



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314747-22

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<b>Development</b>	Retention permission is sought for a rear extension, with change of roof profile and all associated works.
<b>Location</b>	No. 265, South Circular Road, Dublin 8.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	WEB1651/22.
<b>Applicant(s)</b>	Joe McDonagh.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	Aideen Callard & David McLoughlin.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	5 <sup>th</sup> day of December, 2022.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. No. 265 South Circular Road, the appeal site has a stated 360m<sup>2</sup> area. It is situated on the southern side of the South Circular Road, c15m to the east of its junction with Dolphin Avenue, and c78m to the north of Grand Canal, in Dublin 8.
- 1.2. The site contains a single storey period terrace dwelling that is setback from the public domain of South Circular Road by a period cast iron railings set over granite plinth that contains a matching pedestrian gate that provides access to the front door of No. 265 by way of a pedestrian path flanked on either side by maintained lawn grass. On the eastern side of the front garden is a modest in height three-sided timber screening which provides screening of the properties refuse bins. This is accessed via a concrete pathway that links to the front door. To the rear the period property has been extended by way of a single and two storey rear extensions. These appear to be recent in construction.
- 1.3. Adjoining the rear boundary is a separate single storey structure that matches the construction methodology of the rear extensions and a timber shed structure. For the most part the rear yard area is surfaced in concrete pavers.
- 1.4. No. 265 South Circular Road forms part of a terrace group of mostly 2-storey period properties dating to circa the mid-19<sup>th</sup> century to the early 20<sup>th</sup> Century, with the subject property being one of three single storey period dwellings that marked the end of this terrace group at the point where South Circular Road intersects with Dolphin Avenue.
- 1.5. The surrounding area whilst containing mainly residential properties also contains a mixture of other uses with a number of bus stops in easy walking distance of the site, including Dolphin Avenue Stop 1383 which is located in close proximity to the north east.

## 2.0 Proposed Development

- 2.1. Retention permission is sought for a two storey 100m<sup>2</sup> rear extension, with change of roof profile and all associated works.
- 2.2. According to the planning application form the floor area to be retained together with the floor area for which retention is sought cumulatively is 191m<sup>2</sup>. It also indicates that

no floor area was demolished and that the development has a plot ratio of 0.53 and site coverage of 45.2%.

- 2.3. The 'Covering Letter' sets out that the original dwelling's floor area was 57m<sup>2</sup> and that it was extended in 1963 by 34m<sup>2</sup>. It further indicates that garden sheds with a total floor area of 25m<sup>2</sup> are also on the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 8<sup>th</sup> day of September, the Planning Authority decided to **grant** retention permission subject to 6 generally standard conditions for such works. Of note are the requirements of the following conditions:

Condition No. 5: Requires compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

Condition No. 6: Attic space shall not be used for human habitation.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the Planning Officer, dated the 5<sup>th</sup> day of September, 2022, is the basis of the Planning Authority's decision. The following comments are noted:

- Enforcement file in relation to this property relates to extensive building works.
- The works carried out included the sensitive restoration of the front façade.
- No undue residential and/or visual amenity issues arise.
- The proposed development accords with planning provisions.
- Concludes with a recommendation to grant retention permission.

#### 3.2.2. Other Technical Reports

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

### 3.3. **Prescribed Bodies**

3.3.1. None.

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

3.4.1. Several Third-Party Observations were received by the Planning Authority during their determination of this application. The main issues raised were planning compliance, planning enforcement, residential amenity impact, visual amenity impact, built heritage impact, civil matters, procedural concerns, car parking use of the dwelling not as a single dwelling but in multiple occupancy.

## 4.0 **Planning History**

### 4.1. **Site and Setting**

4.1.1. No relevant planning history.

### 4.2. **Other**

4.2.1. The subject planning application appears to have been made on foot of Enforcement Notice: E0135/22.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. Dublin City Development Plan, 2022-2028, is applicable, under which the site is zoned 'Z2' (Note: Residential Neighbourhoods (Conservation Areas)) which has a stated objective: *"to protect and/or improve the amenities of residential conservation areas"*.

5.1.2. Section 14.7.2 of the Development Plan in relation to conservation areas states that: *"the general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area."*

5.1.3. Chapters 11 of the Development Plan deals with Built Heritage.

5.1.4. Chapter 15 of the Development Plan sets out Development Standards.

5.1.5. Appendix 18 of the Development Plan sets out guidance for the development sought.

## 5.2. **Natural Heritage Designations**

5.2.1. None within the zone of influence.

## 5.3. **EIAR Screening**

5.3.1. Having regard to the nature, scale and extent of the development sought, the urban serviced location of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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**

6.1.1. The grounds of this Third-Party Appeal, which is made by an adjoining Dolphin Avenue property owner, can be summarised as follows:

- The proposed development is contrary 'Z2' zoned land objective.
- This development adversely impacts the residential conservation area.
- This development resulted in the loss of original built features.
- The dormer rear extension is disproportionate against neighbouring buildings. In particular it changes the symmetry between this property and the adjacent cottage.
- The Development Plan requires alterations and extensions to be sensitively designed and that they respect the character of the existing building, its context, and the amenity of adjoining occupiers. This development fails to achieve this.
- Only a small yard space remains.
- The extension is not subordinate in terms of its scale to the host structure and the rear extensions do not have any regard to the design of the original property.
- Compliance with Building Regulations is a concern.

- The rear garden space has been subject to overdevelopment.
- The details provided do not reflect the scale of development actually carried out. Including there are no details provided in relation to the demolition and building works. In addition, the accuracy of the drawings is questioned.
- The first-floor windows overlook their private amenity space and diminish their privacy.
- The works were carried out without the benefit of permission and gave rise to significant nuisance diminishing their residential amenity.
- Concern is raised that now completed the subject property is in multiple occupancy.
- The garden shed structures are excessive given the lack of private amenity space to the rear and the provision of bin storage to the front of the dwelling.
- The dormer is in habitable use.
- The Board is sought to refuse retention permission for this development.

## 6.2. Applicant's Response

6.2.1. The First Party's response can be summarised as follows:

- The original property included an add-on structure built prior to 1963 which when combined with the original floor area resulted in a total gross floor area of 91m<sup>2</sup> prior to the extensions carried out.
- The development carried out is sympathetic to the original dwelling and includes the restoration of the front elevation.
- There is established levels of overlooking in this site context.
- The Planning Authority considered that the works are not visible from the street.
- There is precedent for similar developments in the area.
- The works improved the BER of this property.
- The property is not in multiple use.
- The ceiling height do not conform with Building Regulations standards.
- An extended and refurbished property is a welcome addition to the rental market.

### 6.3. **Planning Authority Response**

6.3.1. None.

### 6.4. **Observations**

6.4.1. None.

## 7.0 **Assessment**

### 7.1. **Preliminary Comment**

7.1.1. I consider that the key issues that arise in this appeal case are those raised by the Appellant in their grounds of appeal submission, and I consider that no other substantive planning related issues arise. The matter of 'Appropriate Assessment' also needs to be addressed. I propose to deal with the issues under the following broad headings:

- Principle of the Development Sought
- Compliance with Development Plan & Procedural Issues

7.1.2. Prior to the commencement of my assessment, I note that this planning application is for permission for the retention of development, which it is submitted has been recently carried out.

7.1.3. For the purposes of clarity, it should be noted that the period for which a development has been in place is immaterial to consideration of a planning application for permission for retention, although, there are implications regarding enforcement proceedings, which it would appear this application has been made on foot of.

7.1.4. There are obvious frustrations by the Third-Party Appellant in relation to the First Party's approach to the development carried out at No. 265 South Circular Road, their approach in terms of ignoring the requirements of the Planning Authority's Enforcement Requirements under P.A. Ref. No. E0135/22, through to the overall procedural handling of the works carried out on site that were outside of the bounds of exempted development and therefore subject to enforcement action by the Planning Authority.



- 7.1.5. These matters are outside of the Boards remit in its *de novo* consideration of this appeal case and I am cognisant that the Development Management Guidelines for Planning Authorities, 2007, make it abundantly clear that, in dealing with applications for retention, they must be considered “*as with any other application*”. This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed.
- 7.1.6. Therefore, no account can, or should, be taken of the fact that the development has already taken place. Thus, my assessment below is based on the development as if it were not *in situ*.
- 7.1.7. For clarity I note that my assessment below is based on the Dublin City Development Plan, 2022-2028. This plan came into effect on the 14<sup>th</sup> day of December, 2022.

## **7.2. Principle of the Development Sought**

- 7.2.1. Permission is sought for alterations and additions to No. 265 South Circular Road. They can be summarised as consisting of the provision of 100m<sup>2</sup> extension through to the change in the roof profile together with all associated works. The site is zoned residential conservation area under the applicable Development Plan (Note: ‘Z2’). The land use zoning objective for ‘Z2’ zoned land is: “*to protect and/or improve the amenities of residential conservation areas*”. Residential development are considered to be generally acceptable development in principle, on ‘Z2’ zoned land, subject however, to the acceptance or otherwise of site specifics/other policies within the development plan and government guidance.

## **7.3. Compliance with Development Plan Provisions & Procedural Issues that Arise**

- 7.3.1. The site and its visual setting forms part of a parcel of urban land zoned residential conservation area under the Development Plan. In such areas the Development Plan sets out that the general objective is to protect them from unsuitable new development or works that would have a negative impact on the amenity or architectural quality of the area.
- 7.3.2. Section 1.1 of Appendix 18 of the Development Plan in relation to residential extensions acknowledges that these play an important role in promoting a compact city as well as providing for sustainable neighbourhoods and areas where a wide range

of families can live. It states that 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.*” It also sets out the following design principles for residential extensions:

- 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.
- Make a positive contribution to the streetscape (front extensions).

7.3.3. In relation to not having an adverse impact on the scale and character of the existing dwelling; achieve a high quality of design and make a positive contribution to the streetscape. Criteria which are added to by the fact that the site, the buildings and spaces thereon, form part of a larger parcel of urban land subject to residential conservation area land use zoning. I note that Section 11.5.3 of the Development Plan sets out that heritage assets which may not be protected but which contribute significantly to the streetscape and to the character of the city are recognised as areas that have conservation merit. As well as that they warrant protection through zoning and policy application.

7.3.4. In addition, Section 11.5.3 of the Development Plan also sets out that the special interest and value of conservation areas like those zoned ‘Z2’ lies in the historic and architectural interest through to the design and scale of these areas. It goes on to state that: “*all of these areas require special care in terms of development proposals*” and that the Council: “*will encourage development which enhances the setting and character of Conservation Areas*” as well as that they will apply: “*a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area*”.

7.3.5. In general proposals like that sought under this application will according to the aforementioned section of the Development Plan and they will require: “*detailed justification from a viability, heritage, and sustainability perspective*”.

- 7.3.6. It is therefore important in any assessment of the criteria noted from Section 1.1, Appendix 18, of the Development Plan, in relation to the development sought under this application is carried out with the added level of precaution that is given to residential conservation areas. Including but not limited to the heritage assets and their visual setting that potentially could be adversely impacted by inappropriate change and/or loss of their intrinsic character.
- 7.3.7. As such regard should be had not only to the period host dwelling and its curtilage but its relationship with its residential conservation area streetscape scene. One that could be described as predominantly characterised by various set pieces of period properties dating to circa the mid-19<sup>th</sup> Century to the early 20<sup>th</sup> Century. As well as including buildings of note within the streetscape scene of the site like the former Players Cigarette Factory (which is now undergoing substantial redevelopment).
- 7.3.8. In this context it is relevant to note that Policy BHA9 of the Development Plan sets out that the Planning Authority will seek to protect the special interest and character of all of Dublin's Conservation Areas with 'Z2' zoned land specifically referred to in the wording of this policy. This particular Development Plan policy states that: *"development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible"*. It identifies enhancement opportunities as including reinstatement of missing architectural detail, retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.
- 7.3.9. In relation to demolition in a conservation area Policy BHA10 of the Development Plan provides further guidance to developments like that sought under this application and therefore is also of relevance. This Development Plan policy states that: *"there is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in exceptional circumstances where such loss also contribute to a significant public benefit"*.
- 7.3.10. Section 11.5.3 of the Development Plan is therefore consistent with protection of built heritage but also with the said plans provisions for climate resilient and achieving sustainable development advocates the retention and reuse of period buildings that add to the streetscape and sense of place. This approach is further supported by

Policy BHA11 of the Development Plan which seeks the '*rehabilitation*' and '*reuse*' of existing older buildings, in preference to their demolition.

- 7.3.11. It is therefore a substantive planning concern arising from this planning application that the subject property, which is circa 140 to 150 years old, and which contributed positively to the character, quality, sense of place and patina of age within its streetscape scene, that the actual nature, extent through to scope of works does not adequately and reasonably describe the potential impact of the development sought to this structure in a transparent manner.
- 7.3.12. Given the information on file; the information available in relation to recent works through to having inspected the site with this including walking through the building to gain access to the rear yard space; it is of concern that the public notices and the drawings accompanying this application do not reflect the actual nature, extent and scope including the substantial loss of built fabric and indeed the period building of No. 265 South Circular Road behind its front façade. The period structure appears to have been substantially demolished outside of this front façade to facilitate the development that is sought. The documentation provided also do not detail the scope of works to the front façade which on close inspection also appears to have lost original built fabric, i.e., windows, front door through to potentially roof slates and ridge tiles. Moreover, it is also questionable that the brick as now presenting to the South Circular Road has not been substantially altered beyond repointing works.
- 7.3.13. I note that the Development Management Guidelines for Planning Authority's, 2007, sets out that the purpose of the public notices, i.e., the site notice and newspaper notice is to inform the public of the proposed development and alert them as to its nature and extent. It also sets out that they should give "a brief description" of the nature and extent of a proposed development. Whilst validation of a planning application falls under the remit of the Planning Authority I am not satisfied that firstly they have correctly decided in this case that the public notices are reasonably adequate in providing a brief description of the actual development and more worryingly on foot of this that the drawings accompanying this application set out the actual development so that a well-informed decision can be made.
- 7.3.14. Given the substantive deficits on both I am not satisfied that the Board could uphold the Planning Authority's decision to grant permission without prior to doing so seeking

new public notices and detailed drawings setting out the actual nature, scale, extent and scope of development are provided by way of further information. Including detailing the scope of loss of built fabric and the extent of demolition together with justification for the same.

- 7.3.15. On the matter of the applicant's nature of use of No. 265 South Circular Road it was also apparent to me during my inspection of the site that the property was not in use as a single dwelling but was in multiple occupancy with this including the attic level above. This is also a matter that is not clarified in the documentation provided with this application and is essentially an enforcement matter for the Planning Authority to examine further and deal with as they see fit. Particularly given the fact that the attic level does not meet Building Regulations for habitable rooms and given that Section 5 of Appendix 18 of the Development Plan clearly sets out that such conversions are proposed for such use meets these required standards as part of the guidance on assessing their acceptability.
- 7.3.16. Moreover, the necessity and justification for such a substantial attic space for use as storage is not justified on the size of the actual habitable space that meets the said standards through the presence of two garden structures, one of which is of permanent construction and, which concerns are also raised in relation to actual usage, with internal space of circa nearly 25m<sup>2</sup>. Alongside, the provision internally of other storage spaces.
- 7.3.17. It is therefore a further concern in my view the lack of transparency on the actual functional use of the development for which permission is now being sought. The Board may seek to clarify this as part of any further information sought.
- 7.3.18. The visual impact on the residential conservation area and lack of clarity on the scope of works is further added to by the suite of drawings not including the provision of a three-side timber screening structure used for the storage of bins forward of the front elevation and against the boundary with the front side boundary of No. 263 South Circular Road. This is a structure given its height, method of construction and its use is not exempted development in this residential conservation area urbanscape context. It is not included in the scope of the development sought and it is highly visible in public domain of South Circular Road, with views towards it and the refuse bins contained therein diminishing the streetscape scene of this residential conservation area

streetscape scene. It also obscures views of the period railings that separate the front semi-private open space of No. 265 South Circular Road and No. 263 South Circular Road. As well as it diminishes the overall design of buildings, structures, and spaces on the southern side of South Circular Road whose built heritage features surviving from the original construction and completion is the bounding of these semi-private open spaces by such railings. These provide separation from the public domain and reinforce the careful placement as well as regularity of setback from the public domain that characterises this period terrace group irrespective of their built form.

- 7.3.19. The justification for this structure given the presence of two significant shed structures in the rear of the property together with a structure adjoining the rear elevation of the single storey element of the rear extension which is titled in the submitted drawings as 'Bin Store'. This structure has a given 1.805m by 995m dimension and on site it is not as described in the drawings submitted with this application.
- 7.3.20. That is to say it does not contain a door opening onto the yard area but rather it contains a window and appears to link the single storey annex to the structure labelled garden shed which is of the same single storey-built form finish as the main single storey extension. It is therefore of a concern that the 'Bin Store' and 'Garden Shed' are possibly accessible from the main single storey extension.
- 7.3.21. These concerns add to the adequacy of the public notices submitted; the adequacy of the drawings in accurately setting out the nature, scale and extent of the development; through to raise an additional question mark that the actual floor area arising from the development sought is quite likely to not reflect the outcome which this application seeks to regularise.
- 7.3.22. Of further concern Section 4.0 of Appendix 18 of the Development Plan in relation to roof levels, attics, dormers and additional floors sets out that the roofline of a building is one of its most dominant features. It states: "*it is important that any proposal to change the shape, pitch or cladding of a roof is carefully considered*". It also sets out a number of criteria in assessing such alterations which include: "*careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures*". They also include: "*visibility of proposed roof end*" and "*harmony with the rest of the structure, adjacent structures, and prominence*".

7.3.23. Further guidance is set out under Section 5.0 of Appendix 18 of the Development Plan. It sets out that the: *“use of an attic space for human habitation must be compliant with all of the relevant design standards, as well as building and fire regulations. Dormer windows, where proposed should complement the existing roof profile and be sympathetic to the overall design of the dwelling”*; *“the design should avoid an overly dominant roof structure”*; through to *“the proposed scale of the roof should retain similar proportions to the building where possible”*.

7.3.24. To provide further guidance it sets out a checklist of what is acceptable and what is deemed not to be acceptable (Note: Table 18.1). Of concern in relation to what is not acceptable is: 1) not obscuring the main ridge and eaves feature of the roof; 2) avoid extending the full width of the roof; and, 3) avoid dormer windows that are over dominant in appearance or give the impression of a flat roof. The design of the first-floor level attic dormer extension is inconsistent with this.

7.3.25. Moreover, it is also not compliant with the following criteria of Table 18.1 and for the reasons set out:

*1) The use of materials that complement the existing wall or roof materials of the main house.*

The external envelope finish of the overall extension to the rear of the raised ridge height of No. 265 South Circular Road by way of the lack of use of complementary external treatments, finishes, colours through to patination.

*2) Demonstrate compliance with Building Regulations*

The attic space which is illustrated in the submitted drawings as being comprised of two sizeable bedrooms, i.e., excluding their en-suites, have stated dimensions of 20.6m<sup>2</sup> and 16.5m<sup>2</sup>. With these rooms at their highest point given as 2.35m but falling down in either direction immediately from where this high point is achieved and accessed via a landing in terms of building to ceiling height are not compliant with Building Regulations as it requires a minimum of 2.4m is achieved over 50% of the room.

*3) They should be visually subordinate to the roof slope, enabling a large proportion of the original roof to remain visible*

The design of the first-floor level extension fails to be visually subordinate in its overall built form, finishes through to appearances when viewed as part of the host dwelling, from the terrace group it forms part of and as appreciated from the public domain of Dolphin Avenue.

This conclusion is based on a number of factors including the fact that its width extends across the majority of the roof structure. With the width of the rear of No. 25 South Circular Road at this point measuring just over 9m and with the main dormer extension having a staggered width of 7.965m where it projects past where the original eaves of No. 265 South Circular Road would have finished. Alongside with the remainder of its width stepped back to finish at the eaves line. A eaves line that is carried through to the adjoining property of No. 267 South Circular Road (Note: the drawings that depict this do not scale as suggested at 1:50).

This structure extends from immediately the raised ridge height in a southerly direction with a modest slope that from the public domain is indiscernible and as such has the appearance of a staggered flat roof built. The treatment of the side, rear and roof structure over adds to the lack of visual subservience by a poor choice of external treatments, finishes and colours. Altogether they do not respect the host dwelling's original palette of materials, the terrace group it forms part of, it is not qualitative of its time sympathetic qualitative materials and together they add to this structure being not only overly dominant but also obscuring the brick period end elevation of No. 263 South Circular Road.

In addition, the structure is highly angular. This angularity is at odds with the shape as well as profile of the host dwelling, the group of three single storey period dwellings it formed part of, through to the roof structures that characterise its visual setting. In particular, when viewed to the rear from properties in the vicinity but also when viewed from the public domain of Dolphin Avenue. At this location it is highly visible and its lack of harmony with adjoining and neighbouring period-built forms, finishes and treatments add to it being a feature that is out of character, at odds with its setting as well as diminishes the visual character of its residential conservation area streetscape setting.

Moreover, the lack of subservience of the design approach chosen is also reflected in that it does not achieve a careful modulation and setting down of building height as



well as built form when considered against its juxtaposition of No. 263 South Circular Roads two and a half storey built form and No. 267/269 South Circular Roads single storey built form.

*4) Relate to the shape, size, position and design of the existing doors and windows on the lower floors.*

The shape, size, position and design of the existing doors and windows of the host dwelling and also the terrace group it forms part of are not reflected in the solid to void treatment of the proposed first floor addition. Nor is it at ground floor level single storey extension to the rear either. Further, outside of the front door the window frames, doors and fenestration detailing are at odds with the host dwelling and the period terrace group it forms part of.

*5) Be set back from the eaves level to minimise their visual impact and reduce potential for overlooking of adjoining properties.*

As discussed previously this is not the case with the majority of the dormer extension extending past the original eaves level and the level of clear glazing due to the width and height of the windows serving the two attic level bedrooms. As a result the development would give rise to significant additional overlooking over and above that which would arise from a single storey structure with no windows above ground level despite being located in a context where a level of overlooking is to be expected. Particularly in terms of the adjoining properties of No. 263 South Circular Road and the adjoining property to south that fronts onto Dolphin Avenue.

*6) In the case of a former window extension to a hipped/gable roof, ensure it sits below the ridgeline of the existing roof.*

The design raised the ridge height of No. 265 South Circular Road. Whilst this amendment is not highly visible when viewed from the public domain of No. 265 South Circular Road, it and the fact that the extension's design does not sit below the raised ridge height. In addition, it effectively sits above the ridge height of the adjoining properties No. 267 and No. 269 South Circular Road.

*7) Appropriate separation from the adjoining property should be maintained.*

There is effectively no separation between the subject extension and No. 263 South Circular Road. In relation to this I note that no consent has been demonstrated for the

attachment of any building layer or otherwise to its side elevation. In relation to No. 267 South Circular Road, there is minimal separation between the two. The separation is essentially the width of the chimney stack of No. 265 South Circular Road which adjoins this property. As such there is no appropriate separation from the adjoining property put forward in the design resolution for this development and as discussed the Development Plan does not support such extensions obscuring and or dominating the main roof structure of the host dwelling. In addition, the Development Plan also does not support such insertions being inconsistent with the pattern of development that characterises its setting which this flat roofed dormer extension does.

- 7.3.26. Section 5 of Appendix 18 of the Development Plan also sets out good examples and poor examples of this type of development. The design put forward is consistent with the bad examples provided under Figure 1.2.
- 7.3.27. Further, Section 1.1 of Appendix 18 of the Development Plan, which sets out the general design principles states that applications for extensions to existing residential units should not firstly have an adverse impact on the scale and character of the existing dwelling; and secondly, they should not adversely affect the amenities enjoyed by the occupants of adjacent buildings. The documentation provided with this application has not demonstrated the development complies with this.
- 7.3.28. Moreover, Section 1.2 of Appendix 18 of the Development Plan, in relation to extensions to the rear sets that these: "*will only be permitted where the planning authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities*". Alongside, that they will be considered against a number of factors including but not limited to overbearing, usability, external finishes and design which shall generally be in harmony with one another. In addition, that adequate private amenity space remains to serve the occupants. On the latter point I note that Section 15.11.3 of the Development sets out a minimum standard of 10m<sup>2</sup> to the rear of a house. Thus, based on the five two bedspace bedrooms indicated 100m<sup>2</sup> is required to serve the occupants of this dwelling. This is not achieved in the design put forward and this section of the Development Plan sets out that generally up to 60-70m<sup>2</sup> is considered sufficient for houses in the city and that the standards may be relaxed on a case-by-case basis subject to qualitative analysis of the development.

7.3.29. It is therefore a concern, firstly the drawings do not demonstrate that the minimum provision of 60m<sup>2</sup> can be achieved. Secondly, it is also a concern that the space that is present is of limited amenity value due to its lack of amenity qualitative value for occupants due to its design, layout, level of overshadowing and lack of qualitative quantitative space for a dwelling house with an occupancy potential of 10 persons as presented. This together with the other concerns arising from the development sought under this application would not convince me that this proposal is one of sufficient quality and merit that the private amenity space standards to the rear should be set aside.

7.3.30. Having regards to the above, I am not satisfied that the development is supported by adequate and reasonable public notices, suite of drawings and accompanying information to allow an informed decision to be made. And more crucially given the concerns raised that the type of development sought under this planning application, is a type of development that, if permitted, is one that is inconsistent with the Development Plan provisions for 'ZZ' residential conservation areas. Including period buildings that positively contribute to their built heritage integrity, character through to special sense of place. Alongside where developments to their residential stock are guided to take a precautionary approach to any alterations and extensions, including firstly seeking their retention, reuse, and sympathetic adaption as well as extension. Further, the design is one that is not consistent with the Development Plan's provisions, standards, and guidance for this type of development where such an extension may be deemed to be acceptable.

7.3.31. I therefore do not concur with the Planning Authority's decision that this development, if permitted, accords with the proper planning and sustainable development of the area. On this point I note again that no benefit should arise from the fact that the development has been carried out and its assessment must be based on if it had not been carried out in the first instance. I am also not of the view that conditions can overcome the concerns raised above.

#### 7.4. **Other Matters Arising**

7.4.1. **Civil Matters:** Should the Board be minded to permit the development sought under this application it is advised that they include Section 34(13) of the Planning and Development Act, 2000, as amended, as an Advisory Note as a precaution. This

states that *'a person shall not be entitled solely by reason of a permission under this section to carry out any development'*. Therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

7.4.2. **Car Parking:** Concerns are raised that the multiple occupancy use of the dwelling would give rise to additional demands on the limited car parking provision in this area. In relation to this concern, I note that this overlaps with the contention that the subject property is in multiple occupancy. Whether this is the case or not this application does not seek any such functional change of use. If there is any on-going unauthorised development occurring this is a matter that should be referred to the Planning Authority to investigate and deal with as they see fit. The Boards remit in this case is the *de novo* consideration of the development sought in the planning application to which this Third-Party Appeal case relates against the proper planning and sustainable development of the area. As such there is no material change of function of the subject property sought, but rather development works comprising of substantive alterations, extensions and as discussed probable demolition.

7.4.3. **Drainage:** The drainage details provided with this application are inadequate and it is not demonstrated that any sustainable drainage measures have been incorporated into the overall design and layout of the development sought so as to ensure that no additional surface water drainage demands are placed upon public drainage infrastructure by the loss of deep soil and permeable surfaces.

## 7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the development sought under this planning application, within an established urban area, and the distance 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 retention permission be **refused**.

## 9.0 Reasons and Considerations

1. Having regard to the nature, scale and extent of the development sought to No. 265 South Circular Road, a period dwelling that forms part of a period terrace, in a urban and visual setting that is subject to the 'Z2' land use zoning objective under the Dublin City Development Plan 2022-2028, which has the stated objective "*to protect and/or improve the amenities of residential conservation areas*", it is considered that the additional first floor level attic extension together with the overall part single part two storey extension and the quantum of buildings to the rear of this host dwelling would be visually obtrusive, overtly conspicuous and out of character with the pattern of development in its immediate setting. In particular above eaves level of group of three period single storey dwellings that are positioned at the intersection of Dolphin Avenue and South Circular Road.

At such a location, the development, in particular the first floor addition would seriously injure and detract from the visual amenities of the residential conservation area as appreciated from the western side of Dolphin Avenue in proximity to where it meets South Circular Road by way of its design not demonstrating compliance with the provisions set out under Appendix 18 for residential extensions to existing dwellings and in particular having regard to the design being one that would seriously injure the amenities of property and diminish the visual contribution of No. 265 South Circular Road to its residential conservation area, in a manner that would be contrary to the settings residential conservation area land use zoning as well as would be contrary to Section 11.5.3, Policy BHA9 and Policy BHA10 of the Development Plan.

The development sought under this application would therefore be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development by reason of its design and its seriously inadequate provision of private open space for the occupants of the dwelling and the additional level of overlooking that would arise, would be an inappropriate form of development at this location and would represent significant overdevelopment to the rear of this constrained site. The part single storey and part two storey together with the quantum of development to the rear of the site,

would therefore, seriously injure the amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3. It is considered that the public notices and that the details of the development sought under this application differ materially from the works that have been carried out on site and for which retention is now sought. In this circumstance, the Board is, therefore precluded from granting permission for the development sought under this application.

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Patricia-Marie Young  
Planning Inspector

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