



An
Bord
Pleanála

Inspector's Report

ABP-314496-22

Development	Construction of a residential extension and re-roofing of shed and all associated site works.
Location	42 Hardebeck Avenue, Walkinstown, Dublin 12.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	WEB1561/22
Applicant(s)	Damien & Gemma Smith
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	3 rd Party
Appellant(s)	Katrina & Elizabeth Kane
Observer(s)	None
Date of Site Inspection	8 th December 2022.
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.0382ha, is located on the western side of Hardebeck Avenue in Walkinstown, Dublin 12. The house forms one of a pair of two-storey, semi-detached units with no. 43, to the south. There are existing single-storey extensions to the front, side and rear of this house. There is a rooflight in the rear pitch of the fully-hipped roof.
- 1.2. There is on-site parking in front of the house for two cars, and vehicular access via a rear laneway, to a flat-roofed garage (although the entrance is closed-up at present). There is separate pedestrian access from the laneway. The laneway is used as a two-way street, and is fitted with public lighting and speed ramps. There is timber shed in the rear garden. There is public open space in front of the house.

2.0 Proposed Development

- 2.1. Permission was sought on 14th June 2022, for development comprising the following elements-
 - Internal alterations and revised fenestration to ground floor layout of house.
 - Small increase in extension to side area of house (indicated as utility room – and formerly the side passage). This area to have a flat roof.
 - New ground floor flat roof to part of the existing kitchen extension to the rear (all of this extension currently has a pitched roof).
 - New first floor extension to rear of dwellinghouse and revised internal alterations – to include rooflights.
 - New pitched roof to existing flat-roofed garage – apex height of 4.8m.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 10th August 2022, Dublin City Council issued a Notification of decision to grant permission, subject to 9 conditions – the principal ones of which may be summarised as follows.

1. Development to be carried out in accordance with plans and particulars submitted with the application.
2. Development contribution of €845.64 for public infrastructure.
3. Use of extension shall be incidental to enjoyment of dwellinghouse.
4. Requires submission of revised drawings to omit bedroom no. 2.
5. Relates to hours of construction.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report, dated 4th August 2022, recommends permission subject to conditions.

3.2.2. Other Technical Reports

The Engineering Department – Drainage Division of DCC, indicated that there was no objection to the proposal – in a report dated 4th July 2022.

3.3. Third Party Observations

There are objections from the occupants of houses on either side – 41 & 43.

4.0 Planning History

Ref. 0706/01: Permission granted for garage, with access from rear laneway.

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2022-2028 is of relevance. The site is zoned 'SZ1' – Sustainable Residential Neighbourhoods.

5.2. Natural Heritage Designations

There are no Natural Heritage Designations either within or immediately adjoining the appeal site. The development is connected to the public sewerage network.

There are no watercourses linking the site with any such designated areas. Significant effects are not likely to arise, either alone or in combination with other plans or projects.

5.3. EIA Screening

Having regard to the nature and scale of the development, within a fully-serviced suburban location; it is considered that there is no likelihood of significant effects on the environment arising. The requirement for environmental impact assessment can, therefore, be excluded at preliminary examination stage. A screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

The appeal from Katrina & Elizabeth Kane, 41 Hardebeck Avenue, received by the Board on 31st August 2022, can be summarised in bullet point format as follows.

- Development Plan says extensions should be sensitively designed and respect the amenity of adjoining occupiers – particularly in terms of light and privacy. Extensions should be clearly subordinate to the existing building in scale and design.
- Extensions have already been added to the front, side and rear of this house. Appellants have not objected in the past to the extensions to the house.
- The developer has not indicated what impact the development will have on daylight and sunlight for neighbours.
- The development is not subordinate to the main house – and is large in proportion to the original house.
- No permission has been granted for front, side or rear extensions; and it has not been demonstrated that these are exempted development.
- The development is in excess of the plot ratio allowed in the Development Plan, of 0.45.

- Not enough garden space has been retained in this development.
- The appellants have not given consent to any work on the jointly-owned boundary wall between 41 & 42.
- The development is out of character with the area. Almost all gardens in the area are without a two-storey extension to the rear.
- The roof of the proposed shed will overhang the appellants' property.
- Enough extending has already taken place at the side of this house – and no more should be permitted.
- The appellants did not object to a two-storey extension to the rear of no. 40, because the family had recently suffered a bereavement; and was in no state to object. No. 40 is the exception to the rule of extensions to the rear of these houses. No. 40 cannot be seen as a precedent for other similar developments.
- If this development proceeds, then the rear elevation of the appellants' house will be sandwiched between two large, two-storey rear extensions – 40 & 42

6.2. Applicant Response

The response of DraftCAD Ltd, agent on behalf of the applicants, received by the Board on 21st September 2022, can be summarised in bullet point format as follows.

- The appellants have a 'Sale Agreed' sign on their house (photograph included). The appeal is made out of spite.
- The appellants quote sections from the Development Plan – all of which would have been taken into consideration by the Planning Officer, when making a recommendation.
- A single-storey kitchen extension to the rear of the house and the covering over of the side passage, can hardly be considered excessive development.
- There are 5 people living in no. 42. A family member is sleeping downstairs, as the upstairs is too small.

- The building will be within the site of 42, as the owners of 41 would not accede to requests to use the common boundary wall.
- The two-storey extension to the rear of no. 40 is a precedent – contrary to the claim of the appellants.
- The flat roof to the garage is leaking. The pitched roof will not overhang neighbouring property – and drawings clearly show a parapet wall.

6.3. Planning Authority Response

DCC urged the Board to uphold the decision to grant permission, in correspondence received on 28th September 2022.

7.0 Assessment

The principal issues of this appeal relate to residential amenity.

- 7.1. The house on this site has already been extended, by addition of a small porch to the front; the roofing of the side passage, and a single-storey kitchen extension to the rear. The proposed new ground and first floor extensions are stated to be 31sq.m. The floor plans submitted with the application indicate that the original houses on this estate were small. An addition of 31sq.m is not large, in the context of a semi-detached house with front and rear gardens. A two-storey extension has been constructed to the rear of nearby no. 40. The proposed development would be similar in scale. I would agree with the appellants that an extension to the rear of no. 40 should not be considered a precedent: each case should be dealt with on its merits.
- 7.2. The adjoining semi-detached house, no. 43, has a large single-storey extension to the rear. The result is that both 42 & 43 have single-storey extensions which abut the common boundary wall to the rear. The proposed first-floor extension will protrude some 4.8m from the original back wall of the house. Drawings submitted indicate that the first-floor extension will not be built upon the common boundary wall, but just inside it. Because the first-floor extension is located to the north of no. 43, there will be no significant loss of sunlight in the upstairs rear bedroom of that house.

- 7.3. On the other side – the first-floor extension is set back approximately 1.0m from the common boundary wall with no. 41. The boundary wall is not square with the house – so the separation distance varies slightly. I would be satisfied that this separation would lessen the impact of the first-floor extension on its neighbour to the north. The rear elevation of these houses faces west; so the first-floor rear extension will have some impact on sunlight to the back of the house at 41. However, no. 41 also has a side passage, which increases the separation distance between it and no. 42, and the impact would not be so great as in the case of terraced houses. On balance, I would consider that the first-floor extension proposed would be acceptable in terms of residential amenity.
- 7.4. The side passage of the house has been roofed over to create an utility room. It is proposed to extend this roofed area by an additional 3m. The roofing of this passageway will not have any significant impact on the residential amenities of adjoining no. 41.
- 7.5. Condition 4 required the omission of Bedroom no. 2, as it has no window. The room has a rooflight. Whilst I would agree with the imposition of the condition, it would be difficult, if not impossible to police. The result of the imposition of this condition is that what was a 3-bedroom house remains such – albeit with more generous floor areas for rooms.
- 7.6. The footprint of the house will be increased by approximately 3sq.m. This is an insignificant amount in terms of plot ratio. The house has both front and rear gardens. More than adequate amenity space remains for the use of residents.
- 7.7. The garage structure to the rear has a flat roof. Drawings submitted would appear to underestimate its height. It is proposed to add a pitched roof. The appellants object to any overhanging of their property by the eaves of the building. The applicants have indicated that the pitched roof will be inside the northern parapet wall of the garage. A condition should be attached to any grant of permission from the Board requiring that the apex of the new roof be no higher than the 4.8m indicated on drawings submitted.
- 7.8. The Drainage Division of DCC was satisfied with arrangements submitted. The common sewer serving these houses is located to the rear – beneath any rear extensions to houses.

7.9. Condition 2 required payment of a development contribution of €845.64. A similarly-worded condition should be attached to any grant of permission from the Board.

8.0 Recommendation

I recommend that permission be granted for the reasons and considerations set out below and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the pattern of development in the area and to the limited scale of the proposed development, it is considered that, subject to compliance with the attached conditions, the proposed development would not be detrimental to the residential amenities of property in the vicinity and would 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. Bedroom no. 2 shall not be used as an habitable room.

Reason: In the interest of residential amenity.

3. Surface water drainage arrangements (including attenuation) shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0800-1900 Monday to Friday inclusive, between the hours of 0800-1400 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.

5. The apex height of the new pitched roof to the garage structure shall not be greater than 4.8m.

Reason: In the interest of the residential amenities of the area.

6. The proposed extension shall be used for purposes incidental to the enjoyment of the dwellinghouse, and shall not be sold, let or otherwise transferred or conveyed, save as part of a single dwellinghouse.

Reason: In the interest of the residential amenities of the area.

7. No part of any development shall intrude into or over-sail adjoining property, except with the express consent of the owners of adjoining property.

Reason: In the interest of residential amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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. 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.

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.

**Michael Dillon,
Inspectorate**

20th December 2022