



An  
Bord  
Pleanála

## Inspector's Report ABP-319405-24

### Development

Demolition of existing extensions to the existing house for the construction of a new two storey extension along with alterations and modifications to the existing house and all associated site works.

### Location

245 Mount Prospect Avenue, Clontarf, Dublin 3, D03 N599

### Planning Authority

Dublin City Council North

### Planning Authority Reg. Ref.

3012/24

### Applicants

Stephen and Deirdre Feeley.

### Type of Application

Permission.

### Planning Authority Decision

Grant, subject to conditions.

### Type of Appeal

Third Party

### Appellants

Gerald and Paula Haskins.

### Observers

None.

### Date of Site Inspection

16<sup>th</sup> May 2024.

**Inspector**

Terence McLellan

## **1.0 Site Location and Description**

- 1.1. The appeal site refers to the dwelling and plot located at 245 Mount Prospect Avenue, Clontarf, Dublin 3. The two storey, semi-detached dwelling benefits from a number of flat roofed, single storey extensions to the side and rear. The existing dwelling sits on an extensive corner plot with the main frontage facing onto Mount Prospect Avenue and Saint Anne's Park to the north east, and a side frontage onto Baymount Park to the north west. The adjoining dwelling at 247 Mount Prospect Avenue is located to the south east, whilst the rear boundary is marked by the dwelling at 1 Baymount Park to the south west. Properties in the area are predominantly two storey, hipped roof and semi-detached, with front and rear garden ground in addition to off-street parking.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for the demolition of the existing single storey extensions and the chimney, and construction of a new part two/part single storey side and rear extension. The development would include works to the vehicular and pedestrian entrances as well as associated internal and external alterations to the existing dwelling.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Grant Permission was issued by Dublin City Council on the 29<sup>th</sup> February 2024, subject to nine standard conditions.

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

- 3.2.1. The Planner's Report contains the following points of note:
- The side extension effectively doubles the width of the existing house and the report states that this would be out of proportion with the existing house and the wider streetscape but notes that the subject dwelling has an extremely wide side garden with frontage onto Baymount Park and is therefore not typical of the area.

- The Planning Authority do not consider the extension to be excessive given the site conditions, such as being on a street corner with a large side garden. No objections are raised to the use of a gable roof rather than a hip end roof and it is not considered that this would be incongruous or obtrusive.
- In assessing the single storey rear extensions, the Planning Authority have given regard to exempted development allowances, noting that the regulations would allow for construction of a single storey rear extension of 40sqm with no real restriction on the height apart from it not exceeding the eaves height of the main house.
- The Planning Authority consider the height and depth of the extension on the boundary to be acceptable and consistent with the depth of similar extensions in the vicinity. The report notes that that restricting height, scale, or depth of the extension would be unreasonable, having regard to the allowance for exempt development.
- In terms of overshadowing, the planner's Report notes that the CDP recognises that the city is an urban context and that some degree of overshadowing is inevitable and unavoidable (Appendix 18.1.6). The report notes that the neighbouring property lies to the east of the proposed extension and would remain well lit.
- It is not anticipated that dishing the kerb would impact on street trees, but it is noted that the Parks, Biodiversity and Landscape Services Division should be consulted.
- The report states that the widened entrance onto Baymount Park should be limited to 3m which would be sufficient to allow access for the required ambulance and care vehicle.

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

3.2.3. **Engineering (13.02.2024):** No objection, subject to standard conditions.

3.2.4. **Transportation Planning (08.02.2024):** No objection, subject to standard conditions.

### 3.3. Prescribed Bodies

- 3.3.1. None.

### 3.4. Third Party Observations

- 3.4.1. One observation was submitted to the Planning Authority in response to the planning application. This observation was submitted by the appellant and raises the same issues as the grounds of appeal which are set out in detail in Section 6 below.

## 4.0 Planning History

### *Subject Site*

- 4.1.1. There is no planning history available for the subject site that is of specific relevance to the appeal.

### *Nearby Sites*

- 4.1.2. **3 Baymount Park, Planning Authority Ref. 3517/20:** Permission was granted by Dublin City Council in December 2020 for the demolition of the existing single storey extension at the rear and construction of a part single/part two storey extension to the side and rear including construction of an attic storage space and dormer window extension. An appeal was submitted against conditions 3 and 4 which required scheme amendments (ABP Ref. 309017) with the Board agreeing to the removal of both conditions in May 2021.
- 4.1.3. **247 Mount Prospect Avenue, Planning Authority Ref. 2078/12:** Permission was granted by Dublin City Council in May 2012 for the conversion of the existing attic space to storage space, including the provision of a dormer window to the rear.
- 4.1.4. **253 Mount Prospect Avenue, Planning Authority Ref. 3351/08:** Permission was granted by Dublin City Council in September 2008 for the demolition of a single storey kitchen & conservatory extension to the rear and construction of a part single/part two storey rear and side extension (above garage), including garage conversion, conversion of attic area for storage use, provision of velux and dormer window, and replacement of the hip end roof.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2022-2028

5.1.1. The Dublin City Development Plan 2022 – 2028 (CDP), categorises the site as zone 'Z1 – Sustainable Residential Neighbourhoods'. The stated objective for these areas is 'to protect, provide and improve residential amenities.'

5.1.2. Appendix 18: Ancillary Residential Accommodation contains the relevant guidance and design principles for development within the curtilage of an existing dwelling. Section 1.0: Residential Extensions, should be applied to the proposed development, with particular reference to the following sections:

- 1.1: General Design Principles: Applications for extensions to existing residential units 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) - there is a general presumption against front extensions that significantly break the building line, unless it can be justified in design terms and demonstrated that such a proposal would have no adverse impact on the character of the area or the visual/ residential amenities of directly adjoining dwellings.
- 1.2: 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.
- 1.3: Extensions to Side: 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. Side gable, protruding parapet walls at eaves/ gutter level of hip-roofs are not encouraged.

- 1.4: Privacy and Amenity: 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.
- 1.5: Separation Distances
- 1.6: Daylight and Sunlight: 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.
- 1.7: Appearance and Materials.

## **5.2. Natural Heritage Designations**

5.2.1. None relevant.

## **5.3. EIA Screening**

5.3.1. The proposal does not constitute a class of development as set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations.

## **6.0 The Appeal**

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

6.1.1. A Third Party appeal has been submitted by Gerald and Paula Haskins of 247 Mount Prospect Avenue, the adjoining dwelling to the east. The grounds of appeal can be summarised as follows:

- The height of the extension along the common boundary would result in a significant loss of daylight to the living room at 247 Mount Prospect Avenue, particularly in the late afternoon/evening.
- The Planning Authority considered the objection in terms of light to the garden rather than light to the living room.
- The eaves height is unnecessary and could be dropped by 400mm. A condition should be imposed limiting the height along the boundary to 3040mm or similar.
- Wastewater and sewage drains serving 247 Mount Prospect Avenue pass under the development site. It is requested that a condition be imposed to ensure that the drains remain unblocked and in service at all times.

### **6.2. Applicant Response**

6.2.1. A First Party Response has been submitted by DMVF Architects of 276-278 Lower Rathmines Road, Dublin 6, for and on behalf of the applicants, Stephen and Deirdre Feely. The submission includes letters of support from a Consultant Paediatrician, Key Worker and Senior Physiotherapist, and Occupational Therapist. The main points of the First Party response can be summarised as follows:

- The applicant's son has significant physical and intellectual disabilities, in addition to epilepsy and a visual impairment, with several complex needs and a requirement for full time care. The proposed development/alterations have been carefully designed to meet these needs.
- The height of the rear extension has been designed to align with the existing 2,700mm floor to ceiling height of the main dwellinghouse which is appropriate and not excessive. This ceiling height is also required to facilitate the installation



of various ceiling hoists to assist with the care of the applicant's son. Lower ceiling heights would impede the use of hoists and impact on his quality of life.

- The roof build-up needs to be able to support the hoists. Reducing the height by 400mm as requested by the appellants would contravene Building Regulations in terms of the minimum floor to ceiling height. Neither the floor to ceiling height nor the roof build-up can be reduced.
- The floorplan has been designed to facilitate the movement of a wheelchair throughout the ground floor. As the applicant's son grows, his needs and aids will get bigger, and this has been taken into account in setting out the floorplans.
- The extension has been designed to be considerate to the impact the development may have on neighbouring property. This is why the extension is of limited depth on the boundary and steps away. With additional height located away from the boundary.
- The Design Stage included discussions with medical equipment suppliers and other specialists to ensure that the size, layout, and sequencing of spaces are suitable for the care needs now and into the future.
- The rear extension is located to the west of No. 247 and sunlight would still reach the property for the majority of the day, throughout the year. Sun path diagrams show that there would be minimal overshadowing in winter and slight overshadowing in the evenings in summer.
- The appellants have a large tree in the rear garden, to the rear of the affected room and when in bloom this would cause far more overshadowing than the extension. This would also cause overshadowing of the applicant's property. Some degree of overshadowing is inevitable, unavoidable, and to be expected within this context.
- A right to light is only a right to a reasonable amount of light, which would be retained.
- The condition of shared drainage is not unusual or atypical. Standard drainage conditions are suitable. It is requested that the drainage conditions included on the grant of permission be upheld and no novel drainage conditions be applied.

- The applicant's son's disabilities are a result of medical negligence for which he has received a settlement from the State. The applicant was required to submit the proposal to the President of the High Court of Ireland to approve the suitability of the design, this was a lengthy process which together with the planning process and appeal, has caused significant delay.
- The family's current living conditions are significantly inappropriate and unsafe. This is affecting their health, causing stress, and affecting the ability to provide appropriate care.

### **6.3. Planning Authority Response**

- 6.3.1. The Planning Authority request that the Board uphold their decision and include a condition requiring the payment of Section 48 development contributions.

### **6.4. Observations**

- 6.4.1. None.

### **6.5. Further Responses**

- 6.5.1. None.

## **7.0 Assessment**

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Residential Amenity
- Drainage
- Design (New Issue)

### **7.2. Residential Amenity**

- 7.2.1. The main issue raised by the appellant relates to the height of the extension along the common boundary and the potential for this to result in a significant loss of daylight to the living room at 247 Mount Prospect Avenue, particularly in the late afternoon/evening. In seeking to address this, the appellant considers that the eaves height of the extension could be dropped by 400mm and that this could be achieved by condition. The appellant raises no concerns with regard to the remainder of the extension, with the sole concern being the single storey rear element along the common boundary.
- 7.2.2. The applicant advises that the extension has been designed to be considerate to potential impacts on the appellant's property and notes that the height of the rear extension has been designed to both align with the existing 2,700mm floor to ceiling height of the main dwellinghouse and to facilitate the installation of various ceiling hoists to assist with the care of their son. The applicant argues that lowering the height of the extension would not be possible as this would hinder the use of hoists that are integral to the care of their son and that this would impact on his quality of life.
- 7.2.3. The applicant's response states that the roof build-up needs to be able to support the aforementioned hoists and that reducing the height by 400mm as requested by the appellants would also contravene Building Regulations in terms of the minimum floor to ceiling height.
- 7.2.4. The key issue here is the height and depth of the extension along the common boundary and the potential impact on daylight and sunlight. From my assessment it is clear that a small portion of the proposed rear extension would sit within the 25 degree angle taken from the affected patio doors, indicating that some overshadowing would occur. However, the south west orientation of the rear façade and garden is such that the window/room would retain generally unimpeded access to daylight and sunlight until the late afternoon/early evening. I accept that there would be overshadowing from the late afternoon (after 4pm), but I do not consider this to be disproportionate within the surrounding context, and in my opinion, the degree of impact would not be significant in amenity terms, nor would it warrant a refusal of permission.
- 7.2.5. The proposed height and depth of the extension along the boundary is similar to other extensions in the surrounding area. In my view, the scale and massing on the boundary is acceptable and would not be overbearing on the appellant's dwelling, nor

do I consider that there would be a loss of outlook or the creation of a sense of enclosure. Overall, I am satisfied that the proposed extension is acceptable in design, scale, and massing with respect to the impact on no. 247 Mount Prospect Avenue.

### **7.3. Drainage**

- 7.3.1. I have no objection to the proposal in drainage terms and I am satisfied that the drainage issue raised by the appellant does not warrant a standalone condition. The existing and proposed drainage arrangements are common in urban areas, and I do not consider that there would be any significant disturbance or inconvenience to the appellant's property as a result of the proposal. The development would be required to comply with the drainage requirements of Dublin City Council and comply with the Code of Practice.

### **7.4. Design (New Issue)**

- 7.4.1. I note that the Planning Authority are satisfied with the scale, massing and design of the proposed extension and that no objections are raised to the use of a gable roof. From my site inspection, it is clear that the vast majority of properties in this area retain hip end roofs. Where extensions or dormer windows have been provided to the side, hip end roofs have been retained. This is also the case at the neighbouring dwelling (no. 247 Mount Prospect Avenue) where a previous two storey extension has been completed with a hip end roof. In my opinion, hip end roofs are a significant contributing factor to the character and form of the local area.
- 7.4.2. Section 1.3 of Appendix 18 relates specifically to side extensions and states that side gables are not encouraged. In my opinion, having regard to the prevailing character in the area, the visible and exposed nature of the site, the scale of the extension being proposed, and the additional bulk and massing that results from incorporating a gable roof, I am of the view that the proposed gable roof would be incongruous and obtrusive. Whilst this is a new issue, I am satisfied that it could be appropriately dealt with by way of an amending condition, requiring the proposed gable roof to be replaced with a hip end roof. In my view this would alleviate the bulk and massing of the substantial side extension and would provide a more satisfactory design response to the immediate context.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed extension in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 190m to the north west of the North Bull Island SPA and the North Dublin Bay SAC which are the nearest European Sites.
- 8.1.2. The proposed development comprises a part two/part single storey extension to the side and rear of the existing dwellinghouse, as set out in Section 2.0 of the report. No nature conservation concerns were raised in the planning appeal.
- 8.1.3. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The small scale domestic nature of the proposed development and the existing wastewater connections.
  - The distance from the nearest European Sites and the lack of any direct hydrological connection.
  - The screening determination of the Planning Authority, which concluded that the development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 8.1.4. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

- 9.1.1. I recommend that the Board uphold the decision of Dublin City Council and grant permission, subject to the conditions set out below.

## 10.0 Reasons and Considerations

- 10.1. Having regard to the provisions of the Dublin City Development Plan 2022-2028 and the layout, location, nature, and scale of the proposed extension, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would comply with the provisions of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:

a) The roof of the two storey side extension shall be changed from a gable to a hip end roof. Detailed elevations shall be submitted to and approved in writing by the Planning Authority, prior to any above grade works taking place.

**Reason:** In the interests of visual amenity.

3. The development shall comply with the drainage requirements of the Planning Authority with regard to water supply, drainage, surface water, soakaways, and compliance with the Code of Practice.

**Reason:** In the interest of public health.

4. The development shall comply with the transportation requirements of the Planning Authority with regard to vehicle entrance widths, inward opening gates, dishing of kerbs/footpaths, and retention of street trees, and compliance with the Code of Practice.

**Reason:** In the interests of pedestrian and traffic safety

5. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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. Development shall also be carried out in an orderly manner with adjoining street being kept clear of debris, soil and other material.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

6. 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 matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**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.

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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Terence McLellan  
Senior Planning Inspector  
27<sup>th</sup> May 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	319405		
<b>Proposed Development Summary</b>	Demolition of existing extensions to the existing house for the construction of a new two storey extension along with alterations and modifications to the existing house and all associated site works.		
<b>Development Address</b>	245 Mount Prospect Avenue, Clontarf, Dublin 3, D03 N599		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>Conclusion</b>			
<b>No</b>	X		No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_