, and the policies and objectives of the development plan to restrict on-site parking, I consider the proposal for a secondary vehicular access should be refused.

#### **7.4. Drainage**

- 7.4.1. The grounds of appeal refer to the location of the extension over a public main. It is proposed to connect into an existing public main. The report of the Drainage Division of DCC did not raise any concern in relation to the proposal. In this regard, I do not consider the proposal would have a negative impact on the public drainage system.

## 7.5. **Appropriate Assessment**

- 7.6. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have 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 for the retention of the extension and alterations to the existing dwelling, subject to conditions below and reasons and considerations (No.1) and REFUSED for the new vehicular entrance for the reasons and considerations (No. 2) set out below.

## 9.0 **Reasons and Considerations (No. 1)**

Having regard to the design and layout of the rear extension and the pattern of development in the vicinity of the site, it is considered that the retention of the extension complies with the policies and objectives in the Dublin City Development Plan 2022-2028, would not have a significant negative impact on the residential amenities of the adjoining dwelling or those in the vicinity of the site. The proposed extension is in keeping 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.
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	Reason: In the interest of clarity.
2.	<p>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.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity.</p>
3.	<p>The developer shall pay to the planning authority a financial contribution of 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.</p> <p>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.</p>

## 11.0 Reasons and Considerations (No. 2)

The site is in Zone 2, Map J of the Dublin City Development Plan 2022-2028 where the maximum car parking standard for a dwelling is one space. There is currently onsite parking and the proposed additional vehicular access and car parking area would be contrary to the car parking objectives in the development plan and the additional access by reason of the removal of original iron railings, gate and front garden area, and works to the public realm would have a negative impact on the streetscape of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Karen Hamilton  
Senior Planning Inspector

14<sup>th</sup> of March 2023