



An
Bord
Pleanála

Inspector's Report

ABP-315490-23

Development

Permission is sought for the retention of attic conversion as constructed including dormer extensions to the rear and side of the attic conversion and all associated site works.

Location

No. 2 Riverside Park, Clonshaugh, Dublin 17, D17 NY77.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

5013/22.

Applicant(s)

Andrew Brown.

Type of Application

RETENTION PERMISSION.

Planning Authority Decision

Refused.

Type of Appeal

First Party.

Appellant(s)

Andrew Brown.

Observer(s)

None.

Date of Site Inspection

9th day of March, 2023.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. No. 2 Riverside Park, the appeal site has a given 456m² site area and is situated on the south eastern corner of Riverside Park's junction with Clonshaugh Road, c0.4km to the north of Clonshaugh Road's intersection with Oscar Traynor Road and c1.3km to the south of its junction with R139, over 6km to the north of Dublin's city centre. The site contains a 2-storey with side and rear dormer additions at attic level. The eastern side of Clonshaugh Road is characterised two storey residential development, mainly semi-detached and terrace in built form with Clonshaugh Business Park situated on the opposite side of this road.

2.0 Proposed Development

- 2.1. **Retention** permission is sought for existing attic conversion as constructed including dormer extensions to the side and rear of an attic conversion together with all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 2nd day of December, 2022, retention permission was refused for the following single stated reason:

"The current Dublin City Development Plan 2016-2022 requires, under Section 16.2.2.3, that extensions should be clearly subordinate to the existing building in scale and design and under Appendix 17 that dormer extensions should reflect the character of the surrounding buildings and the age and appearance of the existing building. Having regard to the prominent and exposed location of this corner site, the development to be retained would be visually dominant, over scaled, and obtrusive in the streetscape and would therefore, in itself by the precedent it would set for the construction of similar dormer extensions, be seriously injurious to residential and visual amenity and be contrary to the proper planning and sustainable development of the area."

3.2. Planning Authority Reports

3.2.1. Planning Reports

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

- The principle for the requirements of Condition No. 12 of the parent grant of permission still stand given that both the side and rear structures due to their size and scale have an overbearing impact on the visual and residential amenity of the surrounding area.
- The examples cited by the applicant are not comparable.
- The requirements of Condition No. 12 are consistent with Planning Authority decisions and with the Development Plan provisions for dormer developments.
- Cumulative similar developments would be seriously injurious to residential and visual amenities of the area.

3.2.2. Other Technical Reports

Drainage: No objection.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. Site

P.A. Ref. No. 3195/23: Planning permission was **refused** for the sub-division of existing site to construct a detached two storey 3-bedroom house with single storey element to rear, connection to public foul sewer and all associated site works. The single stated reason reads:

“The Dublin City Development Plan 2022-2028 requires, under Section 15.13.3 Infill /Side Garden Housing Developments, that the Planning Authority shall have regard to criteria for any new corner/side garden dwelling to demonstrate compatibility of design and scale with adjoining dwellings, paying attention to the established building line in addition to giving due regard to the criteria for open space standards for both existing and proposed dwellings. Having regard to the prominent and exposed location of this corner site, it is considered that the proposed development, by reason of its scale, form and design, would be visually obtrusive, would breach the established building line along Clonshaugh Road, would reduce the openness of the established streetscape and would provide an unacceptable level of remaining usable private open space for the current and future occupants of the parent dwelling (No. 2 Riverside Park.) The proposal would as a result seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.”

Decision date: 3rd day of April 2023.

P.A. Ref. No. 3584/22:

Planning permission was granted subject to conditions for a development described as demolition of single sub-standard side extension to existing end of terrace two storey house, permission for the construction of an attic conversion with permission to construct a dormer side and rear window, permission to enlarge existing vehicular entrance and all associated site works.

Of relevance to this appeal are the following conditions:

Condition No. 1:

“Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made thereunder are concerned, the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto. For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately

stated in the statutory public notices.” The stated reason: “to comply with permission regulations.”

Condition No. 7:

“All elevations, fascia/soffits rainwater goods and window frames glazing bars on the rear dormer shall be finished in a dark colour so as to blend with the existing roof. No white uPVC shall be used.”

The stated reason: *“in the interests of visual and residential amenity.”*

Condition No. 12:

“a) The side roof dormer shall be revised so as to be fully contained within the existing side roof plane as a floating and subordinate roof element, to be centred upon the existing roof plane as much as possible, so as to be fully , physically, and visual disaggregated from the proposed rear dormer. The side roof dormer shall be set down at least 200mm from the ridgeline and pulled back at least 500mm from the eaves of the original dwelling.

b) The rear roof dormer shall be revised so as to be fully contained within the existing rear roof plane as a floating and subordinate roof element, to be centred upon the existing roof plane as much as possible, so as to be fully physically and visually disaggregated from the proposed side dormer. Any associated window shall have a vertical emphasis. The rear roof dormer shall be set down at least 200mm from the ridgeline and pulled back at least 500mm from the eaves of the original dwelling.

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority.”

The stated reason: *“in the interests of residential amenity.”*

Decision date: 30th day of June 2022.

P.A. Ref. No. 4897/22: Planning permission was **refused** for a two storey four-bedroom detached dwelling to the side of existing dwelling with vehicular access to be shared with the parent dwelling together with all associated site works. The given

reason for refusal related visually breaking the building line of Clonshaugh Road, substandard residential amenities, adverse visual impact on the streetscape scene.

Decision date: 15th day of November, 2022.

P.A. Ref. No. 3878/22: Planning permission was **refused** for the subdivision of existing site and the construction of a detached two storey four-bedroom house with home office attic space together with all associated site works. The given reason for refusal related to overdevelopment of the site, substandard private amenity space for occupants of the parent dwelling through to visually obtrusive on the streetscape of River Park and Clonshaugh Road.

Decision date: 28th day of June, 2022.

4.2. **Other**

4.2.1. **Enforcement:**

Enforcement taken in relation to non-compliance with Condition No. 12 of P.A. Ref. No. 3584/22.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The Dublin City Development Plan, 2022-2028, came into effect on the 14th day of December, 2022, under which the site is zoned '*Z1 – Sustainable Residential Neighbourhoods*'.

5.1.2. 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*".

5.1.3. Chapter 5 of the Development Plan deals with the matter of quality housing and sustainable neighbourhoods.

- 5.1.4. Chapter 15 of the Development Plan sets out the development management standards.
- 5.1.5. Volume 2, Appendix 18, Section 1.0 deals with the matter of residential extensions with subsection 4 and 5 dealing specifically with dormer additions.

5.2. **Natural Heritage Designations**

- 5.2.1. None within the zone of influence of the project.
- 5.2.2. The nearest European site, i.e., South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) is situated c4.1km to the south at its nearest point.

5.3. **EIAR Screening**

- 5.3.1. See completed Form 2 on file. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. The First Party's grounds of appeal can be summarised as follows:
- The dark colour used to comply with Condition No. 7 was not the best solution.
 - In relation to the revisions required under Condition No. 12 it is contended that the development was constructed in compliance with it.
 - A 200mm reduced ridge height brought no benefit to the development and what has been constructed is similar to other developments in the area.
 - Permission has been refused for the construction of a dwelling in the side garden of the property.

- The Planning Authority has been unduly onerous in the design conditions attached to the previous grant of permission and the amendments required would have made the development unsustainable and unusable.
- The 200mm reduction in height would not have visually improved the area.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority seek that the Board uphold its decision, however, in the event of permission being granted a Section 48 contribution condition be imposed.

6.3. Observations

- 6.3.1. None.

7.0 Assessment

- 7.1. I have carried out an inspection of the site setting, examined the file and the planning history, alongside considered all policies and guidance and the submissions of all parties. I consider that the key issues that arise in this case are those raised by the First Party Appellant in their grounds of appeal submission to the Board. This submission seeks that the Board should overturn the decision of the Planning Authority to refuse retention permission for retention of attic conversion with dormer side, rear extensions and their associated works as constructed.
- 7.2. The Planning Authority in their response to the grounds of this appeal seek that the Board uphold its decision.
- 7.3. There are no Third-Party observers in this appeal case.
- 7.4. In terms of the principle of the development sought and given the site's location on 'Z1' land, which has the land use objective of seeking to: "protect, *provide and improve residential amenities*", alongside extensions to residential dwellings, albeit in this case relating to a dwelling house yet to be constructed, is generally deemed to be acceptable, subject to safeguards.
- 7.5. I also note that the efficient use of serviced urban land by way of increased residential densities is in line with regional and national policy provisions.

- 7.6. I therefore consider the principle of the development is acceptable.
- 7.7. In relation to the development sought under this application the first concern relates to the lack of compliance with conditions attached to the grant of permission P.A. Ref. No. 3584/22. Under this grant of planning permission, the Planning Authority permitted a development consisting of the demolition of single side extension to existing end of terrace two storey house, permission for the construction of an attic conversion with permission to construct a dormer side and rear window, permission to enlarge existing vehicular entrance and all associated site works at No. 2 Riverside Park, the host dwelling.
- 7.8. This grant of permission was subject to conditions. Including Condition No. 1 which required that the works associated with this permitted development be carried out as per the plans, particulars and specifications set out in the documentation accompanying this application save as where compliance with other conditions were required.
- 7.9. The appellant in their grounds of appeal carried out the works at variance with this condition by way of not submitting for the prior written agreement of the Planning Authority the revisions set out under Condition No. 12(a) and (b) prior to the commencement of development.
- 7.10. As set out under Section 4.1 of this report Condition No. 12(a) and (b) sought that the side and rear dormer additions be subordinate to the roof structure of the host dwelling. In the case of the side dormer, sub condition (a) required it to be: *“centred upon the existing roof plane as much as possible, so as to be fully, physically and visually disaggregated from the proposed rear dormer.”* It also sought that the: *“side roof dormer shall be set down at least 200mm from the ridgeline and pulled back at least 500mm from the eaves of the original dwelling”*. In the case of sub condition (b) it required that the rear dormer to be revised *“so as to be fully contained within the existing rear roof plane as a floating and subordinate roof element, to be centred upon the existing roof plane as much as possible, so as to be fully physically and visually disaggregated from the proposed side dormer”*. It also sought that: *“any associated window shall have a vertical emphasis”* and that: *“the rear roof dormer shall be set down at least 200mm from the ridgeline and pulled back at least 500mm from the eaves of the original dwelling”*.

- 7.11. The reason for these revisions was given as being: “*in the interests of visual and residential amenity*”.
- 7.12. In addition, to not submitting amendments to the proposed development to the Planning Authority to comply with the requirements of Condition No. 12(a) and (b) the works were carried out in a manner that effectively set aside these requirements in favour of carrying out the development as originally sought. The subject works of concern under this application are the dormer attic side and rear additions. The works relating to them, and the other development permitted under P.A. Ref. No. 3584/22, at the time of my site inspection were completed.
- 7.13. Since the Planning Authority made their determination on P.A. Ref. No. 3584/22 the Dublin City Development Plan, 2022-2028, has been adopted. This is therefore the applicable Development Plan for the Board to determine the development sought under this retention application. This new Development Plan carries through the same but more robust criteria for dormer developments than the previous plan.
- 7.14. Having regard to the Planning Authority’s Planning Officer’s report for P.A. Ref. No. 3584/22, it is clear that they considered that the proposed side and rear dormer as proposed gave rise to substantive visual amenity concerns. This was on the basis of the proposed designs and overall built form lack of appropriate subordination with the host dwelling.
- 7.15. It was also considered that, if permitted, it would result in a visually overbearing impact on its setting adversely impacting upon its visual and residential amenity. On the basis of lack of appropriate subordination and respect for the host dwelling as well as setting.
- 7.16. Further, reference was had to the Development Plan provisions in place at the time their report was prepared in support of their concerns. In this regard it was considered that the lack of subordination of the design was not consistent with the provisions set out under Appendix 17.11 of the previous Development Plan and that revisions to it were therefore required. The revisions sought under Condition No. 12 sought to address these concerns and to ensure no undue visual as well as residential amenity impact in a manner that accorded with the proper planning and sustainable development of the area.
- 7.17. Having regard to the case at hand and the proposed development sought under this application I note that the First Party are of the view that the manner in which the works

have been carried out are consistent with similar developments in the area and that other conditions such as Condition No. 7 which required a dark colour treatment of the attic additions were complied with despite them not agreeing with their merit. It is also their contention that the revisions required under Condition No. 12, if they had been carried out, would have resulted in no significant visual impact difference over the development as constructed. Moreover, it is their view to have implemented the requirements of Condition No. 12(a) and (b) the outcome would be a development that would be unsustainable and unusable for them. They make no comment as to why they decided to implement the development works without first seeking any prior agreement with the Planning Authority or engaging any design amendments to address the requirements of Condition No. 12 as part of the demolition and construction works associated with the grant of permission P.A. Ref. No. 3584/22.

7.18. In relation to the examples cited by the appellant I note that none of these examples were determined under the provisions of the current and previous Development Plan. In addition, some do not appear to have grants of planning permissions in place pertaining to them. Further, the examples cited, irrespective of their age and planning status do not relate to similar comparable highly visible and highly prominent locations. Nor are their designs comparable to those deemed to be permissible with local planning provisions where permissions for similar developments have been permitted under the current and previous Development Plan.

7.19. No. 2 Riverside Park occupies a prominent position at a corner site that shares a roadside boundary with the heavily trafficked Clonshaugh Road opposite Clonshaugh Business Park. Alongside this the site is located at a point where the host dwelling marks the entrance to the residential street of Riverside Park at a point where semi-detached pairs characterise Clonshaugh Road and Riverside Park. With these semi-detached pairs sharing a highly uniform and coherent character in terms of their architectural design resolution, built form appearance through to pattern of development in terms of their placement relative to the public domain. In particular Riverside Parks once highly coherent and uniform pattern of matching two-storey semi-detached dwellings with shared setbacks from the public domain, building lines, roof forms and the like are highly visible from Clonshaugh Road. This uniformity informs the character of the Riverside Park streetscape scene and in similarity similar in architectural design, materials, built form and pattern two-storey built forms address

the eastern side of Clonshaugh Road creates further harmony to the site's setting and streetscape scene.

- 7.20. In addition, Clonshaugh Road though slightly meandering in its north south route alignment is also characterised by its generous width and relatively straight alignment to the north and south of its junction with Riverside Park. This fact when taken together with the treatment of the public domain and the semi-private domain of buildings on the eastern side of this road adds to the visibility of No. 2 Riverside Park and with the development carried out to the side of No. 2 Riverside Park breaking the once share building line that once existed between No. 2 Riverside Park and No.70 Clonshaugh Road. Together with the semi-detached pairs of buildings addressing the eastern side of Clonshaugh Road to the north and south of the Riverside Park and Clonshaugh Road junction.
- 7.21. Having regard to the provisions of the applicable Development Plan I note that Appendix 18 of the Development Plan is particularly relevant to the development sought for retention. Under Section 1.1 it sets out the general principles for residential extensions plays acknowledging that they play 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."*
- 7.22. In addition, Section 1.1 of Appendix 18 of the Development Plan sets out that the design of residential extensions should have regard to the amenities of adjoining properties; that they should not have an adverse impact on the scale and character of the existing dwelling; that they should achieve a high quality of design; through to they should make a positive contribution to their streetscape scene.
- 7.23. Further, Section 4.0 of Appendix 18 of the Development Plan, which deals with alterations at Roof Level/Attics/Dormers/Additional Floors, states that: *"the roofline of a building is one of its most dominant features and 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 for assessing alterations at roof level including:
- *'Careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures'*.
 - *'Existing roof variations on the streetscape'*.

- *‘Distance/ contrast/ visibility of proposed roof end’.*
- *‘Harmony with the rest of the structure, adjacent structures, and prominence’.*

These criteria are added to by Section 5.0, which states that: “*dormer windows, where proposed should complement the existing roof profile and be sympathetic to the overall design of the dwelling*” and its accompanying Table 18.1 setting out guidance on what is deemed acceptable and what is not in terms of dormer window insertions at attic level.

7.24. Of concern the proposed side and rear dormer windows for which retention is now sought is contrary to the above Development Plan provisions and in particular it conflicts with the following guidance in Table 18.1:

- *‘Dormer windows that are overly dominant in appearance or give the impression of a flat roof should be avoided’.*
- *‘Be visually subordinate to the roof slope enabling a large portion of the original roof to remain visible’.*
- *‘Be setback from the eaves level to minimise their visual impact and reduce the potential for overlooking of adjoining properties’.*
- *‘In the case of a dormer window extension to a hipped/gable roof, ensure it sits below the ridgeline of the existing roof’.*
- *‘Relate to the shape, size, position and design of the existing doors and windows on the lower floors’.*

This conflict is on the basis of firstly having regard to the built form of the hipped roof of the host semi-detached pair; the visual coherence of roof structure within this formally designed and laid out residential area that has survived highly intact in terms of its shape, profile, massing, and materials; and the prominence of the host dwelling within its suburban-scape context as discussed. When these factors are taken together with the design of the side and rear dormer, structures that as a result of their height and width, would obscure the side and rear roof of the host dwelling. Alongside given the visual appearance and their overt apparentness as viewed in their setting. Particularly in the case of the side dormer window’s lack of setback from the eaves and lack of set down from the ridge height and height, width, and depth of its built form.

- 7.25. The latter in part reiterated in the rear dormer, in particular in terms of lack width, depth, height and overall bulk, effectively result in the host dwelling having a three-storey appearance in its setting. With this three-storey appearance being visually at odds with the character of residential properties that characterise Riverside Park and also the two storey semi-detached pairs within the visual streetscape scene of Clonshaugh Road, a heavily trafficked route that provides connectivity between Oscar Traynor Road to the south and the R139 to the north and is bound on its western side by Clonshaugh Business Park.
- 7.26. In addition, in my view there is also a lack of harmony in terms of the sizing of the glazing with the lower ground floors, the host dwelling and the semi-detached pair it forms part of. With the sizing of the rear window through to the manner in which the glazing being provided resulting in additional overlooking and perception of overlooking of properties in the vicinity, in particular the private open space of No.s 4 Riverside Park and No. 70 Clonshaugh Road.
- 7.27. Moreover, the three-storey appearance and the level of modifications to the roof structure that obscures the main hipped roof profile of No. 2 and creates a visual imbalance in the overall roof appearance of No. 2 and 4 Riverside Park as a semi-detached pair, that is not subordinate and is visually at odds with the pattern of development that the subject host dwelling and semi-detached forms part of.
- 7.28. Given that the Development Plan provisions clearly set out that extensions to existing dwellings, including dormers, will only be considered where they demonstrate no undue visual and/or residential amenity impact. In this circumstance the design fails to demonstrate this and as a result, if permitted, in the form proposed it would be a type of development that has the potential to give rise to an undesirable precedent for other similar developments.
- 7.29. I also do not accept that the floor-to-ceiling height of 2.5m, a height which is above that of 2.4m ground and first floor level given measures is justification in itself for the lack of compliance with the requirements of Condition No. 12. Also, there are a variety of drainage solutions available to deal with surface water run-off.
- 7.30. Based on the above considerations, I recommend that the Board do not overturn the decision of the Planning Authority in this case, on the basis that the development for which retention permission is sought fails to accord with 'Z1' land use objective of the

site and its setting. This land use objective seeks to balance the protection of existing residential and new residential developments. Alongside the development for which permission is sought does not demonstrate compliance with the provisions set out in the Development Plan for extensions and dormer extensions to existing dwellings. As such it is a type of development that gives rise to injury of visual and residential amenities as well as has the potential to give rise to an undesirable precedent for other similar developments. Further to grant permission for the development sought under this application would give rise to a development that fails to accord with Condition No.s 1 and 12 attached to the grant of permission P.A. Ref. No. 3584/22. With Condition No. 12 seeking reasonable revisions to the permitted development to ensure its compliance with local planning policy provisions.

7.31. **Appropriate Assessment**

7.32. Having regard to the nature and scale of the proposed development, the site's location in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not 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 for the development sought under this application be **refused** for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

1. The Dublin City Development Plan, 2022-2028, sets out in Appendix 18 the requirements for extensions and roof extensions. It requires that the design of dormers should reflect the character of the area and the appearance of the existing building and that dormer windows should be visually subordinate to the roof of the host dwelling.

It also provides specific guidance for such developments under Section 4, 5 and Table 5.1 which the design resolution for the development sought under this application fails to demonstrate compliance with.

The scale, bulk, position, and appearance of the side and rear dormer for which permission is sought would be excessive, visually incongruous, and obtrusive to the host dwelling, its subject semi-detached pair and the semi-detached pairs characterising its Riverside Park and Clonshaugh Road streetscape scene as well as when viewed from the semi-private and private domain of adjoining properties. In particular No. 4 Riverside Park and No. 70 Clonshaugh Road. The visual incongruity is added to by the prominent and highly visible location of No. 2 Riverside Park, particularly from the public domain of the heavily trafficked Clonshaugh Road, a through road that connects Oscar Traynor Road with the R139 and as viewed from the Clonshaugh Business Park that lies on the opposite side of this road.

This development would detract from the visual appearance of the existing house, its semi-detached pair, and the streetscape such as to cause, in itself and by the precedent established for similar over-scaled development, in turn would result in serious injury to the visual and residential amenity of the area.

It is therefore considered that the development sought under this application would therefore be contrary to the policies and objectives of the Dublin City Development Plan, 2022-2028, and it would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Patricia-Marie Young
Planning Inspector

17th day of July, 2023.