



An
Bord
Pleanála

Inspector's Report ABP-320073-24

Development	Single-storey rear extension with dormer attic window to rear and all associated works.
Location	23 Emmet Road, Inchicore, Dublin 8, D08 X7RO
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3250/24
Applicant(s)	Stephen Murphy & Lisa Krenn
Type of Application	Permission
Planning Authority Decision	Conditional
Type of Appeal	Third Party
Appellant(s)	Geraldine O'Brien
Observer(s)	None
Date of Site Inspection	2 nd September 2024
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The subject site is located at 23 Emmet Road, Inchicore, Dublin 8 which comprises an existing red brick mid-terrace two storey dwelling with front bay window. The dwelling gains access via steps up from the public road with accommodation at the lower ground level. All of the existing dwellings are similar in character incorporating a bay window to the front.
- 1.2. There is an existing mature tree to the front area of the site. To the rear is an existing single storey mono pitched roof extension which extends c8.3metres into the existing garden. The finished floor level of the existing site is similar to the adjoining properties either side. The garden area steps down at a lower level to the north. The surrounding is urban and residential character.
- 1.3. To the north is the Camac River, with Kimainham Gaol further north. Kilmainham Orchard apartments is to the northwest. The appeal site is not a Protected Structure or within an Architectural Conservation Area (ACA).

2.0 Proposed Development

- 2.1. Permission is sought for a single-storey flat roof rear extension with dormer attic window to rear and all associated works.
- 2.2. The rear extension would broadly measure 10.6metres x 5.4metres with a height of 3.3metres and total floor area of 55sqm. The rear extension would comprise an extended kitchen, utility and living room area. The dormer would extend 3metres x 1.6metres to an area to be used as a loft area.

3.0 Planning Authority Decision

- 3.1. The Planning Authority GRANTED permission on the 5th June 2024 subject to 10no. condition(s):

Notable condition(s):

Condition no 3. The applicant/developer shall strictly comply with the following requirements: a) The dormer shall be a minimum of 100mm below the dwelling's existing ridgeline and a minimum of 400mm above the existing eaves line. b) The flat roof to the ground floor extension shall not be used as a balcony or terrace.

Reason: To provide for an adequate standard of development, and to protect the residential amenities of adjoining properties

3.2. Planning Authority Reports

Planning Reports

- The Planner's Report forms the basis for the decision; the report also provides a description of the site, indicates the planning history, identifies the land use zoning designation and associated policy context from the Dublin City Development Plan 2022-2028.
- No concerns with respect to AA or EIA.
- A further information request was requested by the Local Authority under Article 33 of the Planning and Development Act 2000 (as amended) which requested the applicant clarify *whether the existing rear extension will be retained as part of the overall redevelopment of the lower rear ground floor extension, or whether the existing extension will be demolished...and to submit a fully dimensioned cross section drawing of the proposed dormer which demonstrates that the height of the dormer is below the ridge line of the existing dwelling.*

Other Technical Reports

- **Engineering Department Drainage Division:** No objection subject to condition

3.3. Prescribed Bodies

- **Irish Water:** No report received
- **Irish Rail:** No report received

3.4. Third Party Observations

A third-party submission was made on the application making the following points:

- Residential Amenity
 - Removal of natural light
- Flooding
- Other Matters
 - Application does not reference the fact that the existing extension is to be demolished.
 - Drawings are not accurate.
 - Height not to standard
 - Building and fire regulations

4.0 Planning History

None

Other:

Section 5 Declaration: EXPP0400/23 – Renovation works with further extension to the rear of the property. Removal of existing single storey – REFUSED for the following reason(s) – Application did not comply with Schedule 2, Part 1, Class 50 of the Planning & Development Regulations 2001 (as amended). (Works involving demolition).

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2022 – 2028 is the relevant development Plan for the subject site.

The site is subject to land use zoning “Z1” – (Sustainable Residential Neighbourhoods) which has the objective *“to protect, provide and improve residential amenities”*.

Volume 2 of the Dublin City Development Plan 2022-2028 contains a number of appendices containing notes and standards for various development types.

- Appendix 18 (Ancillary Residential Accommodation) Sections 1 – 5:
 - 1.0 Residential Extensions
 - 2.0 Detached Habitable Rooms
 - 3.0 Porches
 - 4.0 Alterations at Roof Level/ Attics/ Dormers/ Additional Floors
 - 5.0 Attic Conversions / Dormer Windows

5.1.1. Ministerial Guidance

The boundary of the appeal site is located circa 20metres from the Camac River to the north and within Flood Zone B which has a medium risk of flooding

The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 which state that *“applications for minor developments, such as small extensions to houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing*

buildings, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply.

5.2. Natural Heritage Designations

The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- South Dublin Bay and River Tolka Estuary SPA (0040240) 6.5km to the east of the subject site.
- The North Bull Island SPA (004006) 6.5km to the east of the subject site.
- North Dublin Bay SAC (000206) 6.5km to the east of the subject site.

The nearest Natural Heritage Areas are as follows:

- Grand Canal Proposed Natural Heritage Areas pNHA (002104) to the south of the site. (circa 460metres).

5.3. EIA Screening

Refer to Appendix 1 – Form 1. Having regard to the nature of the proposed development, 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 in this instance.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One number third party appeal has been lodged against the Planning Authorities decision to grant planning permission from the following:

- Geraldine O'Brien (25 Emmet Road, Inchicore Road, Dublin 8) To the immediate west)

The main grounds of appeal can be summarised as follows:

- Residential Amenity
 - Removal of natural light
- Flooding
- Other Matters
 - A number of non-planning grounds have been identified by the appellant that will be discussed in the assessment below.
 - Drawings are not accurate

6.2. **Planning Authority Response**

Response received dated 2nd August 2024 requesting the Board to uphold the decision of the Planning Authority and if permissions if granted a payment of a section 48 development contribution condition should be attached in any final grant of permission.

6.3. **Observations**

None

7.0 **Assessment**

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

- Principle of Development
- Residential Amenity
- Flooding
- Other matters

7.1. **Principle of Development**

- 7.1.1. The subject site is zoned “Z1” – (Sustainable Residential Neighbourhoods) as per the Dublin City Council Development Plan 2022 – 2028 which has the objective “to

protect, provide and improve residential amenities". The subject site relates to an existing dwelling where extensions and alterations can be considered. Therefore, the principle of the development is deemed acceptable, subject to normal planning considerations

7.2. Residential Amenity

- 7.2.1. The grounds of appeal have raised concerns relating to loss of natural light but has not specified which windows. It is my opinion the window in question relates to existing roof lights of the rear extension to the west of the appeal site.
- 7.2.2. The proposed development would be sited against similar type of developments and would be in keeping with the existing built environment and not detract from the established character of the area. The proposed development would be single storey in character and extend from the rear wall by 10.6metres and at a height of 3.3metres.
- 7.2.3. Having regard to the single storey nature of the proposal, the limited increase in height of the parapet wall relative to the neighbouring property to the west which I deem to be acceptable, it is my view the proposed development would not result in any undue impact in terms loss of day light and sun light to this property and refusal on these grounds would not be warranted and would be in compliance with the provision of Appendix 18 (Ancillary Residential Accommodation) of the Dublin City Development Plan 2022-2028.

7.3. Flooding

- 7.3.1. The grounds of appeal have raised concerns relating to flood risk. The appellant has submitted no evidence in support of this claim. The proposed development is located circa 32metres from the Camac River to the north and having viewed the OPW flood maps it is my view the site is located within Flood Zone B which has a medium risk of flooding. The Planning Authority have not raised issue with flood risk in their assessment. The proposed development is also located at a higher level than the adjoining Camac River to the north which in my view is acceptable.

7.3.2. I note that extensions can be considered under the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 which state that “*applications for minor developments, such as small extensions to houses, (which I consider this to be)…, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply*”.

7.3.3. Having regard to the guidance above, the nature of the proposed development being a kitchen/living extension to an existing dwelling in an existing built-up area, the finish floor level of the proposed development being steeply higher than the Camac River and that no evidence has been submitted by the appellant that the site has been subject to a flood event. Therefore, it is my view the proposed development is acceptable and would not pose any adverse flood risk.

7.4. **Other Matters**

7.4.1. With regard to the concerns raised about construction works on the party boundary. This is considered to be a civil matter to be resolved between the neighbouring parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act and the Development Management Guidelines 2007 for Planning Authorities.

7.4.2. With regard to the concerns raised about complying with building regulations (internal heights) and, fire regulations (fire wall). This is governed by under a separate legal code and therefore need not concern the Board for the purposes of this appeal.

7.4.3. With regard to the concern regard the plans and particulars submitted. I am satisfied that the plans and particulars submitted with this application accurately outline the proposal and I note such plans and particular submitted where deemed acceptable to the Planning Authority.

- 7.4.4. I note the condition attached by the Planning Authority with regard to setting the dormer below the ridgeline and the flat roof area not to be used as a balcony or terrace. If the Board is of a mind to grant permission, then in any final grant of permission I consider it necessary to attach conditions with regard to the above in the interest of visual and residential amenity.
- 7.4.5. I note the concerns raised about potential demolition of the entire existing single storey extension to facilitate the proposal. I have checked the demolition plan submitted (drg 23-132/012) and it is noted that only some internal walls are to be removed and there is no proposal for existing boundary walls to be demolished. The planners report of Dublin City Council also reflects this view.
- 7.4.6. The appellant refers to a sink hole in the appeal submission. The appellant has submitted no evidence in support of this claim. Having regard to this and that there is no evidence to suggest any record of a sink hole having occurred on site, I do not consider this matter to be a concern in this instance.
- 7.4.7. Drainage details shall be agreed with the Planning Authority prior to commencement, this can be secured by way of condition if the board is minded to grant permission.

8.0 Appropriate Assessment Screening

- 8.1. Refer to Appendix 2. Having regard to nature, scale, and location of the proposed development and nature of the receiving environment and proximity to the nearest 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.
- 8.2. Having regard to nature, scale, and location of the proposed development and nature of the receiving environment and proximity to the nearest 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

- 9.1. I recommend that PERMISSION should be GRANTED for the reasons and considerations as set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature, scale, location and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the zoning objective for the site, as set out in the Dubin City Council Development Plan 2022 – 2028, would not seriously injure the visual or residential amenity of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Condition(s)

1. The development shall be retained 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 and the development shall be retained in accordance with the agreed particulars.

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

2. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: **To prevent flooding and in the interests of sustainable drainage.**

3. The existing dwelling and the proposed extension shall be jointly occupied as a single residential unit and the extension shall not be used, sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: **To restrict the use of the extension in the interest of residential amenity.**

4. The dormer of the proposed development hereby permitted shall be a minimum of 100mm below the existing dwellings ridgeline and a minimum of 400mm above the existing eaves line.

Reason: **In the interest of visual amenity**

5. The roof area of the proposed development hereby permitted shall not be used as a terrace/balcony area. Access shall be used solely for maintenance purposes only.

Reason: **In the interest of residential amenity.**

6. The site development and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 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.

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

7. 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, as

amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Gerard Kellett
Planning Inspector
21st October 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Single-storey rear extension with dormer attic window to rear and all associated works.		
Development Address	23 Emmet Road, Inchicore, Dublin 8, D08 X7RO		
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	N/A	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:** _____

Appendix 2

AA Screening

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 Network, is the:

- South Dublin Bay and River Tolka Estuary SPA (0040240) 6.5km to the east of the subject site.
- The North Bull Island SPA (004006) 6.5km to the east of the subject site.
- North Dublin Bay SAC (000206) 6.5km to the east of the subject site

The proposed development is located within a residential area and comprises the construction *of a Single-storey rear extension with dormer attic window to rear and all associated works.*

Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and domestic nature of the development
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.