



An  
Bord  
Pleanála

## Inspector's Report ABP318307-23

### Development

Permission for the construction of a ground floor single-storey flat roof rear extension and a first floor single-storey pitched roof infill extension of the rear-return over the existing ground floor, adjoining the boundary with no.23 and all associated site works.

### Location

22 Curzon Street, Dublin 8,  
D08K4W9.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

4254/23.

### Applicant(s)

Eoin Mac Aodha.

### Type of Application

Permission.

### Planning Authority Decision

Split Decision.

### Type of Appeal

First Party

### Appellant(s)

Eoin Mac Aodha.

### Observer(s)

None.

**Date of Site Inspection**

09/12/2023.

**Inspector**

Anthony Abbott King

## **1.0 Site Location and Description**

- 1.1. The site comprises No. 22 Curzon Street a single-storey terraced house. Curzon Street is an urban residential avenue on a north-south axis. The subject house is located on the east side of Curzon Street at the South Circular Road end of the Street;
- 1.2. No. 22 Curzon Street has a two-storey rear elevation with a previously authorised substantial two-storey return type extension and a modest rear garden;
- 1.3. The street elevation is red brick with a raised parapet. The house is two-rooms deep with a double pitched roof and was constructed circa.1909;;
- 1.4. No. 22 Curzon Street abuts no. 23 Curzon Street to the north and no. 21 Curzon Street to the south;
- 1.5. The site area is given as 154 sqm.

## **2.0 Proposed Development**

- 2.1. Permission for the construction of a ground floor single-storey flat roof rear extension and a first floor single-storey pitched roof infill extension of the rear-return over the existing ground floor at no. 22 Curzon Street, adjoining the boundary with no.23 Curzon Street, and all associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority recorded a split decision comprising -

A grant of permission subject to 7 conditions as set out in Schedule 1.

And a refusal for the following reason as set out in Schedule 2:

*(1) The proposed first floor extension is considered contrary to Appendix 18, Section 1.4 of the Dublin City Development Plan 2022-2028 in relation to the negative impact the proposed extension would have on the neighbouring property in relation to overshadowing and overbearing impacts and would be contrary to a previous condition attached to permission i.e. Ref. 2305/10, which set back the first floor extension for the shared boundary. The proposed development would therefore, seriously injure the amenities of property in the vicinity and would be contrary to the Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.*

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

#### **3.2.1. Planning Reports**

The decision of the CEO of Dublin City Council reflects the case officer recommendation.

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

No objection.

### **4.0 Planning History**

The following planning history is relevant:

Under Register Ref: 2305/10 planning permission was granted for demolition of an existing single-storey extension and the construction of a two-storey flat roof domestic extension all to the rear of no. 22 Curzon Street. The extension contained two-bedrooms at basement level and a kitchen / playroom area at the upper entrance level. Condition number 2 states:

*The development hereby approved shall incorporate the following amendments:*

- (a) The reduction in the first floor by 1.5m in width from the northern boundary of the site.*
- (b) Internal alterations to the basement/ lower level necessary to facilitate access to the rear garden at basement level.*

*Reason: in the interests of orderly development and visual amenity.*

## 5.0 Policy and Context

### 5.1. Development Plan

The relevant zoning objective (Map E) is Residential Neighbourhoods (Conservation Areas): *To protect and/or improve the amenities of residential conservation areas.*

The proposed development is a permissible use.

No. 22 Curzon Street is not a protected structure.

- Conservation Area Designation

The rationale for residential conservation area designation is that the overall quality of an area in design and layout terms is such that it requires special care in dealing with development proposals, which would affect structures both protected and non-protected in such areas. Chapter 15 (Development Standards) of the Dublin City Development Plan 2022-2028 states:

All planning applications for development in Conservation Areas shall:

- Respect the existing setting and character of the surrounding area.*
- Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.*
- Protect the amenities of the surrounding properties and spaces.*
- Provide for an assessment of the visual impact of the development in the surrounding context.*
- Ensure materials and finishes are in keeping with the existing built environment.*
- Positively contribute to the existing streetscape. Retain historic trees also as these all add to the special character of an ACA, where they exist.*

- Domestic Extensions

Appendix 18 (Ancillary Residential Accommodation) Section 1(Residential Extensions) is relevant. Section 1.2 (Extensions to Rear) *inter alia* states:

*First floor rear extensions will be considered on their merits, noting that they can have potential for negative impacts on the amenities of adjacent properties, and will only be permitted where the planning authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions the following factors will be considered:*

- *Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries*
- *Remaining rear private open space, its orientation and usability*
- *Degree of set-back from mutual side boundaries*
- *External finishes and design, which shall generally be in harmony with existing*

Section 1.4 (Privacy & Amenity) is relevant and *inter alia* states:

*It is important to make sure that any extension does not unacceptably affect the amenities of neighbouring properties. This includes privacy, outlook, daylight and sunlight. It is advisable to discuss proposals with neighbours prior to submitting a planning application.*

## **5.2. EIA Screening**

5.3. The proposed development is not in a class where EIA would apply.

## **6.0 The Appeal**

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

The appeal statement is prepared by Delahunty & Harley Architects & Designers on behalf of the appellant. The grounds of appeal are summarised below:

- The subject of this appeal is the refusal of the part of the development comprising the first-floor pitched roof infill extension to the rear-return over the existing ground floor of no. 22 Curzon Street;
- The first-floor element of the proposed development is essential to the functioning of the overall proposal and the development is not viable without this element. The planning case officer has failed to take account of the spatial consequences of the decision of the planning authority;
- The refusal effectively reduces the occupancy of the dwelling to a two-bedroom unit, which is not acceptable to the appellant. A thorough exploration of numerous alternative layout configurations was undertaken before arriving at the design submitted;
- The refusal appears to rest on a condition applied to a permission granted in 2010 made by the previous owner of the house. The planning case officer has materially failed to assess the current application;
- Prior to the submission both neighbours were engaged and consulted by the applicant to ensure that any concerns or issues were addressed. A reasonable increase in density and some concessions on potential impacts on adjacent properties have been accepted by the neighbours given the centre location of the development;
- The neighbouring property at no. 23 Curzon Street was consulted on the planning application submitted to Dublin City Council. The neighbour suggested the use of a pitched roof to reduce the overall height of the extension on the shared boundary.
- The neighbour had concerns that related to light penetration and visual impacts to a kitchen ground floor window facing the shared boundary to the south, located in the side elevation of the return / extension, to the rear of no. 23 Curzon Street;
- The height of the proposed wall on the shared north boundary with no. 23 Curzon Street would be approximately 5m at eaves level. This adjustment from the height previously proposed in 2010 is effective amendment in minimizing the potential for overshadowing of the adjacent property;

- A dialogue will continue with the neighbour in order to minimise any potential visual impact from the perspective of adjacent properties, the exact shared boundary wall finish will be agreed with the neighbours;
- The appeal statement includes cited examples (3 relevant precedents) of grants of planning permission supporting the development proposal.

## 6.2. Applicant Response

N/A

## 6.3. Planning Authority Response

- The planning authority request that ABP uphold the decision of the planning authority to issue a split permission.
- If a permission is granted a condition requiring the payment of a Section 48 contribution should be applied.

## 6.4. Observations

None

## 7.0 Assessment

Having reviewed the application, the appeal and conducted a site visit, I consider that the only planning matter at issue in this case is the refusal of the upper ground floor rear extension, which is the sole subject of the appeal, and that no other planning matters need to be considered by the Board.

7.1. The applicant / appellant proposes to reconfigure the internal arrangement of the rear of the house at no. 22 Curzon Street to provide living accommodation at lower ground floor level and bedroom accommodation, comprising two bedrooms, at upper ground floor level. The reconfiguration would require the following:

- The construction for the full width of the house of a ground floor flat roof extension extending an additional 3.3m beyond the existing rear building line (of the previously authorised two-storey extension);



- And the construction of an infill first floor extension between the existing return-like two-storey extension and the boundary with no. 23 Curzon Street comprising an additional floor area of approximately 8-10 sqm to facilitate two rear facing bedrooms.

The planning authority granted planning permission for the ground floor flat roof extension and refused the first floor infill extension. I concur with the planning authority in the assessment of the ground floor extension. I consider that the proposed ground floor extension to be reasonable. It would not have an adverse impact on no. 22 Curzon Street itself or adjacent properties.

The planning authority refused the first floor infill extension, the substantive matter of this appeal, which would accommodate an additional bedroom at upper ground floor level. The appellant claims the internal reconfiguration is not viable without the bedroom that would be facilitated by the first-floor infill extension. The proposed first-floor infill extension is assessed below.

7.2. Appendix 18, Section 1.2 (rear extensions) of Dublin City Development Plan 2022-2028 provides for consideration of the following factors in the matter of the assessment of the impact of first floor extensions including:

- *Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries*
- *Remaining rear private open space, its orientation and usability*
- *Degree of set-back from mutual side boundaries*
- *External finishes and design, which shall generally be in harmony with existing*

There is an existing two-storey extension to the rear of no. 22 Curzon Street, which is set back from the shared boundary with no. 23 Curzon Street. It is noted that the existing rear extension was granted permission under Register Ref: 2305/10, which conditioned a reduction in width of the first floor element of the extension by 1.5m setting it back from the shared northern boundary. The consideration factors in Section 1.2 (rear extensions) are individually assessed below.

7.3. In the matter of proximity, height and length along the mutual boundary, the first floor extension would extend a significant 5m along the shared boundary with no. 23

Curzon Street. However, it is considered that overshadowing, overbearing and overlooking impacts would be mitigated by the proposed roof profile of the infill extension. The proposed extension would have a mono-pitch roof exhibiting a zinc / aluminium finish with concealed gutters. The mono pitch roof would present as a half gable to the east rear elevation.

The lower end of the pitch would be located onto the boundary with no. 23 Curzon Street resulting in a north elevation approximately 5m in height along the shared boundary. The higher end of the pitch would integrate with the flat roof of the existing two-storey extension. Notwithstanding that No. 23 Curzon Street is to the north of no. 22 Curzon Street, it is considered that at worst there would be a marginal increase in overshadowing of no. 23 Curzon Street. The pitch of the proposed mono-pitch roof would effectively follow the shadow line imposed by the existing two-storey extension to the rear of no. 22 Curzon Street. The appellant has demonstrated that there would be no additional overshadowing on the chosen date of the 21<sup>st</sup> March.

The massing to the rear of no. 22 Curzon Street would be changed by the proposed first floor infill extension. However, I do not consider that this change in an urban location would represent a significant adverse impact on the visual amenities of no. 23 Curzon Street given the pitch of the mono-pitch roof. The proposed first floor extension having a reduced height of approximately 5m along the shared boundary with no. 23 Curzon Street from that previously proposed in planning application Register Ref: 2305/10. The parapet height of the existing two-storey extension is approximately 6.1m. On balance I do not consider that there would be a significant adverse visual impact.

The proposed new bedroom window is located in the east rear elevation. There are no openings proposed in the north elevation of the infill extension, which will have a blank elevation along the shared boundary. It is noted there is an existing window in the east rear elevation at first floor level in the location of the proposed infill extension. It is considered that the proposed new window would be a significant 5m forward of the existing window opening. However, I do not consider that there would be a significant adverse impact in terms of overlooking.

There is an existing expansive first floor window opening in the east elevation 5m forward of the original terrace building line that lights the previously authorised two-

storey extension that accommodates a kitchen / playroom at first floor level. The new proposed window opening in the infill first-floor extension would be located closer to the shared boundary with no. 23 Curzon street, however, it would be modest in scale of standard dimension and would light a bedroom rather than a reception area.

- 7.4. In the matter of rear private open space, its orientation and usability, the rear amenity space would be reduced to an acceptable quantum given the historic pattern of development in the area and the urban location. It is noted the proposed first floor extension is located above an existing ground floor extension.
- 7.5. In the matter of the degree of set-back from the shared boundary, there would be no set back from the adjacent property to the north no. 23 Curzon Street. However the height of the extension onto the shared boundary is reduced by reason of the design of the mono-roof roof. The issues of overlooking, overbearing and overlooking are addressed above.
- 7.6. In the matter of the external finish and design of the rear extension, it would match the material finish of the existing house and would harmonise with the existing built fabric of the terrace. The proposed extension, as such, on balance would not detract from the conservation area designation given that it would respect and protect the character of the surrounding area. However, the external detail of the blank north elevation facing no. 23 Curzon Street and located above the shared boundary wall is not specified. This can be dealt with by way of condition.
- 7.7. The reason for refusal cites *inter alia* Appendix 18, Section 1.4 (Privacy & Amenity) of the Dublin City Development Plan 2022-2028. Section 1.4 *inter alia* states:

*It is important to make sure that any extension does not unacceptably affect the amenities of neighbouring properties. This includes privacy, outlook, daylight and sunlight.*

I do not consider that the proposed first floor in-fill extension would unacceptably affect the amenities of neighbouring properties including the relevant matters of privacy, outlook, daylight and sunlight.

Furthermore, the reason for refusal cites Condition 2 of Planning Register Ref: 2305/10, which required a 1.5m set-back of the first floor extension authorised by this permission from the shared property boundary with no. 23 Curzon Street for reasons of orderly development and visual amenity. I consider that the proposed first

floor extension the subject of this appeal is a materially different proposal both in design and in terms of use than that previously submitted under Register Ref: 2305/10. The following extract from the planning case officer report assessing the proposed development submitted under Register Ref: 2305/10 describes the previous first floor extension:

*The proposed 5m deep first floor extension the extent of the rear of the dwelling with large rear windows and the provision of a new staircase from first floor level to garden level would unduly increase the incidence of overlooking, cast of shadow over adjoining rear gardens and cause any significant negative amenity to neighbouring properties.*

The previous first floor extension under Register Ref: 2305/10 was proposed as a kitchen / playroom with an expansive window opening located close to the boundary with no. 23 Curzon Street, a door opening with external stairs to the rear garden and, a consistent parapet height for the full width of the rear garden exceeding 6m. The current proposal comprises an infill half gable elevation facilitating a mono pitch roof that would integrate with the existing parapet approximately 1.5 metres from the shared boundary. The reduction in the height along the shared property boundary with no. 23 Curzon Street and use of the infill space as a bedroom with a window of standard dimension is materially significant.

- 7.8. In conclusion, the proposed rear extension at ground and first floor level would subject to condition provide a reasonable improvement in accommodation on site, would not have a significant adverse impact on the residential and visual amenities of adjacent properties, including no. 23 Curzon Street, would be consistent with Appendix 18 Section 2.2 (rear extensions) and would substantially comply with Section 1.4 (privacy and amenity) of the Dublin City Development Plan 2022-2028, would not detract from the conservation area designation as the proposal would on balance respect and protect the character of the surrounding area and, as such, is consistent with the proper planning and sustainable development of the conservation area.

#### 7.9. **Appropriate Assessment Screening**

The proposed development comprises a domestic rear extension in an established urban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS.

## 8.0 Recommendation

- 8.1. I recommend a grant of planning permission subject to conditions having regard to the reasons and considerations below.

## 9.0 Reasons and Considerations

Having regard to the grounds of appeal, the reason for refusal, the conservation area zoning objective and the policy framework of the Dublin City Development Plan 2022-2028, it is considered that the proposed development, subject to compliance with the conditions set out below, would provide a reasonable improvement of the accommodation on site, would not have a significant adverse impact on the residential and visual amenities of adjacent properties, including no. 23 Curzon Street, would be consistent with Appendix 18 Section 2.2 (rear extensions) and would substantially comply with Section 1.4 (privacy and amenity) of the Dublin City Development Plan 2022-2028, would not detract from the conservation area designation as the proposal would on balance respect and protect the character of the surrounding area and, as such, is consistent with the proper planning and sustainable development of the conservation area.

## 10.0 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 commencement of development and the development shall be carried out and completed in accordance with the agreed
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	<p>particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development including the north elevation of the proposed first floor extension.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. 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>
6.	<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</p>

	<p>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>
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"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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Anthony Abbott King  
Planning Inspector

15 December 2023