

An
Bord
Pleanála

Inspector's Report ABP318319-23

Development

The proposed development comprises the construction of a part one and part two storey extension to lower ground floor levels, to the rear of the existing dwelling, to provide for an additional living area at lower ground floor level and a bathroom at upper ground floor level. Along with all associated and ancillary works.

Location

40 Curzon Street, Dublin 8, D08 E3XW.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

4259/23.

Applicant(s)

Ronan Kenny.

Type of Application

Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party

Appellant(s)

Kelly Campbell.

Observer(s)

(1) Joe Jackson.

Date of Site Inspection

09/12/2023.

Inspector

Anthony Abbott King.

1.0 Site Location and Description

- 1.1. The site comprises No. 40 Curzon Street a single storey terraced house on the east side of Curzon Street. Curzon street is an urban residential avenue on a north-south axis. The house has a two-storey rear elevation, a single storey rear extension and a modest rear patio garden;
- 1.2. The street elevation is red brick with no parapet. The house is two-rooms deep with a double pitched roof;
- 1.3. No. 40 Curzon street abuts no. 2 Arnott Street to the north and no. 39 Curzon Street to the south;
- 1.4. No. 40 Curzon Street is located at the northern end of Curzon Street where Curzon Street seamlessly becomes Arnott Street. The east terrace of Curzon Street abuts the east terrace of Arnott Street.
- 1.5. There is no discernible differentiation on the east side of the street between the north end of Curzon Street and the beginning of Arnott Street other than the house numbering and the fact that the first two houses on Arnott Street are rendered;
- 1.6. The gardens / yards of the east terrace of Curzon / Arnott Street are located back to back with the gardens of the west terrace of Heytesbury Street - all of the above are located within the same elongated city block;
- 1.7. Site area is given as 116sqm.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a part one and part two storey extension to lower ground floor levels, to the rear of the existing dwelling, to provide for an additional living area at lower ground floor level and a bathroom at upper ground floor level. Along with all associated and ancillary works.

3.0 Planning Authority Decision

3.1. Decision

Grant planning permission subject to conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

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

Other Technical Reports

There is no objection to the proposal.

4.0 Planning History

The following planning history is relevant in the vicinity of the applicant site is relevant:

- Under Register Ref: WEB1917/21 planning permission was granted on the 10 December 2021 *inter alia* for the construction of a new part two-storey and part-single storey domestic extension to the rear of no. 25 Curzon Street, Dublin 8.
- Under Register Ref: 2080/20 planning permission was granted on the 29 June 2020 for conversion from 2 self-contained dwelling units to one 3-bedroom dwelling. The demolition of a single-storey extension to the rear and the construction of a new part-single and part two-storey domestic extension to the rear of no. 21 Curzon Street.
- Under Register Ref: 3228/18 planning permission was granted on the 04 September 2018 for a rear extension at lower ground level and upper ground level at no. 34 Arnott Street.

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. 40 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.*

- Residential Extensions

Chapter 15 (Development Standards), Section 15.11 is relevant and states for guidance and standards *inter alia* for residential extensions see Appendix 18.

- Appendix 18, (Ancillary Residential Accommodation) Section 1 (Residential Extensions) is relevant. Section 1.1 (General Design Principles) *inter alia* states:

The design of residential extensions should have regard to the amenities of adjoining properties and in particular, the need for light and privacy. In addition, the form of the existing building should be respected, and the development should integrate with the existing building through the use of similar or contrasting materials and finishes.

- Appendix 18, Section 1.1 (General Design Principles) provides the following assessment criteria for applications for extensions to existing residential units, which should:

Not have an adverse impact on the scale and character of the existing dwelling;

Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight and sunlight;

Achieve a high quality of design;

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

- And Section 1.2 (rear extensions) *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

5.2. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

The resident of the adjoining house at no. 39 Curzon Street, adjacent to the south of the development site, submitted the appeal. The grounds of appeal are summarised below:

- The subject development is located on a section of Curzon / Arnott Street distinguished by relatively small houses with notably limited rear amenity space. The configuration of Curzon / Arnott Street is impacted by the layout of the houses on Heytesbury Street to the east, which have larger gardens with a corresponding constraint on the gardens to the rear of Curzon / Arnott Street in particular in the location of the application;
- The precedent cited by the applicant at no. 25 Curzon Street is not a relevant comparison as the garden dimensions and design considerations are different from the subject development. An investigation within the locality did not reveal any similar second-floor extensions approved in garden spaces equivalent to the subject garden space;
- The houses on Heytesbury Street are generous and have facilitated two-storey rear extension over time. However, the rear gardens / yards of Curzon Street are modest by comparison only facilitating ground floor rear extension. It is claimed that proper planning and development should follow this precedent.

- The proposed second-floor bathroom extension given its location on the shared property boundary would have an overshadowing and overbearing impact on no. 39 Curzon Street, which would depreciate the rear amenity space. The simplistic design of the proposed extension would not harmonise with the existing properties and the previous extensions to the rear of the terrace. The proposal would therefore be inconsistent with Appendix 18, Section 1.2 of the Dublin City development Plan 2022-2028, which specifically outlines criteria for first floor extensions.
- The submitted drawings have not been compiled by a practicing architect and, as such, the submission to the planning authority is deficient in respect of the accuracy of the drawings in terms of scale, structural feasibility and design coherence;
- The validity of claims made in the application regarding sunlight and daylight impacts are unsubstantiated, as a comprehensive technical analysis is not provided.

6.2. Applicant Response

The applicant response is summarised below:

- As a BArch graduate from UCD the applicant is qualified to prepare a small domestic planning application. The drawings are based on a measured survey and a schematic proposal is in line with current building standards, design quality and construction feasibility;
- The external report was prepared by Luke Wymer a qualified planner and a member of the IPI;
- The proposed development is for a 29sqm extension to convert a house for 2-adults into a family home;
- The proposed development is not an exempted development due to the proximity of the boundary wall of the adjoining property at no. 39 Curzon Street. The design process looked at alternative options but concluded the current proposal is the only workable solution;

- Pre-consultation with neighbours is not a pre-requisite although mention was made that the proposal would not be a large extension;
- Structural drawings are not a requirement at this stage of planning. The applicant has consulted a structural engineer who has advised that there would be no impact on the adjacent property at no. 39 Curzon Street;
- Shadow studies are not required for a number of reasons in this instance;
- A similar site at no. 9 Arnott Street is referenced to support the application, as are other precedents cited in the planners report.

6.3. Planning Authority Response

None recorded.

6.4. Observations

There is one observation, from Mr Joe Jackson, at no. 4 Arnot Street, Portobello, Dublin 8. No. 4 Arnott Street is located in the same terrace as no. 40 Curzon Street and to the north of the subject site. The observation is summarised below.

- An Bord Pleanála in 2009 made a decision in relation to the property next door to no. 4 Arnott Street, to require glass walls in a rear extension in order to preserve light to the kitchen of the observer. The subject property extended is one home away from the proposed redevelopment;
- The next door development on the observers side of the garden has compromised the light and devalued the observers home;
- The development of a second storey on top of the existing premises at no. 40 Curzon Street will defeat the purpose of the previous ABP decision and will negatively change the view;
- The construction of a second storey at this end of Arnott Street and Curzon Street will set an undesirable precedent reducing light and visual amenity.

7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submission and is my *de novo* consideration of the application. It is noted there are no new substantive matters for consideration.
- 7.2. The proposed development would provide a new aggregate floor area to the rear of No. 40 Curzon Street of approximately 13sqm comprising two elements:
- A ground floor extension of the living accommodation at lower ground floor level comprising a conservatory (11.3 sqm) located between the existing ground floor extension (accommodating a utility and bathroom) and the party wall with the adjacent property at no. 2 Arnott street;
 - A first-floor flat roof extension (2900mm x 2000mm) to accommodate an ensuite shower room accessed from a bedroom located on the rear upper ground floor level.

It is considered that the proposed extension would improve the residential accommodation on site. The residual amenity space to the rear of No. 40 Curzon Street would measure approximately 21 sqm. The proposed ground floor extension is considered acceptable in principle. However, the proposed first floor element requires further assessment under the following headings:

- Pattern of development in the area;
- General design principals for residential extensions;
- Potential impact on adjacent residential properties;
- The efficacy of the submitted drawings and particulars.

Pattern of development in the area

- 7.3. The proposed development is located within a residential conservation area. The rationale for residential conservation area designation is to protect the overall quality of an area in design and layout terms, which requires special care in dealing with development proposals that would affect structures both protected and non-protected in such areas. No. 40 Curzon Street and the properties at no. 39 Curzon Street and No. 2 Arnott Street adjacent are not protected structures. However, they form part of the period building stock, which define the special and unique character

of the area. It is noted that the houses located to the east of Arnott / Curzon Street on Heytesbury Street within the same city block are protected structures.

The appellant notes that there is a distinct difference between the garden configuration to the rear of the houses on Heytesbury Street and the garden / yard configuration to the houses on Arnott Street and Curzon Street. The gardens / yards located behind the east terrace of Arnott / Curzon Street are located back to back with the gardens behind the west terrace of Heytesbury Street – back to back within the same elongated city block. The appellant notes that over time the houses on Heytesbury Street have facilitated two-storey rear extension and the rear gardens / yards of Curzon Street, which are modest by comparison have facilitated single-storey extension. It is claimed that proper planning and development should follow the historic precedent.

I note that the rear amenity space to the rear of the houses on Curzon Street reduce as you approach Arnott Street moving from south to north. The property boundary with Heytesbury Street is skewed providing greater garden dept to the Heytesbury Street houses as you move south to north. Thus by increment the houses on Curzon Street have marginally less amenity space to the rear as you approach no. 40 Curzon Street. Therefore, no. 40 Curzon Street has fractionally less amenity space than the other houses on the east side of Curzon Street.

General design principals for residential extensions

Appendix 18, Section 1.1 (General Design Principles) provides that residential extensions should not have an adverse impact on the scale and character of the existing dwelling and *inter alia* not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight and sunlight. The houses at no. 39 Curzon Street, no. 40 Curzon Street (the applicant site) and no. 2 Arnott Street form part of a continues two-storey rear terrace with single-storey extension at ground floor level. In the matter of the location, massing and elevation finish of the proposed ground floor extension and first floor extension, it is considered that they would individually and collectively not have an adverse impact on no. 40 Curzon Street in terms of the scale and character of the existing dwelling. The potential impact of the first floor extension on adjacent

properties in terms of privacy, outlook and access to daylight and sunlight is discussed below.

Potential impact on adjacent residential properties

- 7.4. The proposed first-floor extension would be located on the boundary with no. 39 Curzon Street. The appellant claims that the proposal would result in overshadowing and overbearing of adjacent properties including no. 39 Curzon Street. Furthermore, the first-floor extension would set a precedent for similar first-floor extensions on this side of the street damaging overall visual and residential amenities.

The proposal would extend along the property boundary with no. 39 Curzon Street projecting by an approximate 3m. No. 40 Curzon Street is located to the north of no. 39 Curzon Street. Therefore, it is considered that there would be no significant overshadowing of no. 39 Curzon Street arising. The proposed first floor shower room is located approximately 4m from the shared boundary with no. 2 Arnott Street, which would mitigate overshadowing of the rear amenity space of no. 2 Arnott Street located to the north of the proposal.

The appellant states that the first-floor extension will be clearly visible from the rear amenity space of no. 39 Curzon Street and would be overbearing. It is considered that the physical relationship to the rear of the terrace on this side of Curzon Street would be changed by the proposal. The extension to the rear of no. 40 Curzon Street will be clearly visible from the rear of no. 39 Curzon Street. However, I would concur with the planning case officer that the modest scale of the first-floor extension, the location of the extension to the north of no. 39 Curzon Street and, the extant ground floor extension to the rear of no. 39 Curzon Street, located along the shared property boundary, would mitigate the potential adverse visual and shadowing impacts.

The first-floor extension would be rendered and in colour would match the existing terrace. However, external detail of the blank south elevation facing no. 39 Curzon Street located above the party wall is not specifically stated. Appendix 18, Section 2.1 (rear extensions) provides that *external finishes and design shall generally be in harmony with existing*. The material finish and colour of the first floor extension along the party wall can be dealt with by way of condition.

The south elevation of the first floor extension located on the boundary with no. 39 Curzon Street is blank. I would concur with the planning case officer that the window opening to the shower room should have obscure glazing. Therefore no issue of overlooking would arise. I do not consider that the proposed development would have a significant negative impact on the residential and visual amenities of adjacent properties, including no. 39 Curzon Street. This can be dealt with by way of condition.

The efficacy of the submitted drawings and particulars

- 7.5. The appellant has claimed that the submitted drawings have not been compiled by a practicing architect and that the submission to the planning authority is deficient in regard to the accuracy of the drawings in terms of scale, structural feasibility and design coherence. The principal concern relates to the first floor element of the proposal. I consider that the dimensions, location and profile of the first floor extension as submitted to the planning authority are clearly readable. The planning case officer states that building regulations will regulate the extension. I would concur with the case officer.
- 7.6. The observation of third parties is noted. The request for an oral hearing by the appellant is also noted.
- 7.7. In conclusion, the proposed development subject to condition would provide a reasonable improvement of the accommodation on site, would not have a negative impact on the existing dwelling in terms of its scale and character, would not adversely impact the residential and visual amenities of adjacent properties, including no. 39 Curzon Street, and, would not detract from the conservation area designation as the proposal on balance would respect and protect the character of the surrounding area and, as such, would be consistent with the proper planning and sustainable development of the conservation area.

7.8. 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 permission subject to conditions having regard to the following reasons and considerations:

9.0 Reasons and Considerations

Having regard to the grounds of appeal, the observations of third parties, the residential zoning objective, which seeks to protect and/or improve the amenities of residential conservation areas and, the policy framework provided by Appendix 18 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 negative impact on the existing dwelling in terms of its scale and character, would not adversely impact the residential and visual amenities of adjacent properties, including no. 39 Curzon Street, would not detract from the conservation area designation as the proposal on balance would respect and protect the character of the surrounding area and, as such, would be consistent with the proper planning and sustainable development of the conservation 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.</p> <p>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>Reason: In the interest of clarity.</p>
2.	<p>The first floor shower room window shall have obscure glazing.</p>

	Reason: In the interest of residential amenity.
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: 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 south elevation of the first floor extension, which shall harmonise with the existing dwelling in respect of materials and colour.</p> <p>Reason: 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>Reason: 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 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</p>

	<p>matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: 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".



Anthony Abbott King
Planning Inspector

15 December 2023