



An
Bord
Pleanála

Inspector's Report

ABP-320114-24

Development	First floor extension (circa 4.5 sq. m.) over existing ground floor extension to rear of existing dwelling.
Location	116 Cherryfield Road, Walkinstown, Dublin 12, D12 H2P8.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD23B/0414
Applicant(s)	Emma Mills
Type of Application	Permission
Planning Authority Decision	Granted subject to 4 conditions
Type of Appeal	Third Party
Appellant(s)	Chris Campbell
Observer(s)	None
Date of Site Inspection	17/09/2024
Inspector	Hugh O'Neill

1.0 Site Location and Description

- 1.1. The subject property consists of a south southeast facing two-storey, mid-terrace dwelling with pitched roof on Cherryfield Road, Walkinstown. Site Area is stated as 0.28 Hectares.
- 1.2. A rear access laneway separates the rear (Northwest) of the subject terrace from Beechfield Park (high quality large green area of open space with a hard surface walking track around its perimeter and tennis/basketball courts, playing pitches). Detached rear garages/sheds of varying scale and design with openings onto the rear laneway are evident along the rear laneway including in the rear garden of subject dwelling.
- 1.3. The surrounding streetscape consists of similar two-storey terraced properties of similar form and appearance. The development pattern to the rear consists of various extensions/alterations to the original dwellings at ground and a small number at first floor level.

2.0 Proposed Development

- 2.1. Proposed development consists of a first floor extension (circa 4.5 sqm) over an existing ground floor extension to rear of existing dwelling as an addition to an existing small first floor extension extending circa 1.7m from the rear elevation and 2.8 from the boundary with the southeast property boundary.

3.0 Planning Authority Decision

- 3.1. The Planning Authority issued a Notification of Decision to Grant Permission on 11- June 2024 subject to 4 no. conditions. The conditions are all considered to be standard in nature, and merits no further consideration for the purpose of this report.

4.0 Planning Authority Reports

4.1. Planning report

The initial report of the Planning Officer describes the proposal, relevant planning policy and notes the observations received. The initial planning report, concluded with a recommendation to request FI as a result of:

- Deficiencies in submitted drawings
- Discrepancies between drawings and existing structure

The planning authority planning concluded that each of the concerns raised was addressed by the submitted further information.

A key consideration in the planning report is the *South Dublin County Council House Extension Guide 2010* with particular reference to the rule of thumb set out therein suggesting that a 1m set back for above ground floor extensions per 3m of height.

The non adherence to this rule of thumb was acknowledged in the decision of the planning authority having regard to:

- Potential creation of tunnel effect
- Overshadowing and the 45 degree rule and relative impact of the proposal in this regard.
- Potential for perception of undue overbearing
- Potential for increased overlooking
- Residential and visual amenity

In conclusion the planning authority report determined that the proposal would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development.

4.2. Third Party Observations

Third Party Observations were submitted by the appellant to the initial application (dated 02 November 2023) and to the significant further information (dated 28 May

2024). The issues raised therein are those set out in consideration of the grounds of appeal.

5.0 Planning History

5.1. Subject site

SD18B/0364 – Construction of a new first floor extension above existing single storey extension to the rear of the property, porch on front elevation, dormer attic and all associated works. Grant Permission.

SD23B/0064 - First Floor Extension (circa 5.5sqm) over existing ground floor extension extending to the full width of the property to rear of existing dwelling. Decision quashed by High Court. It is reported in the appeal that the quashed permission was subject to a condition requiring the setting back of the first-floor extension by 1m from the northern boundary.

5.2. Adjacent, relevant, recent in the vicinity

SD14B/0258 132, Cherryfield Road 2 storey ext Refused permission by SDCC

Reason 1 Having regard to the first floor rear extension and (a) its depth of some 3.3m, (b) parapet wall of either 5.5m or 6m, (c) location along the common boundary with the adjoining dwelling No. 134 Cherryfield Road (d) orientation of the first floor rear extension in relation to the north west (rear) elevation of the adjoining dwelling No. 134, the proposed development would seriously injure the residential amenity of the adjoining dwelling, No. 134 by way of overbearing and overshadowing. Such development would contravene the House Extension Design Guide - Appendix 5 of the Development Plan 2010 – 2016 and the zoning objective 'To protect and /or improve residential amenity'. Thus the proposed development would seriously injure the amenities of property in the vicinity.

SD24B/0164 (immediately south of subject site) 114, Cherryfield Road, Single and double storey rear Extension (2.1m deep first floor ext), new dormer, rooflight to front, gym room to the rear of garden. Further information requested 13/06/2024 inviting inter alia a reconsideration of separation distances from adjoining property boundaries.

5.3. Enforcement

The planning register as published online by the Planning Authority contains no record of planning enforcement on the subject site.

6.0 Policy Context

6.1. South Dublin Development Plan 2022 -2028

The subject site is zoned Existing Residential 'RES' - 'To protect and/or improve Residential Amenity', South Dublin County Development Plan 2022-2028.

Section 6.8 of the South Dublin Development Plan 2022-2028 recognises the necessity for and sets the policy context for residential consolidation and intensification of residential development.

Policy H13 makes it a policy to promote and support residential consolidation and sustainable intensification to meet the future housing needs of the county. Objective 5: *To ensure that new development in established areas does not unduly impact on the amenities or character of an area.*

Section 6.8.2 of the CDP addresses residential extensions.

Thereunder Policy H14 states: *Support the extension of existing dwellings subject to the protection of residential and visual amenities.*

Objective 1: *To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 12: Implementation and Monitoring and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).*

6.2. Natural Heritage Designations

None of relevance

6.3. EIA Screening

Having regard to the nature and scale of the proposed development 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 as set out in detail in form 1 attached.

7.0 The Appeal

7.1. Grounds of Appeal

- Failure to adequately consider unauthorised development and inconsistency of submitted drawings.
 - Previous permission not complied with, to the extent that the appellant considers it to be a material deviation which renders development subject to that permission unauthorised
 - Works undertaken not related to previous permission which are considered by the appellant not to be exempt
 - Cumulative negative impact material to consideration of the proposal and its impact
 - Inaccuracies are noted in drawings. A detailed catalogue is provided by the appellant of discrepancies between that which was proposed/consented and that which has been built.
 - The appellant brings Section 35 of the Planning and Development to the attention of the Bord as a reason for refusal in the context of the alleged unauthorised development and past failure to comply.
- First floor extension over scaled, overbearing and will result in severe reduction in sunlight and daylight.
- Inaccurate application drawings resulted in inaccurate application of the 45-degree angle impact assessment resulting in an underestimation of the impact in the council assessment.

- Council failed to have full regard to Policy H14 objective 1 and Policy H13 Objective 5 of the County Development Plan as the proposal is:
 - Visually incongruous and overbearing
 - Undesirable precedent
 - Contrary to South Dublin County Council House Extension Design Guide, 2010
- Inadequate site notice
- Negative impact on property values

7.2. Applicant Response

No response on file.

7.3. Planning Authority Response

The Planning Authority response directs the Board to the executive order.

7.4. Observations

None on file.

8.0 Assessment

The main issues of the appeal can be dealt with under the following headings:

- Principle of the development.
- Compliance with development plan policy
- Impact on Residential and Visual Amenity
- Unauthorised Development

8.1.Principle

The principle of undertaking a domestic extension is generally accepted subject to considerations of details set out below.

8.2. Residential and visual amenity

As the issue of determining right to light is a matter for the courts, I do not consider that the board is in position to draw any conclusions in relation to matters raised in this respect.

For clarity my assessment of impact on daylight is a consideration of the impact of the development now proposed on the existing baseline scenario for the ground floor room as the most sensitive receptor having regard to both its location relative to the proposal and its use. The existing extensions to the application site have resulted in impacts on existing daylight baseline scenario for house number 118 to the northeast.

8.2.1. Vertical sky component

I consider the Visual sky component (VSC) will not be impacted by the proposal.

8.2.2. Daylight

The application of the 45 degree rule and its inclusion in the local policy and guidance is referenced by the appellant.

The 45 degree rule is a method for assessing diffuse skylight impact. The 45 degree rule is derived from *Site Layout and Planning for Daylight and Sunlight: a Guide to Good Practice – Peter Littlefair* (BRE 2011) in which it is described as a rule of thumb which needs to be interpreted flexibly on a case by case basis.

The existing diffuse skylight baseline scenario is impacted by several factors including existing development. Orientation of the existing façade and openings therein are not a relevant consideration in assessment of daylight as opposed to sunlight (considered below).

The guide sets out that where a centre point (at 1.6m above floor level for a patio door) falls on the proposed extension side of a 45 degree line drawn in plan and elevation, it is considered that the proposed extension *may well cause a significant reduction in the skylight received by the window*. The opposite conclusion is implied in the event that the centre point falls to the other side of the 45 degree line.

On page 8 of the appeal the test has been applied to that which is proposed only for the purpose of both the horizontal and vertical components. The result presented

would lead to a conclusion that the extension may well not cause a significant reduction in skylight. However where the vertical (elevation) aspect of the test is applied to the proposed first floor extension and the horizontal (plan) is applied to the existing ground floor extension the result is a clear failure of the test. In isolation the ground floor (extant) extension or the first floor proposed extension would not result in a significant impact identified by use of the 45 degree rule. However on application of the analysis to the combined impact of existing and proposed development the proposal falls clearly into a category of significant impact.

I consider the impact of the proposed extension in combination with the extant ground floor extension to be a significant negative impact.

8.2.3. Sunlight

Orientation and overshadowing are key aspects of the value of sunlight to residential amenity. Sunlight in living rooms at any time is of value but particularly afternoon and morning sunlight. In bedrooms and kitchens morning and evening sunlight is of higher amenity value. Establishing a baseline and determining significance of impacts of changes to potential sunlight hours to windows and to the garden to sunlight requires consideration of orientation and overshadowing arising from existing and proposed development.

Having regard to the northwest aspect of the rear elevation and existing development to the southwest of the garden the potential annual sunlight hours reaching ground floor openings and the area of the garden most proximate thereto is relatively low.

Standards for new development are not directly relevant to the circumstances of this case but can however be of assistance. A commonly used metric for determining significance of impact is where a reduction is greater than 0.8 times the former value, therefore smaller impacts are of greater significance in cases of lower levels of sunlight.

No sun path analysis or shadow pattern diagrams have been submitted with the application to provide quantitative analysis of potential impact. However I am satisfied that on analysis of the submitted details that the proposal will result in a noticeable and significant negative permanent impact on the residential amenity by virtue of a reduction in potential sunlight hours to both the house and to the garden.

8.3. Non-compliance with Development Plan policies and objectives.

Policies H13 and H14 and associated objective 5 and 1 respectively of the South County Dublin 2022-2028 are qualitative in nature making it an objective to require protection of amenities whilst seeking consolidation and intensification. A determination on application of these competing objects can only be made on the circumstances of each case.

In the subject case, by virtue of the significant negative impact arising from the reduction in residential amenity as a result of reduced sunlight and daylight I consider the proposal to be contrary to both policy H13 objective 5 and H14 objective 1.

8.4. Unauthorised development.

The matter of unauthorised development in this instance is not material to determining the appeal and is a matter for the Planning Authority for that reason I am giving it no further consideration.

8.5. Other matters

Site Notice:

In terms of procedural matters and the alleged unspecified inadequacy of the site notice, I note that the notice was considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

Devaluation of property:

I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

9.0 AA Screening

Having regard to the distance of the site from European Sites and to the small scale of the proposed development and to the absence of any direct pathway from the site to the designated sites I consider that the proposed development individually, or in combination with any other plans or projects, would not be likely to have any significant effect on any European Site.

10.0 Recommendation

Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations.

11.0 Reasons and Considerations

Having regard to the position of the house in the terrace and the orientation of the terrace and the design, scale and siting of the proposed first floor extension, in combination with the existing development on the subject site, the proposal would seriously injure the amenities of the adjacent house and garden to the northeast by reason of overshadowing and significantly reducing daylight. The proposal would be contrary to the RES Zoning objective pertaining to the site and policy H13 objective 5 and H14 objective 1 of the South Dublin Development Plan 2002-2008 which seek to protect residential amenity. The proposed extension would therefore 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.

Hugh O'Neill

Senior Planning Inspector

02 October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320114-24		
Proposed Development Summary	First floor extension (circa 4.5 sq. m.) over existing ground floor extension to rear of existing dwelling		
Development Address	116 Cherryfield Road, Walkinstown, Dublin 12, D12 H2P8		
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	No further action required
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		Class.....	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		N/A	Conclusion No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Hugh O'Neill Date: 02/10/2024