



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315493-23

#### Development

Removal of rear extension and sheds.  
Construction of single-storey extension and patio, attic conversion with modifications to roof, new drainage connection, modifications to the existing house layout and all associated site works.

#### Location

No. 22 Copeland Avenue, Clontarf, Dublin 3, D03 XN35.

#### Planning Authority

Dublin City Council.

#### Planning Authority Reg. Ref.

5028/22.

#### Applicant(s)

Jenny McCormac & Trevor Wisdom.

#### Type of Application

Planning Permission.

#### Planning Authority Decision

Grant with conditions.

#### Type of Appeal

Third Party.

#### Appellant(s)

Michael Dunne.

#### Observer(s)

None.

#### Date of Site Inspection

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

#### Inspector

Patricia-Marie Young.

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations .....	5
5.3. EIA Screening .....	6
6.0 The Appeal .....	6
6.1. Grounds of Appeal .....	6
6.2. Applicant Response .....	6
6.3. Planning Authority Response .....	7
6.4. Observations .....	7
7.0 Assessment.....	7
8.0 Appropriate Assessment.....	12
9.0 Recommendation.....	12
10.0 Reasons and Considerations .....	12
11.0 Conditions .....	12

## 1.0 Site Location and Description

1.1. No. 22 Copeland Avenue, the appeal site has a given site area of 355.09m<sup>2</sup>. It contains a two-storey semi-detached property with later single storey rear extension that addresses but is setback from the southern side of Copeland Avenue, c130m to the east of its junction with Malahide Road, in the suburb of Clontarf, just over 3km to the north east of Dublin's city centre as the bird would fly. The setback area consists of mainly soft landscaping. To the rear in close proximity to the single storey rear extension and on the boundary with No. 24 Copeland Avenue there are two single storey flat roof shed structure. Copeland Avenue is characterised by its street trees that line either side of its public carriageway. Pairs of semi-detached properties dating to before WW2 address both sides of Copeland Avenue.

## 2.0 Proposed Development

2.1. Permission is sought for:

- The removal of an existing rear extension with a given 13.88m<sup>2</sup> floor area and rear sheds with a given 10.43m<sup>2</sup> floor area.
- Construction of a rear extension with a given 39.6m<sup>2</sup> floor area with a green sedum roof over and a patio area; an attic conversion with a given floor area of 14.17m<sup>2</sup> with this including rear dormer and modifications to the roof, a hipped gable, upgraded insulation and new stairs from first floor level.
- Modifications to the existing house layout including upgrading of insulation and new window openings.
- Boundary modifications.
- New drainage connection.
- All associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 6<sup>th</sup> day of December, 2022, the Planning Authority **granted** permission subject to 12 no. mainly standard conditions including:

Condition No. 3: Requires revision to the design so that the hipped roof is retained in its entirety; the pitched roof dormer shall be set down 300mm below the main ridge line and 300mm inward from the side roof plane. In addition, the rear dormer shall be a minimum of 300mm below the ridgeline and its roof with the east side wall amended so that it runs back into the side wall of the amended side dormer extension. Further it seeks that the glazing of the rear dormer matches the proportions of the first-floor level bedroom window.

Condition No. 4: Sets out the external treatment of the side and rear dormer.

Condition No. 5: Restricts any structures being erected onto the flat roof of the rear dormer.

Condition No. 6: Restricts the use of attic space.

Condition No. 7: Restricts the use of the flat roof of the rear extension.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer's report dated the 29<sup>th</sup> day of November, 2022, is the basis of the Planning Authority's decision. It considered that the nature and scale of the proposed development subject to safeguards, including amendments to the alterations and additions at roof level as part of addressing concerns that as proposed they would be visually incongruous when viewed as part of their streetscape context, would not give rise to any undue amenity impacts and that it accorded with the provisions of the City Development Plan.

#### 3.2.2. Other Technical Reports

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

### **3.3. Prescribed Bodies**

3.3.1. None.

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

3.4.1. The Appellant in this case submitted a Third-Party Observation to the development sought under this application. A copy of this observation and a number of photographs are attached to file. The issues raised in my view correlate with those raised by them in their appeal submission. It indicates that they object to any interference or access to their property to facilitate the proposed development and object to the existing oversailing of No. 22 Copeland structures on their property.

## **4.0 Planning History**

### **4.1. Site & Setting**

4.1.1. No recent relevant site and/or setting planning history.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1. 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'. 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*".

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

5.1.3. Appendix 18 of the Development Plan is relevant as it sets out for guidance for the development sought.

### **5.2. Natural Heritage Designations**

5.2.1. None within the zone of influence.

5.2.2. The nearest Nature 2000 site, South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) is located c0.6km to the south east of the site at its nearest point.

### 5.3. **EIA Screening**

5.3.1. See completed Form 2 on file. Having regard to the location of the site, which is in a serviced and residentially zoned area, the brownfield nature of the site which is connected to public mains water and foul drainage, the nature, and characteristics of the lands between the site and the nearest Natura 2000 site together with the significant lateral separation between the two as well as lack of any connectivity. Alongside the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required in this case.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. The Third-Party grounds of appeal can be summarised as follows:

- Procedural concerns are raised in relation to the Planning Authority's handling of their observation.
- The applicants have constructed onto their property without their permission.
- Other examples of similar developments in Copeland Avenue have not encroached onto land outside of their ownership.
- This development would interfere with the enjoyment of their home by way of adversely impacting light to their property.
- Proposal has the potential to cause damage to structures along their boundary.

### 6.2. **Applicant Response**

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

- Structural issues and need for modernisation of this c1938 are raised.

- It is asserted that the existing shared sewer running to the rear of No.s 18, 20, 22 and 24 Copeland Avenue is misaligned and has caused a number of blockages in recent times. The expert advice recommends its replacement and rerouting. This application includes rerouting of the shared drain through their driveway.
- The appellant raises the same concerns as those raised in their submission to the Planning Authority.
- They do not wish to comment upon the procedural issues raised in the appellants appeal submission.
- The rear extension of No. 22 Copeland Avenue was constructed on or wholly behind the property boundary. In addition, the proposed extension does not encroach onto No. 24 Copeland Avenue.
- The proposed extension is single storey, is located to the north of the appellants property and would give rise to no undue overshadowing or other adverse residential amenity impact.
- The existing shed structures already give rise to overshadowing of the appellants property.
- Works that would impact any party structure would be carried out in a manner to ensure no damage or destabilization of existing structures.

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

6.3.1. The Planning Authority's seek that the Board uphold their decision.

### **6.4. Observations**

6.4.1. None.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. This Third-Party Appeal relates to a proposal for the demolition, alterations and additions to No. 22 Copeland Avenue, a circa 1930s semi-detached dwelling that forms part of a group of semi-detached dwellings that address Copeland Avenue in

the mature residential area of Clontarf, to the north east of Dublin's city centre. The site and its setting forms part of a larger parcel of 'Z1' residentially zoned land under the Dublin City Development Plan, 2022-2028, under which the principle of this type of development, subject to safeguards, is deemed to be generally acceptable.

7.1.2. Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to this appeal, case together with having had regard to relevant local through national policy provisions and guidance, I consider that the main issues for assessment in this appeal case relate to those raised by the appellant in their grounds of appeal submission. I consider that the main issues for assessment are as follows:

- Procedural
- Civil
- Residential Amenity Impact

7.1.3. In addition, the matter of 'Appropriate Assessment' requires examination.

7.1.4. I also note that the First Party in response to the appeal submission seek that the Board omit the requirements of Conditions No.s 3 (a), (b), (c); 4 and 6 from the Planning Authority's notifications grant of permission. No separate s139 appeal was submitted by them for the Board to determine such matters.

7.1.5. On this matter, given the provisions of the Development Plan for alterations and additions to existing dwelling house, particularly those set out under Section 1, 4 and 5 of Volume 2 Appendix 18 for dormer extensions I consider that the requirements of these conditions cumulatively ensure that the proposed development would accord with these relevant local planning provisions. In so doing compliance with the requirements of these conditions would ensure that the proposed development would give rise to no undue visual and residential amenity impact would arise from the proposed development, if implemented. I therefore do not propose to deal further with the requirements of these conditions in the context of this assessment.

7.1.6. Similarly, I consider that other components of the proposed development, i.e., provision of new drainage connection, upgrading of insulation through to other associated works give rise to no substantive issue that would warrant revisiting by the Board in its determination of this appeal case.



7.1.7. For clarity I note that since the Planning Authority determined this application the Dublin City Development Plan, 2022-2028, was adopted.

## 7.2. **Procedural**

7.2.1. The appellant in this appeal case raises a procedural handling concerns in relation to the Planning Authority's handling of their appeal submission. These concerns I have noted. In this case I note that the Board does not have an ombudsman role on such matters.

## 7.3. **Civil**

7.3.1. The appellant in this appeal case raises a number of concerns in relation to the proposed developments potential to interfere with and encroach onto their property. They also raise concerns that the proposed development has the potential to give rise to structural integrity issues for structures on the boundary between their property No. 24 Copeland Avenue, the adjoining property to the south. It is also clear that the appellants object to any development that would require their consent to carry out.

7.3.2. The First Party assert that the proposed development would be carried out in accordance with best practices so as to ensure no adverse impact arises to the shed structures that are situated on the property boundary between No. 22 and 24 Copeland Avenue. They also assert that the proposed development would be carried out within the confines of their curtilage and as such the need for consent from the property owners of No. 24 Copeland Avenue is not required.

7.3.3. The submitted drawings show that the proposed demolition and extension works would occur within the redline area of the site. The nature of the works is such that the demolition works and given the envelope of the rear ground floor level extension proposed would adjoin existing shed structures and the boundary treatment between both properties.

7.3.4. It is however my opinion that any instances of damage to, or interference with, the appellants' property attributable to the proposed development would essentially be a civil matter for resolution between the parties concerned.

7.3.5. I also refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant

of permission for the subject proposal would not in itself confer any right over private property.

7.3.6. I also note that the Planning Authority included advisory notes with their notification to grant permission with Advisory Note 2 reading as follows: *“a grant of Planning Permission does not entitle the applicant to construct a development that would, oversail, overhang or otherwise physically impinge upon an adjoining property without the permission of the adjoining property owner”*.

7.3.7. Based on the above considerations, should the Board be minded to uphold the Planning Authority’s decision to grant permission I recommend that it include as a precautionary measure the aforementioned requirements of Section 34(13) of the PDA, 2000, as amended.

#### **7.4. Residential Amenity Impact**

7.4.1. The appellant raises a concern that the proposed development, if permitted, would give rise to adverse overshadowing of their property and as a result adversely diminish their residential amenities. In support of this the appellant has attached a number of photographs that are contended to show the existing context which they contend would be further added to by the proposed development if it were to be permitted as proposed. No expertly prepared shadow analysis has been provided by the Appellant or by the First Party in their response to the grounds of this appeal.

7.4.2. In addition, I note that the First Party assert that any overshadowing that would arise from the proposed additions to No. 22 Copeland Avenue would be modest, would not be significant in relation to its suburban context and the pattern of development that characterises this locality. They therefore contend that any overshadowing that would arise would not in itself sustain overturning the Planning Authority’s decision.

7.4.3. Having regard to the proposed extensions to the rear of No. 22 Copeland Avenue, I consider that the single storey flat roofed rear extension and the amendments above eaves level to accommodate an attic conversion as well as extension would not give rise to any undue overshadowing of the appellants property No. 24 Copeland Avenue or other properties in the vicinity.

7.4.4. This is based on the aspect of No. 22 and 24 Copeland Avenue which as a semi-detached pair have a westerly rear elevation aspect with No. 24 Copeland Avenue

situated on the southern side. The overall built form of the rear extensions, in particular, confining the built form of the ground floor rear extension to a single storey flat roofed structure with a height of 3.575m despite it extending in depth c8m into the rear garden area. The separation distance between No. 22 Copeland Avenue and the adjoining property to the north (No. 20 Copeland Avenue) together with the presence of single storey shed structures present to the immediate north and positioned on what appears to be the party boundary, the placement of the dormer extension centrally in the roof structure over through to having regard to the pattern of development to the rear of properties on the western side of Copeland Avenue.

- 7.4.5. Given these factors, it is my opinion that any additional overshadowing that would arise in its context would be of a type of impact that is to be expected in a suburban setting such as this and would not be such that it would sustain a refusal of planning permission or would require a change to the overall design.
- 7.4.6. I also note that adjoining properties to the north and south have generous in width and depth rear private amenity spaces that have access to southerly light penetration due to their general east west alignment.
- 7.4.7. Having regard to the local planning provisions I note that Section 1.1 Appendix 18, Volume 2 of the Development Plan requires residential extensions to have regard to the amenities of adjoining properties and including their need for light. It states that this type of development should not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of daylight and sunlight. In addition, Section 1.6 Appendix 18 Volume 2 of the Development Plan in relation to an urban context that: "*some degree of overshadowing is inevitable and unavoidable*".
- 7.4.8. Having examined the proposed development, I consider that the proposed development balances the protection of established residential amenities and the improvements sought to improve the residential amenities of No. 22 Copeland Avenue for future occupants. I concur with the Planning Authority that no undue adverse residential amenity impacts would arise from the proposed development, overshadowing, overbearing, overlooking or otherwise subject to the revisions sought under the notification to grant permission. I am also satisfied that the proposed development accords with the provisions of the operative City Development Plan, is in

keeping with the pattern of development in the area and therefore is consistent with the proper planning and sustainable development of the area.

## 8.0 **Appropriate Assessment**

- 8.1.1. Having regard to the nature and scale of the proposed development, the distance from the nearest European site, the serviced nature of the site and intervening urban landscape, 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.

## 9.0 **Recommendation**

- 9.1. I recommend that planning permission be **granted**.

## 10.0 **Reasons and Considerations**

- 10.1. Having regard to the pattern and character of development in the area, the design and scale of the proposed development, and the provisions of the Dublin City Council Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the 'Z1' zoning objective for the site, would not seriously injure the residential amenity of surrounding properties and the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of

development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The existing hipped roof shall be fully retained while the proposed attic stair shall be accommodated via a hipped pitched roof dormer, set 300mm below the main ridge line and 300mm inward from the side roof planes. The applicant is referred to the example at No. 37 Copeland Avenue (P.A. Ref. No. 2555/14).

(b) The rear dormer shall be set down a minimum of 300mm below the main ridgeline and its roof and east side wall shall run back into the side wall of the amended side dormer extension.

(c) The glazing to the rear dormer shall match the proportions of the first-floor bedroom window below.

**Reason:** In the interest of the visual amenity of the streetscape and to accord with current Dublin City Development Plan requirements, in particular those set out under Appendix 18.

3. The attic space hereby approved shall not be used for human habitation unless it complies with the current Building Regulations.

**Reason:** To ensure a satisfactory standard of development.

4. Water supply and drainage requirements, including surface water collection and disposal, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

5. Access to the flat roof of the rear extension shall be restricted to fire escape and maintenance purposes only.

**Reason:** In the interest of protecting residential amenities.

6. The external finishes of the dormer shall be similar to those of the existing dwelling in respect of colour and texture.

**Reason:** In the interest of visual amenity.

7. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

9. The site development works, demolition and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil, and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Advisory Note:**

1. Section 34(13) of the Planning and Development Act, 2000, as amended, which states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.

*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

17<sup>th</sup> day of July, 2023