



An  
Bord  
Pleanála

## Inspector's Report ABP-314134-22

### Development

Planning permission for extension and alterations comprising demolition of porch and garage extension to front; conversion to habitable room of garage; first floor bedroom extension over garage to side; two storey extension to rear to provide extended bedroom and living accommodation and associated site works

### Location

11 Brookville Park, Malahide Road,  
Artane, Dublin 5

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

3897/22

### Applicant(s)

Marist Trustees

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

Donal Shiels

### Observer(s)

Kerry Cuskelly and Pater Larsen

Ray Kennedy

**Date of Site Inspection**

December 06<sup>th</sup>, 2022

**Inspector**

Lorraine Dockery

## 1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 452 square metres, contains a two-storey, terraced dwelling in this established residential area.

## 2.0 Proposed Development

- 2.1 Permission is sought for extension and alterations comprising demolition of porch and garage extension to front; conversion to habitable room of garage; first floor bedroom extension over garage to side; two-storey extension to rear to provide extended bedroom and living accommodation and associated site works.
- 2.2 The proposed additional floor area is stated as being 84.5m<sup>2</sup>

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission GRANTED, subject to eleven conditions

#### Condition No. 3:

No formal church services or gathering of a congregation shall be accommodated at the dwelling.

Reason: To protect existing amenities.

#### Condition No. 11:

The dwelling shall be used for long term accommodation for members of a religious order only. If the use ceases the dwelling shall revert back to its original use as a domestic dwelling unless there is a prior grant of planning permission.

Reason: In the interest of orderly development.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The main points of the planner's report include:

- Proposal consistent with the existing dwelling and typical of additions to this house type. The two storey rear addition would not have an excessive or undue impact on the amenities of the dwellings to either side.
- The use of the dwelling to house members of a religious order is not at a scale and intensity as to be reasonably described as a monastery nor is the use likely to lead to a level of activity over and above what is expected in a domestic setting. It is considered appropriate to restrict the use as being a house for members of a religious order only and should the use cease the house shall revert back to a domestic use and not for any other use without a prior grant of planning permission.
- Recommends grant of permission

### 3.2.2 Other Technical Reports

Drainage Division- No objections, subject to conditions

## 3.3 Prescribed Bodies

None

## 4.0 Planning History

None

## 5.0 Policy and Context

### 5.1 Development Plan

The Dublin City Development Plan 2022-2028 is the operative Development Plan for the area.

Zoning- 'Objective Z1' which seeks 'to protect, provide and improve residential amenities'.

Appendix 18 deals with Residential Extensions (section 1).

## 5.2 Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

## 5.3 EIA Screening

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest 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 at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1 Grounds of Appeal

An appeal was received on behalf of the third party, Donal and Yvonne Shiels. The issues raised can be broadly summarised as follows:

- Procedural Issues: description of proposal/change of use; planning history; clarity of drawings; ownership
- Amenity: Scale, design and height of proposed extension; contrary to existing character and pattern of development in area; impact on residential and visual amenities; overbearing and overshadowing impacts; intensification of use and over-development of site; setting of precedent; depreciation of property
- Policy: Contrary to Development Plan policy and zoning objective
- Construction Practices: Impacts on health, noise and disturbance; traffic implications during construction works

## **6.2 Planning Authority Response**

Request An Bord Pleanála uphold their decision and that if permission is granted, a condition requiring the payment of a section 48 development contribution be applied.

## **6.3 Observations**

An observation was received from Kelly Cuskelly and Peter Larsen, 9 Brookville Park and from Ray Kennedy, 8 Brookville Park. These observations may be broadly summarised as follows:

- Change of use from single family home to church- not referred to in application; validity of planning application- not in keeping with character of neighbourhood; setting of precedent
- Extensions out of keeping with other structures on road; intrusion; car parking concerns; injure amenities and depreciation of property

## **6.4 Further Responses**

A response was received on behalf of the first party appeal. No new planning matters raised. In summary states that:

- Solely residential use of property; permanent three-bedroom residence for members of their community who will live as a single household. This is an application for the upgrading of a family residence- no intensification of use
- Is in full compliance with statutory Development Plan.
- Extension integrates with original building; appropriate form and scale; does not dominate and will harmonise with existing house and adjoining buildings
- No significant effect on residential amenities

## **7.0 Assessment**

7.1 I have read all the documentation attached to this file including inter alia, the appeal submission, the report of the Planning Authority and response received, the observations received and the first party response, in addition to having visited the site.

- 7.2 The primary planning issues, as I consider them, are (i) procedural matters (ii) impact on the visual and residential amenity of the adjoining property arising from the proposed works and (iii) other matters.
- 7.3 I highlight to the Board that a new City Development Plan has been adopted, since the decision of the planning authority issued.

#### Procedural Matters

- 7.4 A major concern raised in the submissions received relate to procedural issues and the opinion that the proposal is inaccurately described and/or the description should include for change of use from residential to church/monastery use, together with questioning the validity of the application. I do not concur with the third party opinions in this regard. I note the documentation before me, which includes a clear statement from the applicants that the property will be used solely for residential purposes. It is to be a permanent three-bedroom residence for members of their community who will live as a single household. As far as I am concerned, this is an application for the upgrading of a family residence. The planning authority are of the opinion that the use of the dwelling to house members of a religious order is not at a scale and intensity as to be reasonably described as a monastery nor is the use likely to lead to a level of activity over and above what is expected in a domestic setting. I would concur with this opinion. I am satisfied that the proposed development has been accurately and sufficiently described in the application documentation and submitted public notices. I note the Condition No. 2 attached by the planning authority in this regard and I consider it to be appropriate in the interests of clarity. I recommend that if the Board is disposed towards a grant of permission, that a similarly worded condition be attached to any such grant.

#### Visual Amenity

- 7.5 In terms of visual amenity, I consider that the extent, scale and mass of the proposed works is appropriate to its urban location and context. The proposed design solution is considered acceptable and the materials proposed reflect this design approach. The proposal would integrate well with the existing dwelling and other properties in the vicinity. I consider that the proposal would not result in material impacts on adjoining properties and I do not consider the proposed works to be visually incongruous or dominant in this context. I am satisfied in this regard.

## Residential Amenity

- 7.6 In terms of impacts on residential amenity, I consider that any impacts would not be so great as to warrant an alteration to its design or a refusal of permission. This is considered to be a relatively minor, small-scale development providing additional accommodation to the side/rear within an established residential area, where such extensions are commonplace.
- 7.7 Given the design rationale put forward, I do not anticipate levels of overlooking or impacts on privacy to be excessive. There will be a change in outlook, however this is not unexpected given the urban location of the site. I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. I have no information before me to believe that the proposal would lead to devaluation of property in the vicinity. In terms of setting of precedent, I note that each application is assessed on its own merits.
- 7.8 In terms of impacts on daylight and sunlight, I am conscious that in designing a new development, it is important to safeguard the daylight to nearby buildings. I have examined the Sunlight Analysis contained within the application documentation. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. I note concerns raised in the submissions received. I have had regard to the guidance documents referred to in the Ministerial Guidelines and the Dublin City Development Plan to assist in identifying where potential issues/impacts may arise. I consider any potential impacts to be reasonable, having regard to the need to provide additional accommodation within an urban area identified for residential development, to the existing pattern and scale of development within the area and to the overall scale of the development proposed. I consider that the potential impact on existing residents is not significantly adverse and is mitigated insofar as is reasonable and practical. I am satisfied in this regard.
- 7.9 I note the concerns raised within the third party appeal in relation to hours of work and noise/disturbance impacts. I consider the condition attached by the planning authority to be appropriate for such an urban, residential location and recommend that a similarly worded condition be attached to any such grant. I am of the opinion that the nature of the works is such that I do not expect noise levels to be excessive-



they will be short-lived in duration and temporary in nature. I am generally satisfied in this regard.

#### Other Matters

- 7.10 I am satisfied that I can undertake a comprehensive assessment of the proposal, based on the drawings/documentation before me.
- 7.11 Matters raised within the third party appeal and response in relation to historical works on this site are outside the remit of this appeal.
- 7.12 Matters raised in relation to boundary matters are also considered to be outside the remit of this planning appeal and I note section 5.13 of the Development Management Guidelines 2007 in this regard.
- 7.13 Matters raised in relation to additional traffic/safety concerns are noted. Given the residential nature of the proposed development, I do not anticipate traffic levels to be excessive or generate any greater volume of traffic than any other residential property on the street. The planning authority have not expressed in this concerns and I am also satisfied in relation to this matter.

#### Conclusion

- 7.14 The subject site is zoned 'Objective Z1' in the operative City Development Plan with 'residential' being a permissible use. The operative City Development Plan is generally favourable to such extensions, subject to normal planning criteria, and I note Appendix 18 in this regard. I consider the proposal to be generally in compliance with the zoning objective for the site and Appendix 18 of the operative City Development Plan.
- 7.15 Having regard to all of the above, I am satisfied that the proposed development is in accordance with the provisions of the operative City Development Plan, is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

## **8.0 Appropriate Assessment Screening**

- 8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances

to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 9.0 Recommendation

9.1 I recommend permission be GRANTED subject to conditions.

## 10.0 Reasons and Considerations

Having regard to the zoning objective of the area, the design, layout and scale of the proposed development 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 visual amenities of the area or residential amenity of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 11.0 Conditions

1.	The development shall be 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.  <b>Reason:</b> In the interest of clarity
2.	No formal church services or gathering of a congregation shall be accommodated at the dwelling.  Reason: To protect existing amenities

3.	<p>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.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
5.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area</p>
6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
7.	<p>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</p>

<p>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.</p> <p><b>Reason:</b> 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>
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Lorraine Dockery  
Senior Planning Inspector

20<sup>th</sup> December 2022