



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319322-24

<b>Development</b>	<i>Extension to dwelling at front, side and rear with part two storey and part basement and related alterations to existing layout and all associated site works</i>		
<b>Location</b>	<i>53 Lower Churchtown Road, Dublin 14 D14 PX84</i>		
<b>Planning Authority Ref.</b>	<i>D23B/0584</i>		
<b>Applicant(s)</b>	<i>Conor Hogan and Shona Delaney</i>		
<b>Type of Application</b>	<i>Permission</i>	<b>PA Decision</b>	<i>Grant Permission.</i>
<b>Type of Appeal</b>	<i>First</i>	<b>Appellant</b>	<i>Conor Hogan &amp; Shona Delaney</i>
<b>Observer(s)</b>	<i>None</i>		
<b>Date of Site Inspection</b>	<i>13/05/2023</i>	<b>Inspector</b>	<i>Andrew Hersey</i>

#### Context

**1. Site Location/ and Description.** The site is located at 53 Lower Churchtown Road, Dublin 14. The site comprises of a two storey end of terrace dwelling with front and rear gardens all on a stated site area of 0.0317ha.

The proposed development site fronts onto the Lower Churchtown Road located to the west. The Luas rail line is located directly to the east. No. 45 Lower Churchtown Road is located to the south.

**2. Description of development.** *The proposed development comprises of Permission for:*

- Two storey extension at front elevation which includes for construction of a first floor over an existing flat roof element to the south side elevation
- A basement level which is accessed via an internal stair. This is to be lit by a new window facing north and comprises of a basement room with WC and store.
- Ancillary site works

The proposed floorspace of the extensions are stated as 119.5sq.m. on top of an existing floorspace of 117sq.m.

### **3. Planning History.**

- ABP 318094-23 in the name of the same applicants for Extension to dwelling at front, side and rear with part single storey, part two storey and with part Mansard style roof forming rooms in part of attic space & related alterations to existing layout & all associated site works. Decision not made by the Board on this case as yet. It is noted that Dun Laoighre Rathdown County Council refused permission for the said proposal principally on the grounds of visual and residential amenity considerations

### **4. National/Regional/Local Planning Policy**

- Dun Laoghaire Rathdown County Development Plan 2022-2028 is the statutory development plan in the area where the proposed development site is located.
- Within the plan the site is subject to zoning objective A, which seeks *'to provide residential development and improve residential amenity while protecting the existing residential amenities'*
- Chapter 12 Development Management. Section 12.3.7.1 refers to extensions to dwellings

*Extensions to Front*

- Porch extensions, other than those deemed to be exempted development, should be of appropriate design and scale relative to the design of the original house. The scale, height, and projection from the front building line of the dwelling should not be excessive so as to dominate the front elevation of the dwelling. The porch should complement the existing dwelling, and a more contemporary design approach can be considered.
- Front extensions, at both ground and first level will be considered acceptable in principle subject to scale, design, and impact on visual and residential amenities. A break in the front building line will be acceptable, over two floors to the front elevation, subject to scale and design however a significant break in the building line should be resisted unless the design can demonstrate to the Planning Authority that the proposal will not impact on the visual or residential amenities of directly adjoining dwellings. Excessive scale should be avoided. Front extensions, particularly at first floor level, should reflect the roof shape and slope of the main dwelling. A minimum driveway length of 6 metres should be maintained

#### *Extensions to Rear*

- Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. The extension should match or complement the main house.
- 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:
  - M 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.

#### *Extensions to Side*

- 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 façade 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.
- Any planning application submitted in relation to extensions, basements or new first/upper floor level within the envelope of the existing building, shall clearly indicate on all drawings the extent of demolition/wall removal required to facilitate the proposed development and a structural report, prepared by a competent and suitably qualified engineer, may be required to determine the integrity of walls/structures to be retained and outline potential impacts on adjoining properties. This requirement should be ascertained at pre-planning stage.
- Side gable, protruding parapet walls at eaves/gutter level of hip-roofs are not encouraged.
- The proposed construction of new building structures directly onto the boundary with the public realm (including footpaths/open space/roads etc), is not acceptable and it will be required that the development is set within the existing boundary on site and shall not form the boundary wall. The provision of windows (particularly at first floor level) within

the side elevation of extensions adjacent to public open space will be encouraged in order to promote passive surveillance, and to break up the bulk/extent of the side gable as viewed from the public realm.

## **5. Natural Heritage Designations**

The nearest designated site is

- The South Dublin Bay and River Tolka Estuary SPA which is located 3.5km metres to the east of the site and
- Booterstown Marsh pNHA also located 3.5km to the east of the site

## **Development, Decision and Grounds of Appeal**

**6. PA Decision.** Permission granted permission. Conditions of note include:

- Condition 2:
  - (a) The front extension element at ground, first-floor, and attic levels shall be reduced in its depth beyond the existing main front elevation to a maximum of 1 metre when measured externally.
  - (b) The basement (stated as 'lower ground' level) in addition to the external works to the front at basement level shall be omitted from this grant of planning permission.
  - (c) The rear extension at first-floor level shall be reduced in its depth beyond the receiving rear elevation to a maximum of 4 metres when measured externally.
- No contribution applicable

## **7. Submissions**

There are four submissions on file

In summary the submissions raise issues with respect to:

- Excessive scale, bulk and massing,
- Excessive height of rear extension
- Extensions will dwarf existing house,
- Overshadowing
- Impact of proposed basement-level extension,

- Impact on residential amenity<sup>[L]  
[SEP]</sup>
- Inconsistent with pattern of development of terrace, significantly breaking front building line and architectural appearance
- Planning status of the existing side/rear single-storey extension.

## **8. Internal Reports**

- Drainage Planning (dated 31<sup>st</sup> January 2024) raises issues with respect of disposal of surface water on site. Further Information requested with respect to the same

## **9. First Party Appeal.**

A first party appeal was lodged by the applicants agents, Hogan & Associates on the 19<sup>th</sup> March 2024 The appeal lodged is specific to Condition No. 2. In summary the grounds of the appeal are as follows:

- That the proposal complies with development plan policy
- The effect of condition no. 2 will radically compromise the capacity and functionality for family living – there will be a significant loss of internal space as a consequence of the imposition of this condition.
- The perception of mass or bulk is very limited.
- The construction of basements is relatively commonplace and on site drainage is possible. Noise and vibration effects would be minimal. The basement would not be visible.
- The house is not a protected structure nor is it located within an Architectural Conservation Area. The streetscape at this point on Churchtown Road Lower is unexceptional. The proposal will have a positive impact upon the streetscape.
- Best planning practice dictates that planning conditions should not be used to redesign a building for which planning permission has been sought
- The design discreetly uses the front building line of the adjacent terrace to the south of the proposed development site – an aerial photograph has been submitted in this regard to illustrate this
- The proposal will not result in any precedent being set as there is a variety of starkly different developments on similar end of terrace sites at No.s 6, 19

and 29, 36, 42, 50, 57, 66 and 74 many of which are illustrated in the Design Statement submitted with the application.

- Though properties are relatively close to the road along Churchtown Road Lower, the frontage of each is greatly restricted by different forms of planting, trees, shrubbery and roadside treatment, There is also further scope for screening

#### **11. Planning Authorities Response**

A response was received by the Planning Authority on the 16<sup>th</sup> April 2024. The response refers to the previous Planners Report on file and that the appeal does not raise any further material that would justify a change of attitude to the proposed development.

### **Environmental Screening**

#### **12. EIA Screening**

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **13. AA Screening**

Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, 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.

## **2.0 Assessment**

### **2.1. Introduction**

- 2.1.1. The first party appeal seeks to omit condition No. 2 of the Planning Authorities decision which states that:

- (a) The front extension element at ground, first-floor, and attic levels shall be reduced in its depth beyond the existing main front elevation to a maximum of 1 metre when measured externally.
- (b) The basement (stated as 'lower ground' level) in addition to the external works to the front at basement level shall be omitted from this grant of planning permission.
- (c) The rear extension at first-floor level shall be reduced in its depth beyond the receiving rear elevation to a maximum of 4 metres when measured externally.

2.1.2. Section 139 (1) of the Planning and Development Act 2000, as amended, provides that an appeal may be brought against the decision of the Planning Authority to grant permission where the appeal relates only to a condition or conditions that the decision provides subject to the Board being satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted

2.1.3. With respect of the above, I do not consider that it is possible to make a determination on this the condition without having to considering the proposed development *de novo* in the first instance. Any amendment or omission of this condition will have implications with respect of the assessment of the overall development with respect of the visual and residential amenities.

2.1.4. In this respect I consider in this instance that it is appropriate to assess the application *de novo*.

2.1.5. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to the relevant local development plan policies, history files and other relevant guidance documents.

2.1.6. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-

- Principle of Development
- Visual and Residential Amenity Issues



## **2.2. Principle of Development**

- 2.2.1. The proposed development site is located within an area designated as zoning objective A, in the Dun Laoghaire Rathdown County Development Plan 2022-2028. Zoning objective A seeks *'to provide residential development and improve residential amenity while protecting the existing residential amenities'*
- 2.2.2. With respect of the above, it is considered that the proposed development which comprises of extensions to an existing house is an acceptable form of development within this land use zoning designation.
- 2.2.3. I note that issues relating to an existing rear extension has been raised by third party submissions on the file and by the case planner. No permission exists for the same. The case planner states in his report that the said extension is marginally over 40sq.m. There appears to be two extensions – a flat roofed element with a parapet which is located to the rear and side and a pitched glass roof element which is located to the rear. From measurements taken from the drawings it is considered that the two extensions cumulatively are just over 40sq.m. It is not clear if the two were constructed at the same time or separately. I also note that there are windows on the southern elevation of the extension which are less than 1 metre from the boundary it faces and would therefore make the extension to be not exempt from planning permission as per Class 1 Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). I am of the opinion that this issue requires clarification by the applicant and if required, retention permission sought for the extension as part of any future application on the site.
- 2.2.4. However, and notwithstanding the above, it is considered that the principle of an extension of a house at this location is acceptable

## **2.3. Visual and Residential Amenities**

- 2.3.1. It is noted from the planners report that the case planner was satisfied with the proposed development in terms of visual amenity subject to the items set out in Condition No. 2 as outlined above.
- 2.3.2. The first party in their appeal rightly points out that the condition in effect significantly reduces the proposed floorspace and in effect has resulted in a much different

proposal than that which was originally sought. The first party further points out that good planning practice dictates that planning conditions should not be used to redesign a building for which planning permission has been sought and on this basis they ask the Board to dismiss Condition 2.

- 2.3.3. The Development Management Guidelines for Planning Authorities 2007 states under Paragraph 7.7 that *'A condition that radically alters the nature of the development to which the application relates will usually be unacceptable. For example, a condition should not require the omission of a use, which forms an essential part of a proposed development, or a complete re-design of a development. If there is a fundamental objection to a significant part of a development proposal, and this cannot fairly be dealt with in isolation from the rest of the proposal, the proper course is to refuse permission for the whole'*
- 2.3.4. It is clear from the case planners report that he has significant reservations with respect to the design of the proposed development and its impact upon residential amenities and as such it was recommended that condition 2 be imposed to in effect make the proposal acceptable. Condition 2, as the first party rightly points out radically changes the overall design of the proposal. In this respect, I do not consider that Condition 2 should have been imposed and that the proposal should have been refused or further information sought with respect to the design and its impact upon residential amenities.
- 2.3.5. The case planner from the report on file raises concerns with respect of the front projecting gable extension which, as stated in the report breaks the building line of the terrace of houses which the proposed development site forms part of and which marginally breaks the building line of the terrace to the south. I concur with the same assessment and consider that the front elevation does not successfully integrate with the terrace of dwellings and will in conjunction with the side extension result in an overbearing impact to the adjacent dwelling to the site, the boundary of which is less than 1 metre from the proposed extension
- 2.3.6. With respect to the proposed basement level, I note and agree with the case planners report with respect to concerns of drainage and I also consider that structural issues should be considered with respect of impacts of neighbouring properties especially to the attached house to the north. However, and notwithstanding the same, I do not

have any concerns with respect to a basement level in terms of visual and residential amenity issues.

- 2.3.7. With respect to the side and rear elevations, I do have concerns with respect to the proximity of a two storey extension in such close proximity to the boundary of the neighbouring property to the south. The length of the overall extension from front to back would be over 15 metres in length and two stories in height though I note that the roof is hipped will reduce the overbearing impact. However, the scale of the proposal on this elevation is very evident and as such, I am of the opinion that there will be a significant overbearing impact.
- 2.3.8. I note high level windows on this elevation and opaque glass is imposed as a condition of planning with respect to bathrooms. There will therefore be no overlooking impact to the adjacent property to the south.
- 2.3.9. With respect of overshadowing, I do not consider that there will be a significant loss of light to adjacent properties as a consequence of the same
- 2.3.10. With respect of the foregoing it is considered that the proposed development by reason of the proposed front projecting gable and the general scale of the proposal will have significant impacts upon the visual amenities of the area and will result in impacts upon the residential amenities of the adjacent property to the south by way of overbearing.

### **3.0 Recommendation**

3.1. I recommend that permission be refused for the following reasons:

1. The proposed development, by reason of its design, scale and bulk, and by reason of the extent of the proposed front projecting gable breaking the building line of the terrace which the proposed development forms part of, would be out of character with the existing residential properties in the vicinity and would set a precedent for further inappropriate development in the vicinity of the site. The proposed development would, therefore, seriously injure the visual amenities of the area would cause overbearing to the adjacent house to the south and would be contrary to the proper planning and sustainable development of the area.
2. On the basis of the submissions made in connection with the planning application and appeal, it appears to the Board that the proposed development,

in part, relates to a structure which is unauthorised and that the proposed development would comprise the extension of this unauthorised structure. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

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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Andrew Hersey

Planning Inspector

27<sup>th</sup> June 2024