



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314743-22

#### Development

Permission is sought for internal alterations and repairs to existing terraced house, demolition of existing single storey rear extension, construction of new single storey extension to rear, alterations and extension and new roof to existing garage and all associated ancillary works.

#### Location

No. 487, Blackhorse Avenue, Dublin 7  
D07 N6V2.

#### Planning Authority

Dublin City Council.

#### Planning Authority Reg. Ref.

WEB1632/22.

#### Applicant(s)

Kathleen Culliton-Utter.

#### Type of Application

Planning Permission.

#### Planning Authority Decision

Refused

#### Type of Appeal

First Party.

#### Appellant(s)

Kathleen Culliton-Utter.

#### Observer(s)

None.

#### Date of Site Inspection

2<sup>nd</sup> day of February, 2023.

#### Inspector

Patricia-Marie Young.

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## 1.0 Site Location and Description

1.1. No. 487 Blackhorse Avenue, the appeal site has a stated 254m<sup>2</sup> area. It is located on the northern side of heavily trafficked Blackhorse Avenue (R806) at a point where it has a meandering alignment and c68m to the west of its junction with Baggot Road, just over 4km to north west of Dublin's city centre as the bird would fly. The site comprises a terraced single storey dwelling, which forms part of a long terrace of 20 originally matching single storey cottages, each positioned on narrow long plots, with varying setbacks 7m-12m from the northern side of Blackhorse Avenue and opposite a tall stone wall that bounds 'Ratra House' and Phoenix Park. The northern boundary of the site contains a vehicle entrance that opens onto a restricted in width cul-de-sac laneway which provides access to garages to the rear of the terrace of properties and also access to the rear of properties on Conor Clune Road. The immediate site context is mature residential.

## 2.0 Proposed Development

2.1. Permission is sought for the following:

- Internal alterations and repairs to existing terraced house.
- Demolition of existing single storey rear extension.
- Construction of new single storey extension to rear.
- Alterations, extension, and new roof to existing garage.
- All associated ancillary works.

2.2. According to the accompanying planning application form the total floor area of buildings to be retained is 66.4m<sup>2</sup>; the total floor area of new buildings is 68.6m<sup>2</sup>; the total floor area of demolition is 17.8m<sup>2</sup>; the total floor area of non-residential is 37m<sup>2</sup>. In addition, it sets out that the proposed plot ratio would be 0.53 and site coverage would be 45%.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 5<sup>th</sup> day of September, 2022, the Planning Authority **refused** permission for the following stated reasons:

*“The site is zoned ‘Z1’ in the Dublin City Development Plan 2016-2022 which seeks ‘To protect, provide and improve residential amenities.’ It is considered that the proposed extension to a terrace dwelling on a relatively narrow site would be an overbearing and dominant form of development when viewed from adjacent properties by reasons of its length, height and siting along the shared boundaries. Further to this the proposed garage extension would appear visually overbearing and a dominant form of development. The proposed development, would, therefore, have a significant negative impact on the residential amenities of the adjoining properties and as such, would not be acceptable, and does not accord with Section 16.10.12 of the Dublin City Development Plan 2016-2022. The proposal would create an undesirable precedent for similar developments to the rear of dwellings in the area and would therefore, seriously injure the amenities and depreciate the value of property in the vicinity, would be contrary to the Z1 zoning objective for the site and would be contrary to the proper planning and sustainable development of the area”.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

This report is the basis of the Planning Authority's decision. It includes the following comments:

- The extension would block and overshadow neighbouring properties.
- There is potential for overlooking arising from the proposed courtyard.
- The garage structure may be used for separation occupation.
- The length and height of the extensions would be visually obtrusive and a dominant form of development.
- This development does not comply local planning provisions.

- The height of the garage and the roof profile would have an overbearing impact when viewed from surrounding properties.
- Concludes with a recommendation for refusal.

### 3.2.2. **Other Technical Reports**

**Transportation:** No objection, subject to safeguards.

**Engineering Department – Drainage Report:** No objection, subject to safeguards.

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. 2 No. Third Party submissions were received by the Planning Authority during the course of its deliberations. These submissions raised a number of concerns including: overlooking; overshadowing; inaccuracies in the drawings in terms of depicting adjoining properties; overbearing and excessive nature of the proposed extension; seeks that the height of the extension is reduced; this proposal appears to facilitate a multi-occupancy use; through to lack of compliance with Building Regulations.

## 4.0 **Planning History**

### 4.1. **Site**

4.1.1. No recent or relevant planning history.

### 4.2. **Setting – Recent**

- **P.A. Ref. No. 4111/12**

**No. 511 Blackhorse Avenue, Dublin 7 (Note: 90m to the north west of the site at its nearest point).**

Planning permission was **granted** subject to conditions for a single storey extension to the rear and a single storey porch to the front together with all associated site works.

- **P.A. Ref. No. WEB1218/18**

**No. 497 Blackhorse Avenue, Dublin 7 (Note: 23m to the west of the site at its nearest point).**

Planning permission was **granted** subject to conditions for a development consisting of a rear lower ground floor extension, loft conversion and extension to the rear together with all associated site works.

- **ABP-300452-17 (P.A. Ref. No. 3499/17)**

**No. 479 Blackhorse Avenue, Dublin 7 (Note: c16m to the east at its nearest point from the site).**

This was a First Party appeal against Condition No. 3 and 4 of the Planning Authority's grant of permission for a development comprising of a ground floor and dormer extension to the rear, conversion of attic space, insertion of velux rooflights to front and extension of existing garage. Of note in relation to the requirements of Condition No. 3 the Board considered that the 4m in depth rear extension was acceptable subject to safeguards having regard to the existing pattern of development within this terrace.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Dublin City Development Plan, 2022-2028, came into effect on the 14<sup>th</sup> day of December, 2022, under which the site is zoned '*Z1 – Sustainable Residential Neighbourhoods*'.
- 5.1.2. Chapter 2 of the Development Plan sets out the core strategy.
- 5.1.3. Chapter 3 of the Development Plan deals with climate action.
- 5.1.4. Chapter 5 of the Development Plan deals with the matter of quality housing and sustainable neighbourhoods.
- 5.1.5. 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*".

5.1.6. Chapter 15 of the Development Plan sets out the development management standards, with Section 15.5.3 dealing with alterations and extensions.

5.1.7. Volume 2, Appendix 18 of the Development Plan sets out the design principles and considerations for alterations and extensions to dwellings.

## 5.2. **Natural Heritage Designations**

5.2.1. None within the zone of influence.

## 5.3. **EIAR Screening**

5.3.1. 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.

# 6.0 **The Appeal**

## 6.1. **Grounds of Appeal**

6.1.1. The grounds of appeal can be summarised as followings:

- The subject property is in poor condition and requires repair throughout.
- The folio for this property shows part of its land extending into the rear lane and it is therefore proposed to extend the garage into this area which is often used for illegal parking.
- There is precedent for this type of development.
- This development would not be visually obtrusive or dominant in its setting.
- Other properties at Blackhorse Avenue have extensions with lengths ranging from 6m to 14.53m and a number of these have been built under the exempted development provisions.
- The rear of these properties faces due north and there is little light entering to the rear of them.
- The design is compliant with Building Regulations.
- The Board has previously permitted a development to one of the terraces at Blackhorse Avenue where the bedroom spaces were solely lit by velux windows.

- It is not sought to amend boundary walls.
- No undue overlooking would arise from this proposal.
- This proposal does not seek a multiple occupancy unit.
- The Board is sought to overturn the decision of the Planning Authority.

## 6.2. Planning Authority Response

6.2.1. None.

## 6.3. Observations

6.3.1. None.

## 7.0 Assessment

### 7.1. Introduction

- 7.1.1. 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 and the planning precedent for similar type extensions to residential developments in the setting, I concur with the Planning Authority in this case that the general principle of demolition of an existing rear extension that is a later addition of no architectural or other merit together with its replacement with an extension to the rear of No. 487 Blackhorse Avenue together with the other alterations and extensions proposed to the existing dwelling and garage structure, is acceptable.
- 7.1.2. I also consider that this development gives rise to no drainage issues and that the key issues in this appeal case are those that arise in the Planning Authority's single reason for refusal.
- 7.1.3. I therefore propose to deal with these issues under the following broad heading:
- Compliance with Development Plan Provisions
- 7.1.4. The matter of '*Appropriate Assessment*' also requires examination.



- 7.1.5. Prior to commencing my assessment below, I note that concerns are raised in the context of the Planning Authority's determination of this application and by Third Party Observers that the proposed development is one that potentially reflects that the development, if permitted, and when completed could be used for multiple occupancy and not as a single dwelling house. This concern is not unreasonable in my view given the internal design and layout of the habitable space which includes for example two separate staircases for access to each of the two bedroom spaces at the new attic level. With these staircases accessed by doors onto a modest in width corridor in the main envelope of the host dwelling.
- 7.1.6. In addition, the proposed development would give rise to a 3-bedroom four bedspace dwelling that would be served by WC Shower Room; a Bathroom and what is labelled as en-suite that is accessible from the staircase that serves the double bedroom. As said both staircases are accessed via separate doors from the hallway corridor.
- 7.1.7. Notwithstanding, the proposed development as sought under this application does not seek any material change of use.
- 7.1.8. However, should the Board be minded to grant permission for the development sought under this application despite the concerns set out below it is my considered opinion that a condition should be imposed to restrict this property's use to a single dwelling.
- 7.1.9. Secondly I note that since the Planning Authority determined this application that the local planning provisions have changed by way of the adoption of the Dublin City Development Plan, 2022-2028. For clarity my assessment below is based on the assessment of the merits of the proposed development against this plan which supersedes the Dublin City Development Plan, 2016-2022.

## **7.2. Compliance with Development Plan Provisions**

- 7.2.1. As previously set out the principle of this proposed development, a development that comprises of alterations and repairs to the original building envelope of No. 487 Blackhorse Avenue, the demolition of a later of no merit single storey rear extension and its replacement with a new single storey extension to the rear, the provision of an attic level through to the alterations and extension of the garage structure on site is acceptable subject to the safeguards including that it is consistent with all relevant planning provisions and guidance for this type of development.

- 7.2.2. The Planning Authority's single reason for refusal considered that the proposed development due to length, height, and siting of the proposed extension alongside its dominant form would give rise to significant negative residential and visual amenity impacts in a manner that would not accord with Section 16.10.12 of the previous Dublin City Development Plan.
- 7.2.3. The First Party appellant argue that this is not the case and that the proposed development is fully compliant with relevant planning provisions. Alongside it is a type of development that would in the view not give rise to any undue visual and/or residential amenity over and above that already present in the site's terrace setting. Alongside with its terrace setting having an established pattern of varying alterations and extensions, including to the rear. Against this context they consider that the refusal of permission is unreasonable. They therefore seek that the Board overturn the decision of the Planning Authority and grant permission for the proposed development as originally submitted in their planning application.
- 7.2.4. The Board received no response from the Planning Authority during the course of its deliberation of this case. Nor did it receive any Third-Party observations.
- 7.2.5. The Planning Authority did receive Third Party observations during its deliberation seeking that the proposed development be refused on residential and visual amenity grounds.
- 7.2.6. The recently adopted Dublin City Development Plan, 2022-2028, whilst maintaining the 'Z1' land use zoning of the site and the setting alongside the spirit of the assessment criteria for alterations and extensions to existing dwellings puts forward more robust provisions as well as guidance for this type of development. It is notwithstanding incumbent on any development application on 'Z1' zoned land to ensure that a balance is reached in protecting, providing, and improving residential amenities.
- 7.2.7. Further to this Section 15.5.3 of the Development Plan which deals with alterations and extensions to existing dwellings sets out that these should be sensitively designed and detailed to respect the character of the existing building, its context, and the amenity of adjoining occupiers.
- 7.2.8. In particular, it states that: "*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.”*

7.2.9. In addition, to the above Section 1.1 of Volume 2, Appendix 18 of the Development Plan, states that: *“the development of residential extensions plays an important role in promoting a compact city in line with the core strategy as well as providing for sustainable neighbourhoods and areas where a wide range of families can live. The design of residential extensions should have regard to the amenities of adjoining properties and in particular, the need for light and privacy. In addition, the form of the existing building should be respected, and the development should integrate with the existing building through the use of similar or contrasting materials and finishes”*. It also sets out the applications for extensions to existing residential units should:

- Not have an adverse impact on the scale and character of the existing dwelling.
- Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight and sunlight.
- Achieve a high quality of design.

7.2.10. In relation to the front porch shown in the submitted the alterations to it are modest, i.e., they include insulation of its flat roof and it does not give rise to any visual amenity concerns given that the host dwelling and its streetscape context are not afforded any specific protection. Alongside there are a wide variety of porches and extensions forward of the main building line of the terrace group No. 487 Blackhorse Avenue forms part of. I therefore raise no particular concern with regards to this component of the development sought.

7.2.11. In relation to the alterations to the main dwelling, whilst these are generally acceptable in principle I raise concern that this proposal which essentially seeks to main just the

outer shell of the host dwelling puts forward a design that would not give rise to a qualitative external and internal space for future occupants.

- 7.2.12. On this point I note Section 1.2 of the Volume 2 of Appendix 18 of the Development Plan states that: “*ground floor extensions will be considered in terms of their length, height, proximity to mutual boundaries and the quantum of usable rear private open space remaining*”.
- 7.2.13. Of concern a total private open space of 36.84m<sup>2</sup> is proposed. With this contained in two distinct spaces, i.e., a courtyard of 6.84m<sup>2</sup>, which would be located immediately alongside the easternmost end of the original rear elevation and would be wrapped around by the proposed extension. With the maximum ridge height of the host dwelling’s gable roof given as 5.467m and with an eaves height of 2.962. Together with the rear extension consisting of a sunken extension with a height of 3.79m at its lowest point and 4.124m at its highest point. This linear shaped courtyard would have a width of 1.816m and it would provide light and ventilation to one of the two proposed hallways, a shower room as well as a kitchen.
- 7.2.14. Notwithstanding, this function it is also indicated as said to form part of the private open space provision for occupants of this dwelling with Section 15.11.3 of the Development Plan requiring a minimum standard of 10m<sup>2</sup> of private open space per bedspace will normally be applied.
- 7.2.15. For clarity this section of the Development Plan sets out that: “*a single bedroom represents one bed space and a double bedroom represents two bedspaces*” and it states that: “*generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city*” and that these standards may be relaxed on a case by case basis subject to a qualitative analysis of the development.
- 7.2.16. I do not consider that this courtyard provides qualitative private open space amenity as it is not only overlooked by the dormer windows of the adjoining property to the east, No. 485 Blackhorse Avenue. A situation that is generally to be expected in this type of suburban setting. But more crucially as a space it would be mostly in shade and as such provide little if any useable passive and/or recreational amenity space for future occupants.
- 7.2.17. With this consideration based on the following factors: 1) the rear orientation of the site which can be described as tilting at a north east at this point; the built form of the

host dwelling and the extensions to the properties on either side which include dormer extensions to the rear attic level of both structures, through to the built form of the extension proposed alongside the presence of dormer extensions on either side of the site.

- 7.2.18. Moreover, its amenity value would also be compromised by way overlooking from the adjoining property. In turn it would also compromise the amenity value of the adjoining property.
- 7.2.19. In relation to the second pocket of private amenity space, this would run the c5.5m width of the garden for a depth of between 3.1m to 3.6m. This space falls significantly below the space that is indicated in the submitted drawings as being the main private amenity space for future occupants. At best it is c20m<sup>2</sup>.
- 7.2.20. Of further concern this space would also suffer from overshadowing from the height of the rear extension; the height of the rear boundary walls through to this section of the rear garden having a more northerly aspect due to the rear garden having a changing alignment. There is also no clarity given on whether or not this space would be further reduced by the storage of waste storage bins.
- 7.2.21. To this I note that Section 15.11.2 of the Development Plan sets out that: “*rear private garden should be sufficiently sized and orientated to ensure direct sunlight access is achieved for part of the day on March 21<sup>st</sup>*”. This is not demonstrated in this application.
- 7.2.22. The quantitative and qualitative private open space requirements for a dwelling of containing 4 bedspaces has not been demonstrated and given the concerns raised in terms of the amenity impacts that would arise from the proposed development, despite the site’s proximity to Phoenix Bar, I consider that relaxation of private amenity space standards would not be appropriate or reasonable in this circumstance. This is on the basis that it would result in a development that would be contrary to the proper planning and sustainable development of the area.
- 7.2.23. Of additional concern is that not only would the proposed design and layout of the proposed extension give rise to adverse overshadowing of the private amenity spaces that would remain for occupants of the host dwelling. It would in tandem as a result of the height, depth, mass and width also give rise to significant additional overshadowing of adjoining properties on either side.

- 7.2.24. In particular, I raise concern that the most northerly portion of the proposed extension would give rise to the most significant impact as a result of it having a maximum height of 4.124m with this height relating to it having a raised floor level above that of the kitchen extension component. Thus, compromising the private amenity space provision. Alongside further diminishing the potential for daylight into the rear of their properties due to the constraints arising from the layout of this terrace group of originally modest single storey cottages and its northerly aspect.
- 7.2.25. Whilst I acknowledge that there are examples of different type of extensions to the rear of the terrace group the host dwelling forms part of, I observed that these are largely characterised by being reduced single storey in their height and built form. With their associated roof structures largely flat roof or modest in ridge height gable and/or hipped shape. In the immediate context of the site second floor levels are confined to the attic space of the terrace dwelling.
- 7.2.26. At further distance from the site within this terrace group there are a small number of two storey extensions that project beyond the original rear elevation.
- 7.2.27. These however are restricted in their depth. With the main extension contained at ground floor level and appearing to include lowering of the ground levels.
- 7.2.28. In addition, the changing alignment of Blackhorse Avenue and the rear cul-de-sac access lane means that the front and rear building lines through to the depth of these plots from the original rear elevation are variable.
- 7.2.29. Of concern the proposed extension extends between 8.88m on its western side and 10.55m at its deepest point. With this depth added to by the 1.5m roof that projects beyond the rear elevation of the extension. This includes a gap to the eastern rear elevation where the courtyard is proposed. With this courtyard extending a given width of 3.815m to where it meets the main extension which extends the width of the site for a projection of 6.741m. The height of the extension to the rear varies and the rear most extension has higher finished ground levels. The ground levels vary from 41.42 to 41.99 with the rear most extension having a mono-pitched roof with a height of 4.124m above the ground levels at this point. Not only would this design and layout give rise to overshadowing of the adjoining properties but the presence of a distinctively higher built form as viewed in its visual context would appear visually incongruous and out of character with the pattern of development.

- 7.2.30. The level of overshadowing and visual incongruity is added to by the depth and height of the extended garage structure. This structure having regard to what is present on site realistically is a replacement structure given the structurally unsound state of the building that is present and giving the extension of the footprint out into the adjoining rear lane. Of concern is the height of the garage's mono-pitch roof at its highest point is 4.481m. The necessity for such a height is unclear in the documentation provided. At this height it lacks visual subordination with the host structure and structures present to the rear of this terrace group bounding the lane is overtly dominant and visually incongruous.
- 7.2.31. I note that the First Party sets out that they are fully legal owners of this area but it would appear that the area to which they now wish to extend into has formed part of a service lane for a significant period of time. The ownership of this lane, any rights of way through to any adverse possession that may have occurred over time is unclear alongside is their contention that this land is fully in their legal interest. Therefore, as a precaution should the Board be minded to grant permission I recommend that they include as an advisory note the provisions of Section 34 (13) of the 2000 Planning and Development Act (as amended) where it states that a person is not entitled solely by reason of a permission to carry out any development.
- 7.2.32. On another side note I raise concerns that there are aspects of the design that I would significantly question whether it would give rise to a high-quality internal amenity provisions for occupants and that the design is one that is future proof. This includes adequate provision internal for access for mobility impaired persons through to whether the proposed development is one that has been designed with achieving required Building Regulations.
- 7.2.33. In conclusion I consider that the proposed development does not give rise to an appropriate balance between protection, providing and improving residential amenities. I further consider that the overall design, layout, built form, depth, height, mass, and volume of the proposed extension when taken together with that of the garage would give rise to undue overshadowing, diminishment to daylight and visual overbearance of properties to its immediate vicinity. The proposed development would seriously injure the residential and visual amenity in a manner that would be contrary to the land use zoning objective 'Z1' and to Section 15.5.3, Section 15.11.2, Section 15.11.3 and Section 1.2 of Volume 2, Appendix 18 of the Dublin City

Development Plan, 2022-2028. If permitted, the proposed development would give rise to an undesirable precedent for similar developments in the area and would be contrary to the proper planning and sustainable development of the area.

### 7.3. **Other Matters Arising**

- 7.3.1. Depreciation of Property Values: Whilst I concur with the Planning Authority that the proposed development, if permitted, would give rise to negative adverse residential and visual amenities. Including by way of loss of daylight and overshadowing of properties in its immediate vicinity. Notwithstanding, there is no professionally supported evidentiary based proof to support that this would be the case. I therefore do not consider that the proposed development warrants refusal in part on these grounds.

### 7.4. **Appropriate Assessment**

- 7.4.1. The subject site is located in an established residential area and is not located adjacent to nor in close proximity to any European sites, as defined in Section 177R of the Habitats Directive. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest 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. I recommend that permission is **refused**.

## 9.0 **Reasons and Considerations**

- 9.1. Having regard to 'Z1' land use zoning of the site which has an objective of protecting, providing and improve residential amenities under the Dublin City Development Plan, 2022-2028, the pattern of development, it is considered that the proposed extension, by reason the design, layout, built form, depth, height and mass, would seriously injure the residential amenities of the area by reason of overshadowing, loss of daylight and visual obtrusion. It is also considered that the proposed development would be contrary to the policies and objectives of the Development Plan, in particular those set



out under Section 15.5.3, 15.11.2, Section 15.11.3 and Section 1.2 of Volume 2, Appendix 18. Moreover, it is considered that the proposed development in itself and by the precedent it would give rise to would give rise to deterioration of the visual and residential amenities of this area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector

8<sup>th</sup> day of March, 2023.