



An
Bord
Pleanála

Inspector's Report

ABP-318514-23

Development	Construction of extensions, alterations to garden and all associated site works.
Location	27 Anna Villa, Ranelagh, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4403/23
Applicant(s)	Fergal Moran & Elaine Kellegher
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party against Condition 3(ii)(iii)
Appellant(s)	Fergal Moran & Elaine Kellegher
Observer(s)	None
Date of Site Inspection	10/04/2024.
Inspector	Paula Hanlon

1.0 Site Location and Description

- 1.1. The site subject to this appeal (hereafter referred to as 'the site') is located along the western side of Anna Villa Road in Ranelagh. This mature residential streetscape comprises a mix of housing typologies and design form in terms of scale, roof profiles and external finishes. The appeal site is occupied by number 27 which is a two-storey semi-detached dwelling with single storey annex to side and rear (112.97m²). It is bounded to the south by a detached single storey dwelling with narrow rear private open space and to the north by an attached two-storey semi-detached dwelling which is generally of similar design and scale to that on the appeal site, save that it has no single storey annex. Although the rear gardens of properties on Anna Villa face towards the rear of properties on Mornington Road, the rear of the subject site and adjacent dwellings back onto a long rear private garden associated with no. 12 Beechwood Road (west of site), which separates numbers 25-29 Anna Villa with Mornington Road, extending in a northerly direction over a distance 53 metres (approximately).
- 1.2. The site's configuration is largely rectangular in form, however its rear boundary has an irregular line, with the SW corner in separate ownership, forming part of the rear garden of 12 Beechwood Road. In this context, the rear boundary wall aligns with the rear boundary of adjoining semi-detached dwelling (north) and steps in at its southern end, aligning with the rear boundary wall of adjoining detached dwelling (south), resulting in a tight, very narrow private open space area (<1m) at the site's southern end and circa 5-metre-deep open space area at its northern end. The established footprint of the existing dwelling is such that there is no separation distance between the dwelling house and the lateral boundaries of this site.
- 1.3. The existing boundary treatment to rear of the site (including its rear lateral boundaries) consists of a c.1.1-metre-high boundary wall. The entire private open space to rear is of wooden decking, with no planting and a small timber storage structure is sited tight to the NW corner of the site. It lies on a generally flat topography.

2.0 Proposed Development

2.1. In summary, the proposed development seeks the following:

- Single storey rear extension (exempt development) & first floor side extension including roof terrace over existing converted garage
- 2(no) roof windows (front and side of house)
- Alterations to front garden including moved and widened vehicular entrance, new gate piers and sliding timber gate.

2.2. Water supply and wastewater treatment would be provided via established connections to the public network.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 26 October 2023, Dublin City Council (DCC) issued a Notification of decision to grant planning permission subject to 10(no) conditions. Condition 3 which is the subject matter of this appeal required amendments to proposed side extension including:-

- (i) Omission of side parapet wall which extends beyond the eaves level of the first-floor side extension
- (ii) Omission of first floor roof terrace in its entirety
- (iii) Flat roof to ground floor extension (side and rear) shall not be used as a balcony or sitting out area.

3.2. Planning Authority Reports

3.2.1. Planning Report

One Planning Report, completed on 13 October 2023 is attached to the file. The report details the planning officer's assessment on the proposed development in terms of its compliance with the provisions of the CDP. The planning officer is generally satisfied that the proposed development be permitted, save for proposed side parapet wall and roof terrace and I note that other matters raised are addressed by condition (drainage/vehicular access). In recommending the omission of parapet wall and roof terrace, the report refers to Appendix 18 of the CDP, which in sets out guiding principles and outlines that 'side gable, protruding parapet walls at eaves/gutter level of hipped-roofs are not encouraged' (Section 1.3) and that 'there will be a general presumption against the development of rear balconies and roof terraces' (Section 1.4). The report states that the proposed roof terrace would negatively impact upon adjoining residential amenity.

This Planning Report forms the basis for the decision by DCC to grant permission, subject to compliance with conditions, including condition 3 which is the subject matter of this appeal.

3.2.2. Other Technical Reports

Drainage Division (11/09/2023): No objection subject to conditions.

Transportation Planning Division (13/10/2023): No objection subject to conditions.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

None received.

4.0 Planning History

There is no record of any recent planning history on the appeal site.

5.0 Policy Context

5.1. Development Plan

5.1.1. Landuse Zoning

The subject site is zoned Objective 'Z2' - Residential Neighbourhoods (Conservation Areas) with the objective 'To protect and/or improve the amenities of residential conservation areas' (Section 14.7.2).

5.1.2. Appendix 18, Section 1 (Residential Extensions) - General principles/Guidelines (to be interpreted in the context of the development plan Core Strategy) including: -

- Section 1.3

... Side gable, protruding parapet walls at eaves/ gutter level of hip-roofs are not encouraged.

- Section 1.4

There will be a general presumption against the development of rear balconies and roof terraces. However, in inner urban areas, where there are limited opportunities for ground floor amenity provision, innovative design solutions for private amenity space will be considered on a case-by-case basis where it can be demonstrated that provision of same would not have a significant adverse impact on the residential amenities of adjacent properties.

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.

- 5.1.3. Local policy and other sections of the plan that are also relevant to the consideration of this appeal include policy BHA9 (Protection of Conservation Areas) and Section 11.5.3 (Built Heritage Assets of the City).

5.2. Natural Heritage Designations

The appeal site is not located on, or within proximity to any designated Natura 2000 site(s). The Grand Canal (002104) being the nearest proposed Natural Heritage Area is located approximately 1.1km north of this site.

5.3. EIA Screening

Having regard to the nature and type of development proposed, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (As amended), and as such preliminary examination or an environmental impact assessment is not required.

6.0 The Appeal (First Party)

6.1. Grounds of Appeal

This first party appeal pertains solely to condition 3(ii) and 3(iii) of DCC's grant of permission notably;-

Condition 3(ii) the first floor roof terrace shall be omitted in entirety from the development

and

Condition 3(iii) the flat roof of the ground floor extension to the side and rear of the dwelling shall not be used as a balcony or sitting out area.

The following matters are raised within the stated grounds of appeal -

- The proposed first floor terrace being fully screened (as a mitigating factor) was not given due consideration by the PA.
- There is no impact on adjoining residential amenities in terms of overlooking, overshadowing or overbearance and no third-party objection(s) were received.
- The proposal provides more usable family amenity space to existing rear private open space and remains significantly below the current requirement on private open space for a new 4-bed home (85m²).
- Similar first floor screening to terraces were permitted in the past by DCC, (for example planning references 1217/05 and 2858/21).
- Noise levels will not exceed levels associated with normal use of private amenity space and its location relative to adjoining properties and intended use as a single dwelling is outlined in this regard.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

This is an appeal against a condition. In accordance with Section 139 of the Planning and Development Act, having regard to the nature of the condition, notwithstanding that the condition would involve changes to the development proposed, I am satisfied that a determination by the Board of the application as if it had been made to it in the first instance would not be warranted.

Therefore, having examined the application details and all other documentation on file, including the first party appeal submission, site inspection and having regard to relevant policy and guidance, I am satisfied that the main issues to be considered are those that relate to the grounds of appeal and the attachment of Condition 3(ii) & (iii) to the permission granted. I am of the view that the issues as they relate to condition

no. 3(ii) and 3 (iii) of this permission include residential amenity, visual amenity and shortfall in open space availability and my assessment will be carried out under these headings.

7.1. Residential Amenity

7.1.1. Overview

The proposed first floor roof terrace (4.669m deep x 2.666m wide) will be located to the southwest of site, above existing single storey flat roofed annex and extension area (indicated on submitted plans to be carried out by way of exempted development as part of the overall works to this site). The terrace will be west facing, with proposed access off kitchenette/utility space shown at first floor level and I note that bedroom 4/study also shows access via the proposed kitchenette/utility space.

I note that the CDP sets out general principles/guidelines which outline that there is a general presumption against the development of rear balconies and roof terraces (Appendix 18, Sections 1.4). However, the plan also states that innovative design solutions for private amenity space in inner urban areas will be considered on a case-by-case basis where there is limited opportunities for ground floor amenity provision and subject to no significant adverse impacts on the residential amenities of adjacent properties. I am therefore satisfied that the provision of such space in the form of a roof terrace at this inner urban area is acceptable in principle, subject to no adverse impact on adjacent properties in terms of overlooking, overshadowing or overbearance.

Having assessed the submitted plans, I am satisfied that given the siting and separation distance of proposed first-floor roof terrace from adjoining semi-detached dwelling (north) and the site configuration and layout of private garden (west of site), that the proposal will not negatively impact on the residential amenities of these properties by virtue of overlooking, overshadowing and overbearance. However, I wish to highlight that there is no separation distance between the proposed first floor roof terrace shown on plans submitted and the southern boundary of this site, shared with an adjoining residence. I therefore consider that a more detailed assessment is required in regard to the potential adverse impacts arising from the proposed roof terrace on this adjoining residence.

7.1.2. Overlooking & Overshadowing

As stated on the submitted plans., the applicant proposes a 1.8 metre/1.93 metre high obscure glazed screen along the perimeter of the roof terrace. Whilst the proposed development is located to the rear of this site and adjoins neighbouring private open space areas (south, west and north of site), I am satisfied that the use of fixed obscure glazing will address matters with regard to potential overlooking of any neighbouring property. I am further satisfied that the proposal will not give rise to significant overshadowing or have significant impacts on daylight due to the design and material finishes proposed with glazing at the upper level providing translucency.

7.1.3. Overbearance

Whilst the grounds of appeal refer to the proposed obscure glazing as a mitigating factor in providing screening, it is my view that consideration of the site's configuration and the proximity of proposed roof terrace to adjoining property is also required in determining the likely impacts on residential amenity. In this context, I wish to highlight that a parapet wall (3.395m above ground level) and obscure glazing which extends to 5.195m above ground level are proposed along the shared boundary with neighbouring single storey dwelling to the south of the subject site. I note that ground levels for adjoining properties are not shown on submitted plans, however I am satisfied that the proposed first-floor roof terrace is significantly elevated relative to adjoining private rear gardens at ground level. Furthermore, following a site visit, I noted the positioning of 2(no) windows on the rear elevation of neighbouring single storey house (south of site) which are within close proximity (i.e. less than 7m) to proposed screening, one of which directly faces the shared boundary with proposed parapet wall & screening and I also noted the very limited private open space provision to side and rear of this neighbouring site.

In this regard, I consider that the proposed roof terrace with no degree of set-back from adjoining party wall (south) is not reasonable in the context of this site. I am of the view that the proposal will result in a dominant form of development relative to adjoining residence to the south and give rise to overbearance due to its proximity, overall height and length along the party boundary. I am also concerned that its elevated position and future use, so close to the party boundary has the potential to

give rise to noise or disturbance which may unduly impact on the residential amenities of the adjoining residence. In light of this, it is my opinion that the proposal if permitted would adversely impact on the residential amenities of the adjoining single storey dwelling house to the south of the subject site and therefore, that it would be contrary to the landuse zoning Z2 attached to this site 'to protect and/or improve the amenities of residential conservation areas' and would set an undesirable precedent for further such disorderly development in the area.

7.2. Visual Amenity

The proposed first floor roof terrace will be located to the rear of an established dwelling in a residential conservation area. Given that permission has been approved as part of the overall submitted application to DCC for a first-floor extension to front of proposed roof terrace (facing onto the street), I consider that the proposed roof terrace will not be visible from the public street and will be only visible from the rear of dwellings and associated private gardens in its immediate vicinity and largely from adjoining dwellings along Anna Villa. I therefore consider that the proposal will not impact on the visual amenities of the area.

7.3. Shortfall in Open Space Availability

The first party has outlined their need for private open space and referenced the extent of open space area available in the context of existing guidelines for new dwellings. The subject site's available private open space to rear of dwelling is comprised of a small decking area at ground floor level, enclosed by a low boundary wall and there is a small garden space laid in grass to front of dwelling, enclosed by a boundary wall which fronts onto adjoining public footpath. I consider that whilst the proposed roof terrace would enhance the amenities of the occupants of this dwelling to the rear of the site, it should not impinge upon the residential amenities of adjoining properties. In noting that no third-party submission(s) was received, I am of the view that this does not necessarily mean that all residents who are potentially affected have confirmed their support for the proposed development. Given that it has not been satisfactorily demonstrated that the proposed roof terrace will not impact on the residential

amenities of an adjacent residence (south), I therefore concur with the Planning Authority that the proposed roof-terrace should be omitted.

7.4. Other Matters

Precedent Cases

I note the previous planning applications referred to by the appellant (planning references 1217/05 and 2858/21) in regard to similar development permitted by DCC. In this regard, I wish to advise that as stated within Section 1.4 of the CDP, all cases are assessed on a case-by-case basis and where it can be demonstrated that provision of roof terrace would not have a significant adverse impact on the residential amenities of adjacent properties. I am satisfied that there are no further outstanding matters in this regard.

8.0 AA Screening

The nearest European designated sites South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (Site Code 000210) are located a distance of approximately 3.1 kilometres east of the site. Taking into consideration the nature, extent and scope of the proposed development with connection to public wastewater network, separation distance to the nearest European site and to the nature of the receiving environment, with no direct hydrological or ecological pathway 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.

9.0 Recommendation

On the basis of my assessment, I recommend that permission be refused for the proposed first-floor roof terrace and that condition 3 remains, in accordance with the permission decided by the Planning Authority.

10.0 Reasons and Considerations

Having regard to the restricted nature of this site and to the pattern of development in its immediate vicinity, it is considered that the first-floor roof terrace, by reason of its siting and proximity to southern site boundary, with no separation would be overbearing and would seriously injure the residential amenities on adjoining property to the south of this site. Therefore, to permit the development as proposed would be contrary to zoning objective 'Z2' - Residential Neighbourhoods (Conservation Areas) with the objective 'to protect and/or improve the amenities of residential conservation areas' and would be contrary to the proper planning and sustainable development of the area.

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.

Paula Hanlon

Planning
Inspector

16 April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318514		
Proposed Development Summary	Construction of extensions, alterations to garden (including vehicular access) and all associated site works.		
Development Address	27 Anna Villa, Ranelagh, Dublin 6		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No		X	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		X	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____