



An  
Bord  
Pleanála

## Inspector's Report ABP318370-23

### Development

Demolition existing ground floor extension to the rear and replacement with a ground and first floor extension, a first floor extension to the side of the existing house extending the existing roof profile over, a new detached single storey extension in the rear garden to be used for games room, gym, storage & sensory room.

### Location

240 Mourne Road, Drimnagh, Dublin 12..

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

4300/23.

### Applicant(s)

Vasile Medves

### Type of Application

Permission.

### Planning Authority Decision

Grant permission.

### Type of Appeal

Third Party

### Appellant(s)

Jennifer Hynes.

### Observer(s)

None.

**Date of Site Inspection**

23/12/23.

**Inspector**

Anthony Abbott King.



## **1.0 Site Location and Description**

- 1.1. The site comprises no. 240 Mourne Road located on the north-west side of Mourne Road. Mourne Road comprises two-storey houses on the north side of the street in terraces with front and back gardens;
- 1.2. No. 240 Mourne Road is located in a terrace of 4 houses (nos. 246-240). No. 240 Mourne Road is a two-storey 2-bay end of terrace property abutting no. 242 Mourne Road to the east. There is a side passage between the adjacent house to the west at no. 238 Mourne Road;
- 1.3. No. 240 Mourne Road has a substantial back garden and curtilage parking in the front garden;
- 1.4. Site area is given as 430 sqm.

## **2.0 Proposed Development**

- 2.1. The development to comprise the following elements:
  - Demolition of the existing ground floor rear extension;
  - Construction of a replacement pitched roof ground and first floor extension to the rear;
  - Construction a first floor side extension extending the existing roof profile over;
  - Construction of a new detached single storey pavilion in the rear garden to be used for games room, gym, storage & sensory room and all ancillary works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant permission subject to condition.

### **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.

### 3.2.2. Other Technical Reports

No objection subject to condition.

## 4.0 Planning History

None relevant last ten years.

Adjacent property at no. 238 Mourne Road

Under Register Ref: WEB1251/23 neighbouring site to the south west (the residence of the appellant) planning permission for demolition of existing single-storey extension to the rear and the construction of a two-storey (measuring internally 4.5m from the back wall of the house) and single-storey (measuring internally 8.2m from the back wall of the house) extension to the rear and the construction of a front porch was granted on the 28<sup>th</sup> June, 2023. Condition 4 of the permission reads as follows:

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

*a) The depth of the first floor extension shall not exceed 3.5m from the main rear elevation of the house (measured externally).*

*b) The ridge height of the extension shall not exceed the ridgeline of the main dwelling's roof structure.*

*c) The depth of the front porch shall not exceed 1.5m (measured externally).*

*The development shall not commencement until plans amended to reflect the above changes have been submitted for the written agreement of the planning authority.*

*Reason: in the interests of visual amenity.*



## 5.0 Policy and Context

### 5.1. Development Plan

The following policy objectives of the Dublin City Development Plan 2022-2028 are relevant:

#### Zoning

The zoning objective is 'Z1'(Map E): 'to protect, provide and improve residential amenities'.

Residential is a permissible use.

#### 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) is relevant 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).*

- Appendix 18, Section 1.2 (Rear Extensions) is relevant and *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.*

- Appendix 18, Section 1.3 (Side Extensions) is relevant and *inter alia* states:

*The Ground floor side extensions will be evaluated against proximity to boundaries, size, and visual harmony with existing (especially front elevation) and impacts on adjoining residential amenity. First floor side extensions built over existing structures and matching existing dwelling design and height will generally be acceptable. However, in certain cases a set-back of an extension's front facade and its roof profile and ridge may be sought to protect amenities, integrate into the streetscape, and avoid a 'terracing' effect. External finishes shall normally be in harmony with existing.*

- Appendix 18, section 1.4 (privacy) is relevant and *inter alia* states:

*The Extensions should not result in any significant loss of privacy to the residents of adjoining properties. Generally, windows overlooking adjoining properties (such as in a side wall) should be avoided. Where essential, the size of such windows should be kept as small as possible and consideration should be given*



*to the use of high-level windows and/ or the use of obscure glazing where the window serves a bathroom or landing. Bedrooms in general should not be lit by obscure glazed windows as a means to prevent undue overlooking of adjacent properties.*

- Appendix 18, Section 1.6 (Daylight) is relevant and states:

*Large single or two-storey rear extensions to semi-detached or terraced dwellings can, if they project too far from the main rear elevation, result in a loss of daylight to neighbouring houses. Furthermore, depending on orientation, such extensions can have a serious impact on the amount of sunlight received by adjoining properties. On the other hand, it is also recognised that the city is an urban context and some degree of overshadowing is inevitable and unavoidable. Consideration should be given to the proportion of extensions, height and design of roofs as well as taking account of the position of windows including rooms they serve to adjacent or adjoining dwellings.*

#### Detached Habitable Rooms in the Curtilage of a Dwelling House

- Appendix 18, Section 2 (Detached Habitable Rooms) is relevant and states:

*Detached habitable rooms refer to backland development within the curtilage of an existing dwelling that does not contain a separate vehicular access point. In this respect, access to the individual room to the rear of the existing dwelling will be provided by way of side passage/ access but with shared entranceway.*

*The purpose of these rooms is to provide for additional space within the rear garden of an existing dwelling for study/ home office use or additional living/ children's play room. These rooms shall only be used as ancillary residential accommodation.*

*All planning applications for detached habitable rooms will be subject to a condition to restrict the use of the room as ancillary living space to the main dwelling. The room may not be sold or rented separately from the main dwelling unit.*



## **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**

This third party appeal prepared by Design & Consultancy Services on behalf of the appellant is summarised below:

- The appellant's dwelling is immediately south west of the proposed development. It is claimed the development in its current form will have adverse impacts on the adjacent property at no. 238 Mourne Road. The loss of the separation distance between the applicant dwelling and no. 238 Mourne Road will have an adverse visual affect and reduce the amount of daylight enjoyed by the appellant. The appellant has received a grant of planning permission for a rear extension including windows facing the north east that will take their light from the separation distance between the dwellings. The halving of the separation distance at first floor level will adversely impact on the light into the extension including sunlight available to the north east in the early morning;
- The proposed development by way of the size and bulk would be overbearing on the adjacent dwelling at no. 238 Mourne Road by reason of the close proximity of the proposed south west facing wall, the height of the structure and the length of the wall. There will be passive overlooking from the rear windows. Furthermore, the stand-alone unit in the rear garden will adversely affect the appellants enjoyment of her property;
- The reduction of the separation distance between the subject dwelling and the appellant's dwelling at no. 238 Mourne Road, particularly at first floor level, will result in the devaluation of the appellant's property, which she has recently purchased motivated by the end-of-terrace location of the house and the separation distance with the adjacent house at no. 240 Mourne Road (the



applicant property) in specific the significant separation distance at first floor level;

- Mourne Road comprises of a number of variations of terraced dwelling types, however, the predominant types are terraces of 4 & 6 number housing units. If the proposed development were to be replicated on both end terrace dwellings, it would result in the amalgamation of existing terrace blocks creating continuous 10 unit terraces rather than the existing 4/6 separate terrace unit blocks. This would set an undesirable precedent, would be contrary to proper planning and development and would be out of character with the architectural properties and design principles of the area;
- The proposed independent building in the rear garden is excess in floor area and could be used as an independent residential unit. The unit would be very difficult for the local authority to police notwithstanding the attachment of a regulatory condition to the planning permission. The appellant is concerned in the matter of back-land development resulting in overlooking of her property;
- The development will extend onto the appellant's property. The applicant has not received the appellant's consent to carryout any aspect of the development on the appellant's property including the construction of a structure on the shared property boundary. The strip foundations of the extension will extend into the appellant's property and the area outlined in red on the site layout plan is inaccurate as it does not fully disclose the location of the foundations. The planning authority's advisory note regarding the right to carryout works and to infringe on any other property does not mitigate the requirement for the entire area of the proposed development to be included within the overall site boundary.
- The appellant wants to make it clear that she welcomes the development of the subject property, as it is unkempt at present. However, the appellant asks the Bord to consider achieving the required floor space without extending in the direction of her dwelling by extending at ground and first floor level further to the rear.



## **6.2. Applicant Response**

None recorded.

## **6.3. Planning Authority Response**

The planning authority would request that the Bord uphold our decision. The planning department would request that if permission is granted that the following condition be applied: a condition requiring the payment of a Section 48 development contribution.

## **6.4. Observations**

None recorded.

## **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 appellant claims the development in its current form will have adverse impacts on the adjacent property at no. 238 Mourne Road including the amenity of a permitted two-storey and single-storey rear extension. The applicant proposes to refurbishment and extend the dwelling house at no. 240 Mourne Road. The requirement for refurbishment is self-evident, as I observed on the day of my site visit. The appellant welcomes the refurbishment of the unkempt property adjoining at no. 240 Mourne Road. However, the appellant objects to the proximity of the first floor rear and side extension located on the shared property boundary.
- 7.3. The proposed rear and side extension at no. 240 Mourne Road the subject of appeal would extend for the full width of the site and would project 4m (measured externally) beyond the main rear elevation of the house at first floor level. The first floor rear extension would accommodate two bedrooms. The first floor side extension would accommodate bathrooms. There are two window openings indicated in the first floor plans lighting the bathrooms elevating onto the shared boundary with no. 238 Mourne Road. However, the side elevation (west) drawing shows only one opening.



The side extension would have a hipped roof elevating away from the shared boundary. The ground floor rear extension would accommodate a kitchen/ living / dining area. There would be a suite of ancillary accommodation located in a separate single-storey structure in the garden comprising recreational space. The proposed development comprises the following elements:

- The demolition of the existing ground floor rear extension;
- Construction of a replacement ground and first floor extension to the rear;
- Construction a first floor side extension extending the existing roof profile over;
- Construction of a new detached single storey pavilion in the rear garden to be used for games room, gym, storage & sensory room and all ancillary works.

7.4. The relevant zoning objective is 'Z1' 'to protect, provide and improve residential amenities'. Residential is a permissible use. The extension of an existing dwelling is acceptable in principle subject to normal planning considerations, including the policies and objectives outlined in the Dublin City Development Plan 2022-2028. In this regard Appendix 18 (Ancillary Residential Accommodation) Section 1 (Residential Extensions) and Section 2 (Detached Habitable Rooms) of the Dublin City Development Plan 2022-2028 are relevant. The following are the substantive matters for consideration in my planning assessment based on the grounds of appeal and *inter alia* the requirements of the proper planning and sustainable development of the area:

- The ground floor rear extension;
- The first-floor rear and side extension;
- The separation distance between nos. 238 Mourn Road and no. 240 Mourn Road;
- The ancillary garden accommodation;
- Other procedural matters.

The rear ground floor extension

7.5. The planning case officer states that the proposal to demolish the existing rear extension and to construct a rear extension for the full width of the property at a dept



of 6m with access from the front of the house to the back of the house via a link corridor accommodated in the existing side extension is acceptable. I would concur with the planning case officer in the matter of the acceptability of the ground floor rear extension.

*The scale and massing of the two-storey extension to the rear and side*

- 7.6. The first floor rear extension is positioned behind the house and the side extension and would extend for the full width of the site at a distance of 4m (measured externally) from the main rear elevation of the house along both the eastern (no. 242) and western (no. 238) boundaries. The planning case officer expressed concern at the scale and massing of the first-floor element of the rear extension along the boundary with no. 242 Mourne Road. The case officer recommended that the first floor element be reduced to a depth of 2.5m in order to reduce the potential impact along the eastern boundary in specific the protection of the aspect of a habitable room at ground floor level. The case officer did not express concern in the matter of potential impacts on the western boundary with no. 238 Mourne Road.
- 7.7. No. 238 Mourne Road and No. 240 Mourne Road are end of terrace properties separated by the gap in the terrace blocks, which characterises the configuration of the housing units along this side of Mourne Road. The appellant claims that the rear and side extension would be overbearing on the adjacent dwelling at no. 238 Mourne Road by reason of the proximity, size and bulk of the south-west elevation of the extension, which would be located on the property boundary with no. 238 Mourne Road significantly reducing the separation distance between the properties. The two-storey massing and the length of the side elevation along the shared property boundary are cited as specific concerns. The planning case officer in the matter of potential adverse impacts on the adjacent property at no. 238 Mourne Road acknowledges that there is an extant permission for a rear extension at no. 238 Mourne Road and as a result the property would not be impacted in terms of aspect.
- 7.8. The appellant was granted permission to demolish the existing single-storey extension to the rear of no. 238 Mourne Road in June of 2023 under Register Ref: WEB1251/23 *inter alia* incorporating the construction of a two-storey (measuring internally 4.5m from the back wall of the house) and single-storey (measuring internally 8.2m from the back wall of the house) rear extension. The first floor



element of the proposed extension accommodating two bedrooms was reduced by way of condition 4 of the permission to 3.5m measured externally. There are a number of window openings at ground floor level in the side elevation of the permitted extension taking their light from the separation distance between no. 238 Mourne Road and no. 240 Mourne Road. This matter is discussed below.

- 7.9. The submitted drawings under Register Ref: WEB1251/23 show a first floor extension for the full width of the of main rear elevation of no. 238 Mourne Road. However, the planner's report states that the proposed extension would have a minimum distance of 1.5m from the boundary with no. 236 Mourne Road, which is the conjoined house in the terrace to the west of no. 238 Mourne Road and would extend to the side boundary with no. 240 Mourne Road. I can only conclude that the reverse is in fact the relationship of the adjacent properties, as no. 238 Mourne Road is separated from no. 240 Mourne Road by the break in the terrace blocks while no. 236 is conjoined. Therefore, the extension would extend 3.5m aligned with the property boundary of the adjacent terraced house.
- 7.10. I consider that the proper planning and sustainable development of the area requires consistency in the scale and massing of extensions to the rear of the terrace houses and end-of terrace houses on Mourne Road. I concur with the planning case officer that the scale and massing of the first-floor element of the rear extension along the boundary with no. 242 Mourne Road may adversely impact the aspect of a habitable room at ground floor level. However, I do not concur with the truncation of the extension along the eastern boundary at first floor level to a dept of 2.5m. I understand the underpinning rationale to provide limitations to align with the pattern of development in the area and to reduce or avoid entirely overshadowing. However, I consider that this condition may have significant repercussions on the internal arrangement of the first floor of the subject dwelling. Furthermore, it is desirable to have consistency in the permitted dept of first-floor extensions in the immediate vicinity.
- 7.11. Appendix 18, Section 1.1 (General Principles) of the Dublin City Development Plan 2022-2028 requires that residential extensions should have no undue adverse impact on the scale and character of the existing dwelling or on the residential amenities of adjoining occupiers and should achieve a high quality of design. Appendix 18, Section 1.6 (Daylight) acknowledges that large single or two-storey



rear extensions to semi-detached or terraced dwellings can, if they project too far from the main rear elevation, result in a loss of daylight to neighbouring houses. However, the provision also acknowledges that on the other hand, it is also recognised that the city is an urban context and some degree of overshadowing is inevitable and unavoidable. On balance I consider that the first floor element of the rear extension should be restricted to 3.5m measured externally from the main rear elevation of the house both in order to reduce the scale and massing of the extension along the property boundaries with nos. 242 & 238 Mourne Road and also in order to consistent in the regulation of first floor extension in the immediate vicinity. This can be dealt with by way of condition.

The separation distance between nos. 240 & 238 Mourne Road

- 7.12. The appellant claims the loss of the separation distance between no. 240 Mourne Road and no. 238 Mourne Road would *inter alia* have an adverse visual affect and reduce the amount of daylight enjoyed by the appellant including light to permitted windows facing the north east that take their light from the separation distance between the dwellings. I would concur with the planning case officer that the impact on no. 238 Mourne Road would be mitigated by the permitted development similar in scale to the rear of the adjacent property to the west. However, I note the location of bathroom window openings on the shared boundary, which are unacceptable in principle. This can be dealt with by way of condition.

Ancillary garden accommodation

- 7.13. The appellant claims that proposed independent building in the rear garden is excessive in floor area and could be used as an independent residential unit with consequent adverse impacts on residential amenities. The planning case officer notes that the proposed detached structure to be located half way down the garden measuring 12.5m x 4.5m is very large for its type but given the garden size and the size of the neighbouring plots there would be no adverse impact on the residential character of the area. I would concur with the planning case officer. Appendix 18, Section 2.0 (Detached Habitable Rooms) requires all planning applications for detached habitable rooms to be subject to a condition to restrict the use of the room as ancillary living space to the main dwelling. This can be dealt with by way of condition.



### Other procedural matters

- 7.14. The appellant claims the development will extend onto their property. In specific the strip foundations of the extension will extend into the appellant's property and the area outlined in red on the site layout plan is inaccurate as it does not fully disclose the location of the foundations. The planning authority's advisory note regarding the right to carryout works and to infringe on any other property does not mitigate the requirement for the entire area of the proposed development to be included within the overall site boundary. These matters are noted.
- 7.15. In conclusion, the proposed development would be acceptable in principle subject to compliance with the following conditions: the restriction in the dept of the first floor element of the rear extension, in order to protect the residential amenities of adjacent properties, in particular no. 242 Mourne Road, and to provide consistency with permitted first floor extension in the immediate vicinity; the omission of windows on the shared property boundary with no. 238 Mourne Road and; the regulation of the use of the proposed detached habitable room(s) located in the rear garden as ancillary residential accommodation of the main dwelling house.
- 7.16. **Appropriate Assessment Screening**

The proposed development comprises a domestic rear and side extension and ancillary residential accommodation 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 condition having regard to the reasons and considerations below.

## **9.0 Reasons and Considerations**

Having regard to the grounds of appeal, the residential zoning objective and the policy framework for residential extensions provided by Appendix 18 of the Dublin City Development Plan 2022-2028, the proposed development, subject to compliance with the attached conditions, would provide a reasonable level of



accommodation on site, would not have an adverse impact on the visual and residential amenities of adjacent properties, would comply with Section 1.0 (Residential Extensions) and Section 2.0 (Detached Habitable Rooms) of the Dublin City Development Plan 2022-2028 and, as such, would be consistent 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>Prior to the commencement of development the applicant is requested to submit for the written agreement of the Planning Authority revised drawings providing for the following:</p> <ul style="list-style-type: none"> <li>(i) The reduction in the dept of the first floor rear extension to 3.5m, for the full width of the extension, measured externally from the main rear elevation of the house;</li> <li>(ii) The omission of the bathroom windows in the side west elevation wall and their replacement with a render or other appropriate elevation finish.</li> </ul> <p><b>Reason:</b> In the interest of orderly development and residential amenity.</p>
3.	<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>



4.	<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>
5.	<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.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<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>
7.	<p>The existing dwelling and proposed detached ancillary accommodation located in the rear garden shall be jointly occupied as a single residential unit and the detached ancillary accommodation shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p><b>Reason:</b> To restrict the use of the extension in the interest of residential amenity.</p>
8.	<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</p>



	<p>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".

  
 .Anthony Abbott King  
 Planning Inspector

29 December 2023