



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316860-23

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<b>Development</b>	Ground floor and first floor extension and conversion of existing garage to habitable purposes.
<b>Location</b>	116, Vernon Avenue, Clontarf, Dublin 3, D03 VY22.
<b>Planning Authority</b>	Dublin City Council North.
<b>Planning Authority Reg. Ref.</b>	WEB1092/23.
<b>Applicants</b>	Daniel O'Keefe and Valerie Sharkey.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant, subject to conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellants</b>	Eoin Fallon and Roderick Maguire.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	4 <sup>th</sup> July, 2023.
<b>Inspector</b>	Terence McLellan

## 1.0 Site Location and Description

1.1. The subject property is a semi-detached, two storey dwelling with single storey attached garage to the side, located at 116 Vernon Avenue, a predominantly residential area in Clontarf, Dublin 3. The plot is broadly rectangular, orientated east, and widens towards the west due the slight angle in the property boundary between the subject site and the adjacent site to the north at 118 Vernon Avenue (the appellant's property). There is a difference in level between the appeal site and 118 Vernon Avenue by approximately 0.4 metres. To the east, the site is bounded by Vernon Avenue, to the south by the adjoining dwelling at No. 114, and the western boundary is marked by the rear garden ground of the dwelling at 88 Blackheath Park. The immediate area is characterised by two store semi-detached dwellings.

## 2.0 Proposed Development

2.1. The proposal is for the conversion of the existing garage to living accommodation, alongside a two storey side extension and a part single/part two storey rear extension. The existing driveway would be increased in width as part of the proposals.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Notification of the Decision to Grant Permission for the proposed development, subject to conditions, was issued on 11<sup>th</sup> April 2023. Permission was granted subject to nine conditions. All conditions are generally standard with the exception of Condition 3 which reads as follows:

3. The proposed development shall be amended as follows:

a) The two-storey gable extension to the front shall be omitted.

b) The first floor level extension to the side shall align flush with the primary front building line of the existing dwelling at first floor level - with the roofline matching the ridgeline, pitch and eaves height of the main roof.

c) The canopy above ground floor level may extend across the full frontage of the existing dwelling and side extension as required.

d) The windows within the side extension shall be no larger than the existing largest windows at ground and first floor level to the front of the dwelling.

e) The 2no. windows at first floor level to the side/north elevation of the side extension shall be permanently fitted with opaque glazing.

Reason: In the interests of orderly development and visual amenity.

### **3.2. Planning Authority Reports**

3.2.1. Planning Reports: The report from the Deputy Planning Officer was issued on the 30<sup>th</sup> March 2023 and forms the basis of the Council's assessment and decision. The report sets out the rationale behind Condition 2, explaining that the omission of the front gable extension is necessary in order to mitigate the impact on the character and design of the host dwelling and neighbouring properties. The Planning Officer considers that there is sufficient separation distance to ensure that no terracing effect would occur and that the first floor extension aligning with the front building line is acceptable in that context.

3.2.2. Daylight and sunlight impacts have been considered and the report concludes that there would be no significant impacts. Likewise, the report considers the scale and massing to be acceptable and that the extension would not be overbearing or obtrusive. Potential overlooking impacts are considered to be suitably mitigated by condition.

### **3.2.3. Other Technical Reports**

3.2.4. Drainage Division (23.03.2023): No objection.

3.2.5. Transportation Planning Division (22.03.2023): No objection.

### **3.3. Prescribed Bodies**

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. Observations were received from:

- Patrick and Eimear Cook of 120 Vernon Avenue, Clontarf, Dublin 3.
- Eoin Fallon and Roderick Maguire of 118 Vernon Avenue, Clontarf, Dublin 3.

3.4.2. The main points of these observations are similar to the grounds of appeal as set out in paragraph 6.1.1 below.

## 4.0 Planning History

### Subject Site

4.1.1. There is no planning history for the appeal site that is of specific relevance.

### Surrounding Sites

4.1.2. 112 Vernon Avenue Planning Reference 3098/06: Planning permission was granted in August 2006 for a two storey side extension.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Dublin City Development Plan 2022 – 2028 (CDP), categorises the site as zone 'Z1 – Sustainable Residential Neighbourhoods'. The stated objective for these areas is 'to protect, provide and improve residential amenities.'

5.1.2. Appendix 18: Ancillary Residential Accommodation contains the relevant guidance and design principles for development within the curtilage of an existing dwelling. Section 1.0: Residential Extensions, should be applied to the proposed development, with particular reference to the following sections:

- 1.1: General Design Principles
- 1.2: Extensions to Rear
- 1.3: Extensions to Side
- 1.4: Privacy and Amenity
- 1.5: Separation Distances

- 1.6: Daylight and Sunlight
- 1.7: Appearance and Materials.

## 5.2. **Natural Heritage Designations**

5.2.1. None relevant.

## 5.3. **EIA Screening**

5.3.1. The proposal does not constitute a class of development as set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations.

## 6.0 **The Appeal**

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

6.1.1. A third party appeal against the decision of Dublin City Council to grant planning permission for the proposed development has been lodged by Eoin Fallon and Roderick Maguire of 118 Vernon Avenue, Clontarf, Dublin 3. The grounds of appeal can be summarised as follows:

- The proposed extension would have a significant visual impact.
- The various separation distances stated in the Council's report are incorrect. The proposal would, in effect, be building up to the boundary. The set backs and separation distances are insufficient.
- Overshadowing was only considered in relation to the rear doors and did not consider the rear kitchen window or the skylights in the kitchen roof. Additionally, the type of doors and their distance to the boundary, quoted in the Council's report, is incorrect.
- The proposed development would cause a significant overshadowing impact on 118 Vernon Avenue and the 45 degree BRE test.
- It is artificial to consider the first floor extension only in terms of what sits beyond the rear building line. It is a substantial extension, that runs from the front to the back of the house and beyond, and should be considered as such.

- The scale, massing and bulk of the extension is excessive and would be overbearing.
- The extension would have windows that are too big and windows that would directly face 118 Vernon Avenue. Privacy does not come only from frosted glass. There would be impacts in terms of overlooking, loss of privacy, and if directly opposing windows are open, then direct views would be possible as well as the ability for conversations to be overheard. The proximity of the windows would breach Dublin City Council's guidance.
- There was no consultation prior to the submission of the application, and this is contrary to Volume 2, Appendix 18, Section 1.4 of the Dublin City Council Development Plan 2022 - 2028.
- The external treatment of the walls and eaves will require ongoing maintenance, and in the absence of any rights of way the development cannot be maintained. This would result in a negative outlook from 118 Vernon Avenue or require the occupiers of 118 Vernon Avenue to maintain the structure, this would be unacceptable.
- No access, easements or rights of way to construct, maintain or sustain the proposed development will be granted.
- The development would cause serious structural harm to 118 Vernon Avenue.
- There are inaccuracies in the plans around the dimensions of the extension and the distances to boundaries.
- No other properties have breached the first floor building line.
- The development would be out of keeping with the character of the area.
- The development would not comply with Appendix 18 of the development plan and should be considered a material contravention.

## 6.2. Applicant Response

- It is noted that the appellant's submission to An Bord Pleanála is similar to the submission made to Dublin City Council on the planning application.

- The concerns of the appellants were noted by Dublin City Council in the decision making process.
- It is considered that the Planner's Report has addressed all aspects of the application in making the determination.
- It is important to clarify a discrepancy with the dimensions. The width of the garage is given as 3600mm, whilst the proposed first floor above the garage is given as 3900mm. This was a result of attempting to maximise the width of the garage and upper extension to 3900mm, however, this extended width is not indicated at ground floor and instead the existing width of 3600mm shown. In light of the issues raised by the appellants, the Board is advised that we would like to retain the existing width of the garage at 3600mm and that this dimension should be carried through to the upper levels. We would request that the Board confirm this in any decision.

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

- 6.3.1. The Planning Authority have requested that the Board uphold the decision to grant permission and apply a Section 48 Development contribution condition.

### **6.4. Observations**

- 6.4.1. None.

## **7.0 Assessment**

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Clarifications
- Amenity Impacts
- Other Matters
- Appropriate Assessment

## **7.2. Clarifications**

- 7.2.1. I note at the outset of this assessment, the applicant's reasons and clarifications on the dimensional discrepancies raised by the appellant, regarding the contradiction between the ground floor side extension width given as 3,600mm, and the first floor side extension width given as 3,900mm. As advised by the applicant in the response to the third party grounds of appeal, the ground floor width of 3,600mm should be carried through to the upper floors. From my review, I consider that this is accurately represented on the proposed ground floor plan on drawing 22.331.PD04 and also on the proposed front elevation shown on drawing 22.331.PD05. Minor amendments to the drawings to correct the width by way of a 300mm reduction is therefore required on the proposed first floor plan on drawing 22.331.PD04 and the proposed rear elevation and section as shown on drawing 22.331.PD05.
- 7.2.2. The proposed amendment would result in a reduction in width of the first floor and rear elevation by 300mm and I am satisfied that this amendment would not prejudice the appellant or any previous observers as the changes are relatively minor in context and the extension would be reducing in size. My advice to the Board is that this can be suitably addressed by way of an addition to Condition 3 to secure amendments to the relevant plan (first floor) and elevation (rear and section) to ensure that the overall extension mirrors the scale and dimensions of the proposed ground floor shown on drawing number 22.331.PD04.

## **7.3. Amenity Impacts**

- 7.3.1. The appellant has raised concerns that the design, scale, height, massing, positioning and overall bulk of the extension would result in adverse amenity impacts in terms of the extension being overbearing in nature, overshadowing and loss of daylight, overlooking and loss of privacy, and visual amenity.
- 7.3.2. The existing ground floor garage maintains a separation distance of 400mm from the common boundary at the front, this increases to approximately 850mm at the rear of the garage. The rear wall of the proposed extension would be approximately 1,450mm from the common boundary. This increase in distance reflects the angled nature of the boundary line.



- 7.3.3. The ground floor rear extension would be a maximum of 3,140mm in height, and combined with the set back from the boundary, I do not consider that this would be overbearing or obtrusive. The two storey side extension would run the length of the dwelling and would project approximately 2,200mm from the existing rear wall. I am satisfied that the side and rear two storey extension would not overwhelm the host dwelling or the appellant's property, it would not be an overbearing or obtrusive addition, nor would it have a significant visual impact.
- 7.3.4. In terms of daylight and overshadowing, the proposed extension would not have any detrimental impact on the ground floor skylight windows at the appellant's property. These windows would continue to achieve appropriate levels of daylight, with vertical views to the sky largely unobstructed. I have considered the small kitchen window specifically referred to in the grounds of appeal. This window is set back from the main rear façade, within the single storey side/rear kitchen at ground floor, the roof of which significantly overhangs the window. The main obstructions to this window are inherent within the appellant's own structure, including the overhanging roof previously referred to and the remainder of the single storey ground floor element that sits perpendicular to the affected window. I am satisfied that the proposed extension would not intensify this to any significant degree.
- 7.3.5. On the matter of overlooking and privacy, I do not consider that the rear facing windows would have any significant privacy or overlooking impacts as no new viewpoints are created. The ground floor side windows are not problematic as they would directly face the boundary wall and would not result in any significant privacy issues. Furthermore, the proposed kitchen window would be at least one metre from the boundary. The Council have imposed conditions on the side windows. Part (d) of Condition 3 requires the side windows to be no larger than the largest window on the front elevation of the dwelling. The proposed side windows are significantly smaller than the existing windows on the front of the dwelling and as such this part of the condition should be removed as it is unnecessary. Part (e) of Condition 3 relates to the first floor side windows and requires them to be obscure glazed. I am satisfied that this would appropriately mitigate against any potential overlooking issues, however I recommend that this part of Condition 3 be amended to require the windows to be fixed shut below 1.7 metres. This would enable appropriate ventilation whilst further safeguarding amenity.

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

Various other matters have been raised by the appellant, such as the lack of pre-application consultation, potential structural issues at 118 Vernon Avenue as a result of the extension, and the fact that no access, easements or rights of way to construct, maintain or sustain the proposed development will be granted by the appellant. I have considered the issue regarding pre-application consultation and the appellant's claim that the lack of consultation means that the proposal is contrary to Section 1.4 of Appendix 18 of the CDP. Section 1.4 states that pre-application consultation with neighbours is advisable, but it is not a mandatory requirement. The remaining issues are civil matters, to be resolved between the parties, having regard to the provisions of S.34(13) of the Planning and Development Act 2000.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, it is concluded that no appropriate assessment issues arise, as 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 planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

#### **9.0 Reasons and Considerations**

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2022-2028 and the layout, location, nature, and scale of the proposed extension, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would comply with the provisions of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, sustainable drainage measures and mitigation measures against flood risk, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>The proposed development shall be amended as follows:</p> <p>a) The two-storey gable extension to the front shall be omitted.</p> <p>b) The first floor level extension to the side and rear shall align flush with the existing side wall of the ground floor garage, and with the primary front building line of the existing dwelling at first floor level - with the roofline matching the ridgeline, pitch and eaves height of the main roof.</p> <p>c) The canopy above ground floor level may extend across the full frontage of the existing dwelling and side extension as required.</p> <p>d) The 2no. windows at first floor level to the side/north elevation of the side extension shall be permanently fitted with opaque glazing and fixed shut to a height of at least 1.7 metres from floor level.</p> <p><b>Reason:</b> In the interests of orderly development and visual amenity.</p>
4.	<p>Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p>

	<p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity</p>
5.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

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Terence McLellan  
Senior Planning Inspector  
9<sup>th</sup> August 2023