



An
Bord
Pleanála

Inspector's Report

ABP-314238-22

Development	Demolition of extension, construction of extension and all associated site works.
Location	No. 21, Connolly Avenue, Inchicore, Dublin 8.
Planning Authority	Dublin City Council South.
Planning Authority Reg. Ref.	WEB1200/22.
Applicant(s)	Donal & Una Bradley.
Type of Application	Planning Permission.
Planning Authority Decision	Grant.
Type of Appeal	First Party – Vs – Condition No. 3 (a), (b), (c) and (d).
Appellant(s)	Donal & Una Bradley.
Observer(s)	None.
Date of Site Inspection	27 th day of October, 2022.
Inspector	Patricia-Marie Young.

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1.0 Introduction

- 1.1. This appeal case relates to First Party Appeal against the requirements of Condition No. 3 (a) (b) (c) and (d) attached to Dublin City Councils notification to grant planning permission for a development consisting of alterations and extension to an existing two storey dwelling which would include the demolition of an existing ground floor rear extension and the construction of a two-storey rear extension at No. 21 Connolly Avenue, Inchicore, Dublin 8. The grounds of appeal contend that the requirement of this condition would adversely restrict the current owners from making this property a suitable home for their family and they seek that the Board omit this condition as it is not justified in the interests of the proper planning and sustainable development of the area.

2.0 Site Location and Description

- 2.1. No. 21 Connolly Avenue, the appeal site, consists of a rectangular shaped site with a given 241m² area on which there is a two-storey dashed end-of-terrace dwelling that is setback from the public domain by a driveway used for off-street car parking and modest soft landscaped area.
- 2.2. No. 21 is located on the northern end of residential terrace group it forms part of. This terrace group forms part of a what was once a highly coherent in appearance, design, layout, and material inter war period residential properties that appear to date to c1920s. These properties which have maintained their original residential function have been subject to a wide variety of alterations and additions.
- 2.3. No. 21 like other properties has been at some point in time was extended to the rear by way of a single storey rear addition.
- 2.4. There are also varying single and two storey rear additions present within the site setting as well as additions forward of the front building line mainly in the form of porches.
- 2.5. The subject property backs onto lands which formed part of the former Richmond Barracks, with the area to the immediate rear under significant construction works at the time of site inspection. The site is located c55m to the north of Goldenbridge

Avenue, c165m to the south of Bulfin Road and is over 4.5km to the west of Dublin's city centre by road.

3.0 Proposed Development

3.1. Planning permission is sought for:

- Demolition of existing ground floor rear extension.
- Construction of two-storey extension to the rear.
- All associated site works.

3.2. According to the accompanying planning application form the floor area of existing buildings on site is 76m²; the floor area of new buildings proposed is 60m²; the total floor area to be demolished is 19m² and the new as well as retained floor area of buildings would be 139m². In addition, it indicates that there is an existing connection to public mains water and foul drainage.

3.3. On the 16th day of June, 2022, the applicant submitted their **further information** response which consisted of a revised rear extension with a depth of 4.7m (Note: Reduced from a proposed 8.63m); provision of obscure glazing on side first floor level windows; the provision of an oriel window to the rear first floor extension; revised built form of the overall extension. The further information response is accompanied by a shadow analysis.

4.0 Planning Authority Decision

4.1. Decision

4.1.1. On the 13th day of July, 2022, Dublin City Council issued notification to **grant** planning permission for the proposed development subject to 9 no. mainly standard conditions. Condition No. 3 which is of relevance to this appeal reads:

“Prior to commencement of development on site the applicant shall submit a revised set of drawings, for the written agreement of the Planning Authority to show the following amendments.

a) *The first floor extension shall be reduced in width to no more than 4.3 meters wide, and set back circa 1.87metres away from the adjoining property at number 22 Connolly Avenue.*

b) *The depth of the extension at first floor level shall not exceed 4.5 meters.*

c) *The two first floor gable elevation windows facing number 20 Connolly Avenue shall be omitted.*

d) *The ground floor extension siding onto the boundary wall with number 22 Connolly Avenue shall be set back by circa 800mm, to the original position, as shown on the planning application drawings, DWG, No. Drawing PL-002 submitted on the 8th of March”.*

The stated reason reads: “*to protect the amenities of adjoining occupiers*”.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The **final Planning Officer’s report** was considered that the concerns raised in the further information request were satisfactorily addressed and they concluded with a recommendation that permission be granted subject to conditions. The Planning Authority’s notification of decision to grant permission reflects this.

The **initial Planning Officer’s report** recommended additional information be sought on the following matter:

- The applicant was advised that the depth and scale of the two-storey extension would give rise to material negative impacts in terms of overbearing and loss of daylight/sunlight to neighbouring properties. Therefore, a revised proposal was sought that reduced the depth of the first-floor element to no more than 4.5m and that the roof structure over be amended.

4.2.2. Other Technical Reports

Drainage: No objection, subject to safeguards.

4.3. Prescribed Bodies

4.3.1. None.

4.4. **Third Party Observations**

4.4.1. None.

5.0 **Planning History**

5.1. **Site and Setting**

5.1.1. There appears to be no recent and/or relevant planning history associated with the subject site and its setting.

6.0 **Policy Context**

6.1. **Development Plan**

6.1.1. The Dublin City Development Plan, 2022-2028, came into effect on the 14th day of December, 2022, under which the site is zoned '*Z1 – Sustainable Residential Neighbourhoods*'.

6.1.2. Chapter 14 sets out the Land Use Zonings.

6.1.3. Section 14.7.1 of the Development Plan in relation to '*Z1*' zoned land states that the land use objective is: "*to protect, provide and improve residential amenities*" and that the vision is: "*for residential development in the city is one where a wide range of high quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services*".

6.1.4. Section 15.5.3 of the Development Plan which deals with alterations and extensions. It sets out that works of alteration and extension should be integrated with the surrounding area, ensuring that the quality of the townscape character of buildings and areas is retained and enhanced, and environmental performance and accessibility of the existing building stock improved.

6.1.5. It further sets out that: "*alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context, and the amenity of adjoining occupiers. In particular, 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.”

6.1.6. Volume 2 - Appendix 18 Section 1.2 of the Development Plan in relation to extensions to the rear states that: *“the following factors will be considered:*

- *Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries.*
- *Remaining rear private open space, its orientation and usability.*
- *Degree of set-back from mutual side boundaries.*
- *External finishes and design, which shall generally be in harmony with existing.”*

6.2. Natural Heritage Designations

6.2.1. The site is not located within a designated Natura 2000 site, it does not adjoin such a site nor is it within the zone of influence of such sites. The nearest Natura 2000 sites are located c6.7km to the east. These are South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay & River Tolka SPA (Site Code: 004024).

6.3. EIA Screening

6.3.1. The proposed development is not of a nature or scale which would fall within the fifth schedule of the Planning and Development Regulations, 2001, (as amended), such as would necessitate the carrying out of an EIAR.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The grounds of appeal can be summarised as follows:

- This appeal relates to Condition No. 3(a), (b), (c) and (d) which the Board is requested to omit on the basis that its requirements are justified as the proposed development would not give rise to any undue diminishment of amenities of properties in its vicinity or otherwise.
- The original proposal was revised under their further information response to address the Planning Authority's concerns.
- The original scheme sought a two-storey extension which provided a kitchen, living and dining at ground floor level as well as a master bedroom, ensuite and bathroom at first floor level. The two-storey element extended 8.6m from the existing rear property line and was aligned with the neighbour's extension as well as included a 1.87m setback from the boundary with No. 22 and the extension did not extend beyond the gable of the house as well as maintained a 1.5m distance from the site boundary to the north side maintaining a 2.7m separation from the gable of No. 20.
- The shadow analysis showed that no additional overshadowing would occur during the summer and that the additional overshadowing that would arise during the remainder of the year would be minimal. It is therefore not accepted that any adverse impact would have arisen to No. 20.
- The first-floor extension under the revised design has been reduced to 4.72m. At this depth it meets the clients brief by way of facilitating the additional bathroom and a double bedroom. This required the width of the first-floor level extension being increased. However, a distance of 950mm was maintained with the boundary of No. 22.
- Condition 3 (a), (b) and (d) are effectively merging aspects of the original proposal with the depth and width resulting being unable to meet the client's needs.
- To meet the requirements of Condition No. 3 (a) and (b) the en-suite would be lost, and the floor area of the bedroom would be 12m² with a portion of the room restricted to a width of 2.1m. Within this area allowance for storage must be had.

- The revisions would result in one bathroom to serve the family home of five persons.
- The reduction in depth by 220mm results in a significant internal difference. Whereas the width and depth as set out in the revised proposal would not give rise to any undue adverse impacts on neighbouring properties.
- Condition No. 3(d) seeks to setback the ground floor extension to align with neighbouring site (No. 22).
- The further information stepped out the ground floor extension in line with the first floor for ease of construction.
- The proposed ground floor extension has a total of 37m² and is below the 40m² threshold area for exempted development.
- Aligning the rear extension with the neighbouring extension does not seem a reasonable obligation to place upon them.
- Condition No. 3(a) to (d) was reasoned in the interest of protecting residential amenity of adjoining occupiers. The impact of these changes to that of the further information revised design in terms of impact on neighbouring properties is negligible.
- Condition No. 3(c) relates to two first floor gable elevation windows facing No. 20 Connolly Avenue. It requires these windows to be omitted despite these windows being detailed as being fitted with obscure glass in order to avoid any concerns of overlooking.
- Window A which serves the bathroom would address the gable wall of No. 20 and Window B which serves the en-suite would face the rear extension of No. 22.
- Other solutions in addition to obscure glass that could be considered include the manner in which the windows open.
- Reference is made to a grant of permission for a high-level window on the gable wall of a rear extension at No. 66 Bulfin Road (P.A. Ref. No. 6429/07) that faced the back garden of No. 65 Bulfin Road. The use of obscure glazing was deemed satisfactory to deal with overlooking concerns in this case. Similarly, it was deemed

satisfactory in relation to an extension at Kickham Road under P.A. Ref. No. 3404/17.

- There is precedent for the type of development sought in this vicinity and various examples of grants of permission for first floor level extensions are discussed.
- The requirements of Condition No. 3(a) to (d) will restrict the current owners from being able to make this a suitable home for their family.

7.2. Planning Authority Response

7.2.1. The Planning Authority's response can be summarised as follows:

- The Board is requested to uphold its decision.
- If permission is granted it is requested that a Section 48 contribution be applied.

8.0 Assessment

8.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. Having regard to the residential zoning objective for the site, the planning precedent for similar type extensions to residential developments in the wider area, and the fact that no observations were received objecting to the proposed development, I would agree with the Planning Authority that the general principle of an extension to the rear of the subject dwellinghouse, No. 21 Connolly Avenue, together with associated works are acceptable, subject to standard safeguards.

8.2. The First Party seeks that the Board restrict its deliberations to the issues raised in the grounds of appeal, namely whether or not the requirements of Condition No. 3 (a), (b), (c) and (d) of the Planning Authority's notification to grant planning permission are appropriate and reasonable.

8.3. Therefore, as the appeal relates solely to the said Condition, in accordance with Section 139(c) of the Planning and Development Act, 2000, as amended, the Board, if it is satisfied, having regard to the nature of the conditions, that the determination of the application as if it had been made to it in the first place was not warranted, can deal specifically with the conditions. Where it decides not to use its discretionary

powers, the Board may either grant or refuse permission for the development even where conditions only are appealed.

- 8.4. Having regard to the issues raised including those regarding the revisions to the proposed development imposed by Condition No. 3 (a) to (d) as noted above I consider that the principle of residential development has been accepted on this site within this land use zoning. The issue raised in this appeal relates to the design and layout of the 1st floor rear extension and its potential to give rise to adverse impact on the residential amenities of properties in its vicinity. This issue is pertinent solely to Condition No. 3 and sub conditions thereof.
- 8.5. I have noted the other conditions of the Planning Authority's notification to grant permission under P.A. Ref. No. Web1200/22. It is my considered opinion that these conditions together with the advisory notes included with the notification to grant permission deal appropriately with other issues relative to the proposed development sought under this application.
- 8.6. Based on the above, it is my considered opinion that as the general principle of the proposed development is deemed to be acceptable on land zoned 'Z1' subject to safeguards, and that all other matters arising from the proposed development can be satisfactorily dealt with by way of appropriately worded conditions that are standard in nature for the type of development sought. I consider that the proposal in this case does not warrant consideration 'de novo' and I recommended that it can be appropriately dealt with under said Section 139(c) by the Board.
- 8.7. Therefore, my assessment below is restricted to the merits of Condition No.3 and its four sub conditions that are the subject of this First Party Appeal.
- 8.8. For clarity my assessment below is based on applicant's further information response received by the Planning Authority on the 16th day of June, 2022.
- 8.9. This is on the basis that it provides a more qualitative and site sensitive design response that in particular seeks to lessen the potential for adverse residential amenity on properties in the vicinity as well as lessen the adverse visual amenity impacts arising from the overall built form, height, depth through to mass of the two-storey extension. Particularly in terms of visual overbearance in its setting.

- 8.10. I also consider that the matter of '*Appropriate Assessment*' requires examination. This I propose to do at the end of my assessment below.
- 8.11. In relation to the requirements of Condition No. 3, it sets out that prior to the commencement of development on site a revised set of drawings be submitted to the Planning Authority for their written agreement. With the revised set of drawings showing:
- 1) A reduction in width to no more than 4.3 meters wide and a setback circa 1.87m away from the adjoining property at number 22 Connolly Avenue (Note: Condition No. 3(a)).
 - 2) A reduction in depth to a maximum of 4.5 meters (Note: Condition No. 3(b)).
 - 3) Omission of the two first-floor gable elevation windows facing No. 20 (Note: Condition No. 3(c)).
 - 4) Ground floor extension siding onto the boundary wall with No. 22 be set back by circa 800mm, to the original position, as shown on the planning application drawings, DWG, No. Drawing PL-002 submitted on the 8th of March (Note: Condition No. 3(d)).
- 8.12. The reason given for Condition No. 3 is in the interest of protecting the amenities of adjoining occupiers.
- 8.13. The appellants contend that the revisions made in their additional information response resulted in significant changes to the proposed rear extension to that originally sought. Whilst it is also acknowledged that the depth of the first-floor level exceeded the depth set out by the Planning Authority by 220m and that other amendments were included such as revising the width in order to achieve more habitable space to meet the applicant's needs. These amendments were made with due consideration of potential for impact to arise on neighbouring properties and as such a daylight and shadow analysis was carried out to ensure that no adverse impacts would arise.
- 8.14. This analysis showed that minimal additional overshadowing would arise on properties in the immediate vicinity of the proposed development and that the revised design has satisfactorily addressed the Planning Authority's concerns to the extent that the revisions required under Condition No. 3 would result in no significant additional

beneficial outcomes in terms of residential and/or visual amenity impacts on properties. On the other hand, it would result in the two-storey extension not meeting the needs of the applicant and their family of five who reside in this property.

- 8.15. Whilst it is imperative in my opinion that where residential developments like the alterations and additions proposed under this application do not adversely impact on adjoining amenity that the development management system seeks to facilitate the reasonable expectation of families to extend and improve the residential accommodation in order to suit changing family needs and aspirations.
- 8.16. The subject property is in a setting where the pattern of development is such that extensions to the rear, particularly those above ground floor level, have the potential to give rise to overshadowing and additional overlooking, with potential for this to diminish the established residential amenities of properties in its vicinity.
- 8.17. Notwithstanding, a balance needs to be reached between protecting the amenities of established residential properties and as said the need to create additional habitable space in a context where these 1930s terrace properties are modest in terms of the original ground and first floor levels of accommodation. Alongside a period property whereby modernisation and retrofitting are required to provide more qualitative habitable as well as of its time space to meet current living expectations as well as moves towards ensuring more existing buildings are climate resilient.
- 8.18. In addition, this period housing stock is in easy reach of Dublin city centre, public transportation, employment, various services through to amenities can help combat the need for urban sprawl as well as reliance on private car use.
- 8.19. The revised scheme is sympathetic in terms of its contemporary design, layout, mass, height through to palette of materials, particularly at first floor level.
- 8.20. I am of the view that the requirements of Condition No. 3 would not give rise to any significant improvement in terms of impact of the proposed two storey extension to the residential amenities of adjoining properties by reason of overshadowing, loss of daylight and visual dominance.
- 8.21. I also consider that the use of obscure glazing and controls on the manner in which the side first floor windows of concern are opened are satisfactory measures to deal with mitigating potential for undue overlooking from the proposed extension.

- 8.22. With this being against consideration of a site context that relates to a city urban context where overlooking through to a level of overshadowing is to be expected due to the density, design, built form through to layout of these once highly coherent residential settings.
- 8.23. Overall, I am of the view that the revised design set out in the further information appropriately and reasonably provides a balance between safeguarding the residential amenities of adjoining properties No. 20 and 22, whilst allowing for improvements to No. 21 to meet the applicants additional spatial and functional requirements of their family home.
- 8.24. In relation to the various precedent cases referenced by the First Party in their grounds of appeal submission I note that there are no recent and/or relevant Board decisions for similar type of development under the current Development Plan.
- 8.25. I also consider that many of the examples cited do not have very similar site contexts as the subject site and it is appropriate that each case is dealt with on its individual merits.
- 8.26. Based on my assessment above I therefore recommend that Condition No. 3 (a) to (d) to be omitted in their entirety in the interests of the proper planning and sustainable development of the area.
- 8.27. **Appropriate Assessment**
- 8.27.1. 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.

9.0 Recommendation

- 9.1. Having regard to the nature of the condition of the subject appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act 2000 to REMOVE Condition No. 3 (a) to (d) in its entirety for the reasons and considerations set out below.

10.0 Reasons and Considerations

10.1. Having regard to the existing pattern of development in the vicinity of the appeal site, together with the nature, scale and extent of the proposed development and the precedent in the immediate area for similar extensions to the rear, it is considered that the development as proposed in accordance with the revised plans and particulars lodged with the Planning Authority on the 16th day of June, 2022, would not seriously injure the visual or residential amenities of the area and it would provide better quality of living accommodation at the subject dwelling for its occupants. It is therefore considered that the imposition of condition number 3(a), (b), (c) and (d) is not warranted and that the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of visual impact and would, be a type of development that accords with the Dublin City Development Plan, 2022-2028, land use zoning objectives for 'Z1' zoned land as well as the provisions and standards set out therein for this type of development proposed under this application. It is, therefore, a type of development that accords with the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

21st day of December, 2022.