



An
Bord
Pleanála

Inspector's Report

ABP-314537-22

Development	Two storey, one bedroom family flat to the side; alterations to existing garage elevation; pedestrian access gate to the side garden wall; all associated site works.
Location	279, Orwell Park Grove, Dublin 6w.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD21B/0618.
Applicant	Hugh Feighrey.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party v Refusal of Permission.
Appellant	Hugh Feighrey.
Observer(s)	None.
Date of Site Inspection	03/11/2022.
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1. The address of the appeal site is No. 279 Orwell Park Grove, Dublin 6w. The site has a stated area of c. 0.03619ha. and is located on the southern side of Orwell Park Grove, c. 170m to the south-west of the junction of Orwell Park Avenue and Glendown Road. The appeal site comprises a detached double storey dwelling with a single storey extension to the rear and single storey garage on its western side. The dwelling is served by an area of amenity space to its side and rear and car parking is provided within the dwelling's front setback and within the single car garage.

- 1.2. In terms of the surrounding area, the site is located within an established residential area, which is typically characterised by detached and semi-detached, double storey dwellings of a similar architectural style. The site is bound to the east by a pedestrian footpath and an area of public open space. The site has also a southern abuttal with the Orwell Park Lawns cul-de-sac.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a double storey 'family flat' extension to the side of the existing dwelling. The extension has a stated floor area of c. 67.5sq.m. and comprises a store/utility, WC and kitchen/living room at ground floor level and a bedroom, office and WC at first floor level. The extensions will have a part flat/part hipped roof form with a single storey flat roof element extending to the rear.

- 2.2. The proposal also includes the conversion of the existing garage to habitable accommodation and the provision of a new pedestrian access on the eastern boundary leading to the private amenity space.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused planning permission for the proposed development for the following 1 no. reason:
 - The applicant has failed to provide the required setback distance of three meters from proposed development and the existing surface water sewer and

watermain. The proposal would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The South Dublin County Council Planning Reports form the basis of the decision. The First Planning Report provides a description of the site and the subject proposal and it identifies the site as being located within lands zoned RES of the South Dublin County Development Plan, 2016-2022, which seeks “To protect and/or improve residential amenity”. The report also set out the policy at local through to national level that is relevant to the development proposal.

In terms of the assessment, the Planning Authority is satisfied that the principle of the proposed development is acceptable, and the proposal is generally in accordance with policy in respect of ‘family flats’ (i.e. Policy H19). However, additional information was sought in relation to the following issues:

- The Applicant was requested to omit the side pedestrian gate.
- Surface Water Drainage requirements.
- Irish Water requirements.

The Second Planning Report provides an analysis of the Applicant’s additional information response. The Planning Authority acknowledged that no written reports were received from Irish Water or Surface Water Drainage. Notwithstanding this, it was considered that based on the information received and the verbal recommendation from Irish Water and Surface Water Drainage to refuse permission, that the Applicant had not satisfactorily addressed this request for additional information. The Planning Authority therefore deemed the proposal to be prejudicial to public health and a refusal of planning permission was recommended.

3.2.2. Other Technical Reports

Surface Water Drainage: An initial report was received recommending additional information. The Second Planning Report indicates that a second verbal report was received recommending a refusal of permission.

Parks Department: An initial report was received recommending additional information. A second report was received recommending a grant of permission subject to conditions.

Roads Section: Report received stating no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water: An initial report was received recommending additional information. The details of which are included as follows:

- The proposed development is approximately 1.7m from a 6" uPVC public watermain located to the east of the site. Irish Water Standard Details for water Infrastructure require 3m clear distance from a main of this size. The applicant shall engage with Irish Water's diversions section to assess feasibility of existing design and an alternative design which accommodates Irish Water's minimum required separation distances from public infrastructure. The outcome of this engagement with Irish Water's diversions shall be submitted to the planning authority as a response to Request for Further Information.

The Applicant was also requested to submit details with respect to foul drainage.

The Second Planning Report indicates that a second verbal report was received recommending a refusal of permission.

3.4. Third Party Observations

None.

4.0 Planning History

None.

5.0 Policy Context

5.1. South Dublin County Development Plan, 2022 - 2028 (CDP)

5.1.1. The South Dublin County Development Plan (CDP), 2022-2028 was made on 22nd June 2022 and came into effect on 3rd August 2022. The site is within an area zoned 'RES' of the current CDP, which seeks "To protect and/or improve residential amenity". All lands within the surrounds of the subject site are also zoned 'RES'.

5.1.2. Section 6.8.3 (Family Flats) of the current CDP is relevant to the development proposal which includes the following policies and objectives of note:

- **Policy H15:** (Family Flats): Support family flat development subject to the protection of residential and visual amenities.
- **H15 Objective 1:** To favourably consider a family flat development where the Council is satisfied that there is a valid need for semi-independent accommodation for an immediate family member or members subject to the criteria outlined in Chapter 12: Implementation and Monitoring.

5.1.3. Section 12.6.8 (Residential Consolidation) of the current CDP provides more detailed policy with respect to 'Family Flats'. Proposals for family flat extensions should meet the following criteria:

- The applicant shall be required to demonstrate that there is a genuine need for the family flat;
- The overall area of a family flat should not generally exceed 50% of the floor area of the existing dwelling house;
- The main entrance to the existing house shall be retained and the family flat shall be directly accessible from the front door of the main dwelling via an internal access door, and the design criteria for dwelling extensions will be applied;
- Any external doors permitted (to provide access to private / shared open space or for escape from fire) shall be limited to the side or rear of the house;
- Conditions may be attached to any grant of permission that the family flat cannot be sold, conveyed or leased separately from the main residence, and that when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit.

5.2. South Dublin County Council House Extension Design Guide (2010)

5.2.1. The policy document provides design guidance for domestic extensions. 'Elements of Good Extension Design' are outlined under the following headings:

- Respect the appearance and character of the house and local area;
- Provide comfortable internal space and useful outside space;
- Do not overlook, overshadow or have an overbearing effect on properties next door;
- Consider the type of extension that is appropriate and how to integrate it; and,
- Incorporate energy efficient measures where possible.

5.2.2. In terms of side extensions, the following policies are applicable:

- Respect the style of the house and the amount of space available between it and the neighbouring property, for example:
 - o if there is a large gap to the side of the house, and the style of house lends itself to it, a seamless extension may be appropriate;
 - o if there is not much space to the side of the house and any extension is likely to be close to the boundary, an ancillary style of extension set back from the building line is more appropriate;
 - o if the house is detached or on a large site or in a prominent location such as the corner of a street, it may be appropriate to consider making a strong architectural statement with the extension.
- Match or complement the style, materials and details of the main house unless there are good architectural reasons for doing otherwise. Where the style and materials do not seamlessly match the main house, it is best to recess a side extension by at least 50cm to mark the change.
- Leave a gap of at least 1m between the extension and the side party boundary with the adjoining property to avoid creating a terraced effect. A larger gap may be required if that is typical between properties along the street.
- If no gap can be retained, try to recess side extensions back from the front building line of the main house by at least 50cm and have a lower roof eaves and ridge line to minimise the terracing effect. In the case of a first floor

- extension over an existing garage or car port that is flush with the building line of the main house, the first floor extension should be recessed by at least 50cm
- Match the roof shape and slope of the existing house. In the case of houses with hipped roofs it can be particularly difficult to continue the ridge line and roof shape; however it is more visually pleasing to do so if this will not result in a terracing effect with the adjoining house.
 - Where the extension is to the side of a house on a corner plot, it should be designed to take into account that it will be visible from the front and side. The use of blank elevations will be unacceptable and a privacy strip behind a low wall, hedge or railings should be provided along those sections of the extension that are close to the public pavement or road.

5.3. Natural Heritage Designations

- 5.3.1. The nearest designated site is the Glenasmole Valley Special Area of Conservation (SAC) (Site Code: 001209) c. 5.7km to the south-west of the site. The proposed Natural Heritage Area (pNHA): Dodder Valley is also located c. 1.5km to the site's south-west.

5.4. EIA Screening

- 5.4.1. The proposed development does not fall within a Class of Development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations, 2001 (as amended), therefore no EIAR or Preliminary Examination is required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the First Party planning appeal can be summarised as follows:

- Following the receipt of additional information from the Planning Authority, the Applicant engaged the services of a drainage engineer to address the drainage issues and initial contact was made with Irish Water in March 2022.
- As per the requests of Irish Water, the Applicant arranged for an inspection trench to be opened to identify the exact location of the relevant services. It is stated that this trench was inspected by Irish Water.

- The Applicant responded to the additional information request and reference is made to the letter from Irish Water dated 11th July 2022 which states that the build near can be facilitated subject to valid agreements being in place. It is contended within the appeal submission that this was not fully taken into account when the decision to refuse permission was issued.

6.2. Planning Authority Response

- 6.2.1. In response to the first party appeal, the Planning Authority confirms its decision and indicates that the issues raised in the appeal have been covered in the Planner's report.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

The main issues are those raised in the Planning Report and the Appellant's grounds for appeal. Overall, I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Irish Water Infrastructure & Drainage
- Residential & Visual Amenity
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. Planning permission is sought for works comprising the construction of a double storey 'family flat' extension to the side of the existing dwelling. I note that the South Dublin County Development Plan (CDP), 2022-2028, has come into effect after the Planning Authority made a determination on the application. The site is located within an area zoned 'RES' of the current CDP, the objective of which seeks "To protect and/or

improve residential amenity". I note that a 'Residential' use is identified as being 'permitted in principle' within zoning objective 'RES' of the current CDP.

- 7.1.2. As per Section 6.8.3 of the current CDP, a family flat refers to a temporary subdivision or extension of an existing single dwelling unit to provide semi-independent accommodation for an immediate family member (older parent or other dependent). The policy notes that Council will consider family flat developments where an established need has been satisfactorily demonstrated. Chapter 12 of CDP also sets out the various criteria that proposals for 'family flats' should meet. The first criteria is that Applicants are required to demonstrate that there is a genuine need for the 'family flat'. In support of the planning application, the Applicant has indicated that they recently have had some major health issues and it is their intention to move into the family flat along with their wife. The Applicant's son and his family then plan to move into the existing main dwelling to assist and support their parents (i.e. the applicant). Overall, I am satisfied that the Applicant has demonstrated a genuine need for a 'family flat' at this location and the proposal is considered to accord with Policy H15 of the current CDP.
- 7.1.3. In terms of the size of the proposed 'family flat', the extension has a stated floor area of c. 67.5sq.m. Chapter 12 of CDP stipulates that extensions should not exceed 50% of the floor area of the main dwelling. As the existing dwelling has a stated floor area of c. 166.7sq.m., the size of the extension does not exceed 50% of the floor area of the main dwelling. This is therefore considered to be acceptable and in accordance with the pertinent policy of the current CDP.
- 7.1.4. The policy of the CDP also seeks to retain the main entrance to the existing house and to ensure that the family flat is directly accessible from the front door of the main dwelling via an internal access door. The policy states that the design criteria for dwelling extensions will be applied. I note that proposal seeks to retain the existing entrance to the dwelling. Although there is not a direct connection from the entrance to the 'family flat', a connection is provided through the dining room of the dwelling at ground floor level. I note that the Planning Authority raised no objection to this element of the proposal. Given the layout of the existing dwelling, significant internal works

would be required to satisfy this criteria. Therefore, I am satisfied that the proposed arrangement is acceptable in this instance and generally in compliance with the pertinent policy of the current CDP. The proposal also allows for the extension to be readily subsumed back into the dwelling should the need for the 'family flat' cease in the future.

- 7.1.5. The policy notes that any external doors permitted (to provide access to private / shared open space or for escape from fire) shall be limited to the side or rear of the house. I note that the proposed development originally included the provision of a gated pedestrian entrance. This provided access from the pedestrian footpath along the eastern site boundary to the rear amenity space. However, I note that the proposal was modified at additional information stage to omit this element of the proposal following concerns raised by the Planning Authority. On the basis of foregoing, I am satisfied that the Applicant has demonstrated a genuine need for the proposed development and the extensions have been designed to accord with Policy H15 and H15 Objective 1 of the current CDP. In this regard, the principle of the proposed development is acceptable at this location.

7.2. Irish Water Infrastructure

- 7.2.1. I note a report is on the planning file from Irish Water (IW), whereby additional information was recommended due to the presence and proximity of existing IW infrastructure relative to the site, including an 6" uPVC public watermain located c. 1.7m from the eastern boundary wall. In instances such as this, the IW report notes that a minimum clear distance of 3m must be maintained between these services and the proposed development as per the IW standards. The Applicant was therefore requested to engage with Irish Water's Diversions Section to assess the feasibility of the existing design or an alternative design which accommodates Irish Water's minimum required separation distances from public infrastructure. A report from the Planning Authority's Surface Water Drainage section is also on the planning file which indicated that there is an existing 300mm public surface water sewer to the east of the appeal site (c. 1.7m from the eastern boundary). The Applicant was requested to submit a drawing in plan and cross-sectional views, showing the distance between the proposed extension and the existing 300mm surface water sewer. The report also

stated that a minimum clear setback distance of 3m is required between all proposed structures and the existing surface water sewer.

7.2.2. In support of the additional information response, the Applicant confirmed that they engaged with IW's Diversion Section and it was highlighted that the Applicant's contractor met with the local IW Field Engineer on site and performed a slit trench through the public footpath next to the house. It is stated that the exact location of the uPVC watermain is located c. 1.25m from the proposed works area and the Applicant included a letter from IW's Diversion Division as well as a detailed section diagram of the existing vs. proposed works as part of the additional information response. I note that IW did not recommend a refusal of the planning application in the first instance. The Applicant was requested to either amend the proposals to achieve a minimum 3m setback or alternatively engage with IW Diversions Section in respect of the infrastructure and/or requirement to enter into a diversion agreement. I acknowledge that there are instances where it is possible to build near an IW asset, within the minimum separation distances as defined within IW standard details and Codes of Practice. In instances such as this, Applicants are typically required to engage directly with IW over the acceptability of the proposal. If it is determined that a diversion of an IW asset is required to facilitate a development, an Applicant is then required to enter into a Diversion Agreement with IW prior to any works commencing on site. I note that in accordance with Irish Water Connections Charging Policy, an Applicant is typically liable for all costs associated with diverting or altering Irish Water's water/wastewater assets.

7.2.3. I note that in this instance the Applicant has actively engaged with IW with respect to this matter. The correspondence from IW dated 11th July 2022 specifically refers to Drawing No. 22-001 P100 and confirms that the proposed build near can be facilitated subject to the valid agreements being in place. It is stated within this letter that IW and South Dublin County Council Water Services will be happy with the proposal, but the following conditions are required to be addressed by the Applicant:

- The Applicant has to replace the existing 6in uPVC water main section being near to the building with a new PE water main.
- The proposed foundation building will need to be deeper than the existing 6in water main invert level.

The report from IW goes on to note that the Applicant is advised to make contact with the IW Diversions Division once planning permission has been granted and prior to any works commencing on site. In terms of the existing 300mm surface water sewer, the Applicant refers to Drawing No. 22-001 P100 and notes that the infrastructure is c. 2m deep all along this boundary. It is stated that as part of the construction works, all necessary precautions will be in place in order to protect the existing surface water pipe. Drawing No. 22-001 P100 identifies this existing 300mm surface water sewer within the public open space area adjacent to the pedestrian footpath.

- 7.2.4. Following receipt of the Applicant's additional information response, the Planning Authority indicated that no written reports were received from either IW or the Surface Water Drainage section. Notwithstanding this, a refusal of planning permission was recommended based on the information received from the Applicant and the verbal recommendation from IW and the Surface Water Drainage section. However, I note that the Planning Authority have not outlined why the Applicant's proposals are not acceptable in this instance and it is unclear whether due consideration was given to the Applicant's modified proposals. Given the information on file from IW's Diversion Division, it is evident that it is feasible to build near this IW asset subject to compliance with appropriate conditions and a diversion agreement being in place prior to the commencement of development. As the existing 300mm surface water sewer is set back further from the eastern site boundary, one could reasonably assume that works could be carried out on site without negatively impacting this existing infrastructure. Having regard to the correspondence on file from IW and given the works are proposed within the Applicant's red line boundary and the principle of the proposed development is acceptable at this location, I do not consider the proposal to be prejudicial to public health subject to compliance with appropriate conditions and a diversion agreement being in place prior to the commencement of development. I therefore recommend that suitable conditions be attached to a grant of permission which require these details to be agreed with the Planning Authority and IW prior to the commencement of development on site.
- 7.2.5. As part of the Planning Authority's request for additional information, the Applicant was requested to submit the following information:

- Existing and proposed foul water drainage plans.
- Surface water drainage plans.
- Plan and cross-sectional views of proposed SuDS features for the proposed development.

In terms of foul water, the Applicant refers to Drawing No. 22-001 P1020, where it is stated that the foul sewer will drain via gravity into a new inspection chamber immediately outside the proposed extension. From there, the foul sewer will tie into the existing house wastewater in the back garden which further drains via the back gardens of the neighbouring properties in a westward direction. In terms of surface water management, it is proposed that the surface water will be routed along the roof to outfall into the existing inspection chambers in the back garden. The existing surface water is routed through the back garden in a westward direction via the neighbour's back gardens and it is stated that it is not proposed to change the outfall surface water arrangement. It is noted in the Applicant's response that a back garden soakaway is not feasible in this instance due to the proximity to existing structures. However, it is stated that the use of alternative SuDS measures such as water butts/rain gardens at the rainwater down pipe outfall are to be provided. Having regard to the nature and scale of the proposed development (i.e. a 'family flat' extension) and as there is already an established foul water connection, I am generally satisfied that the proposal is acceptable in this instance subject to compliance with conditions. The proposal is therefore considered to be in accordance with the proper planning and sustainable development of the area.

7.3. Residential & Visual Amenity

- 7.3.1. I note that Policy H15 (Family Flats) of the current CDP seeks to support family flat development subject to the protection of residential and visual amenities. The proposed development is located on corner site which is bound to east by an area of public open space and to the south by the Orwell Park Lawns cul-de-sac. The proposed extensions have a part flat/part hipped roof with a maximum height of c. 7.1m above natural ground level. I note the extensions are set back behind the front building line of the existing dwelling and adjoin the eastern site boundary for a total length of c. 13.1m (ground floor level). Given the overall scale, height and form of the proposed extensions and its location relative to existing properties within the

surrounds of the appeal site, I am satisfied that the proposed development will not adversely impact the residential amenity of neighbouring properties by reasons of overshadowing, loss of light or by being visually overbearing. In addition, there are no windows which could give rise to undue overlooking of properties within the vicinity of the site. The proposed development is therefore acceptable having regard to the residential amenity of the surrounding area.

7.3.2. I note that 2 no. windows are proposed on the eastern elevation of the proposed dwelling at first floor level. However, both windows are identified as being manufactured opaque glazing. In order to provide passive surveillance of the existing open space area to the east of the site, I recommend the inclusion of a condition requiring the replacement of first floor level, east facing bedroom window with regular glazing.

7.3.3. As noted in the foregoing, the proposed extensions have a part flat/part hipped roof which is set c.1.25m below the ridge of the existing dwelling. I also note that the existing garage door is to be replaced by a new window to facilitate the conversion of the garage into habitable use. The design of the proposed extension and works to the existing dwelling are generally consistent with the pattern of development in the surrounding area and I am satisfied that the proposal does not detract from the existing streetscape character. I also note that the Planning Authority have raised no concerns with respect to the design of the proposed extensions. In this regard, I consider the proposed development to be acceptable having regard to the visual amenity of the surrounding area and I recommend that planning permission be granted for the proposed development.

7.4. Appropriate Assessment

7.4.1. Having regard to the nature and scale of the proposed development, a 'family flat' extension on a serviced site, and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any 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. Grant of permission is recommended.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the South Dublin County Council House Extension Design Guide (2010) and the South Dublin County Development Plan, 2022-2028, including the residential zoning objective for the site, the specific characteristics of the site and the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The proposed development shall comply with the plans and particulars lodged with the application submitted, and as amended by Further Information received on the 19th July 2022, 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. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>All external finishes shall harmonise in colour or texture that is complementary to the house or its context.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The family flat cannot be sold, conveyed or leased separately from the main residence. When the need for the family flat no longer exists, the dwelling must be returned to a single dwelling unit.</p>

	Reason: To prevent unauthorised development.
4.	The Applicant is required to enter into a build near agreement with Irish Water prior to the commencement of development. All development shall be carried out in compliance with Irish Water Standards codes and practices. Reason: In the interest of public health.
5.	Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The Applicant shall submit details of the measures proposed to safeguard the existing 300mm surface water sewer to the east of the site. Reason: In the interest of public health.
6.	During the construction and or demolition phase of the development, Best Practicable Means shall be employed to minimise air blown dust being emitted from the site. Reason: In the interest of public health.
7.	Site development and building works shall be carried out only between the hours of 8am to 7pm Mondays to Fridays inclusive, between 9am to 2pm hours 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.
8.	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. The contribution shall be paid prior to the 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

	<p>referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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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Enda Duignan
Planning Inspector

15/12/2022