



An
Bord
Pleanála

Inspector's Report ABP-314262-22

Development	Rear single storey extension to the existing house, new pedestrian access gate and an increase in height of existing brick wall to the front, and all associated site works
Location	Elm Lodge, 65, Serpentine Avenue, Sandymount, Dublin 4
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3965/22
Applicant(s)	Paolo Maggioni
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party
Appellant(s)	Paolo Maggioni
Observer(s)	Rosaleen Connolly and Peter McCabe
Date of Site Inspection	20/01/2023
Inspector	Lorraine Dockery

1.0 Site Location and Description

1.1. The subject site, which has a stated area of 231 square metres, contains a dormer dwelling in this established residential area.

2.0 Proposed Development

2.1 Permission is sought for single storey extension to rear of the existing house; new pedestrian access gate; an increase in height of existing brick wall to the front and all associated site works.

2.2 The proposed additional floor area is stated as being 30m².

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to eight conditions

Condition No. 2:

Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implements prior to occupations of the buildings:

- a) The proposed rear extension shall be set back approximately 1m from the rear boundary

Reason: In the interest of residential amenity of the proposed development and neighbouring units.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the planner's report include:

- Proposal considered appropriate and consistent with the policies and objectives of the Z1 zoning with the Dublin City Council Development Plan 2016-2022
- Recommends grant of permission, subject to amendment by condition

3.2.2 Other Technical Reports

Drainage Division- No objections, subject to conditions

Transportation Planning 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

The grounds of the first party appeal can be broadly summarised as follows:

- Appeal against Condition 2(a) only
- Will result in substandard bedroom and bathroom; will also leave strip of unusable land to rear
- Proposal similar in height to existing planting; similar impact on neighbour's sunlight and daylight- additional planting proposed; no impacts on privacy
- Revised drawings submitted which retains footprint but reduced ceiling height to 2.5m, together with alterations to roof

6.2 Planning Authority Response

None

6.3 Observations

An observation was received from Rosaleen Connolly and Peter McCabe, 4 Herbert Green, which may be broadly summarised as follows:

- Absence of clarity with regards boundary fence between two properties; exact location of boundary

6.4 Further Responses

None

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 observation received, in addition to having visited the site.
- 7.2 I highlight to the Board that a new City Development Plan has been adopted, since the decision of the planning authority issued.
- 7.3 I also highlight to the Board that revised drawings have been submitted as part of the appeal documentation and I am basing my assessment on the revised proposal.
- 7.4 This is an appeal against Condition No. 2(a) only of the decision to grant permission of Register Reference 3965/22, which issued from the planning authority on 07th July 2022. In this regard, I consider it is appropriate that the appeal should be confined to Condition No. 2(a) only and I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and that it would be appropriate to use the provisions of Section 139 of the 2000 Act in this case.
- 7.5 **Condition No. 2(a)** (as detailed above), in summary, relates to the setting back of the proposed extension by 1m from the rear boundary of the site.
- 7.6 I note that Condition No. 2(a) is of particular concern to the first party appellants in that the proposed setback from boundary will have consequent reduction in floor area. The appellants also contend that it will leave an area of unusable space to the rear of the proposed extension.
- 7.7 I note the contents of the third party observation received with regards a lack of clarity as to the exact location of the proposed extension relative to the party boundary, the removal of the existing boundary and how this boundary will be finished. I also note their concerns that the proposed extension would not form the boundary between the two properties. Boundary matters are considered to be civil matters outside the remit of this planning appeal and I note section 5.13 of the Development Management Guidelines 2007 in this regard. The applicants should be

advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

7.8 Generally, I would not be in favour of building along the rear boundary, as is currently proposed. However, in this instance I note the overall height of the proposal, together with the roof detail proposed, both as amended in the appeal submission and I also concur with the first party that the 1 metre separation with the boundary would result in somewhat unusable space. As amended, the proposal would not be unduly visually dominant or overbearing when viewed from neighbouring properties and would not impact on the amenity of the area, to warrant any further design amendments or a refusal of permission. However, I recommend that the proposed extension be set back inside the party boundary and should not form the boundary between the two properties. In terms of proposed boundary treatment/finishes, I consider that this matter could be adequately dealt with by condition.

7.9 Having regard to the nature of the condition the subject of the appeal and based on the reasons and considerations set out below, I am 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 recommend that the said Council be directed under subsection (1) of Section 139 of the Planning and Development Act, 2000 that Condition No. 2(a) be AMENDED.

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

Having regard to the nature of the condition the subject of the appeal and based on the reasons and considerations set out below, I am 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 recommend that the said Council be directed under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND Condition No. 2(a).

10.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022-2028 and to the nature, form, scale and design of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure visual amenities, established character or appearance of the area and would, otherwise, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out in accordance with Condition No.s 1 – 8 attached to the grant of permission under P. A. Reg. Ref: 3965/22 on 07 th July, 2022 except as amended by additional drawings received by An Bord Pleanála on 3 rd day of August 2022 and as may otherwise be required in order to comply with the following conditions. Reason: In the interest of clarity
2.	Condition No. 2(a) attached to the grant of permission under P. A. Reg. Ref. 3965/22 on 07 th July, 2022 shall be amended as follows: Details of the proposed rear boundary treatment and its exact location shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed extension shall be constructed inside the rear boundary and shall not form the boundary with the neighbouring property to its rear.

Reason: In the interest of clarity and visual and residential amenity.

Note: The applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

Lorraine Dockery
Senior Planning Inspector

24th January 2023