



An  
Bord  
Pleanála

## Inspector's Report ABP 320325-24

<b>Development</b>	House extension and associated works.
<b>Location</b>	21 Foyle Road, Dublin 3.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3665/24.
<b>Applicant(s)</b>	Simon O'Donnell.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission subject to conditions.
<b>Type of Appeal</b>	First Party v. Conditions.
<b>Appellant(s)</b>	Simon O'Donnell.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	2 October 2024.
<b>Inspector</b>	Brendan Wyse.

## 1.0 Site Location and Description

- 1.1. No. 21 Foyle Road is a two storey mid-terrace red-brick house in the mature inner suburb of Fairview. The houses, 19-25 Foyle Road, date from the late 1940's/early 1950's period. They comprise compact 3- bed units with modest rear extensions, incorporating a first floor return that accommodates a bathroom. No.21 retains its original footprint while several of the adjacent house have been extended to the rear. The rear of the property faces west.

## 2.0 Proposed Development

- 2.1. The proposed development includes:

Demolition of rear extension.

New ground floor extension (22.51sqm), extending the full width of the house. This provides for a re-configured kitchen/living/dining area and for a new bathroom at ground floor level.

New first floor extension above (10.32sqm), along the northern boundary and extending half the width of the house. This provides for a fourth bedroom and toilet.

New rooflight to front roof plane and new porch doors.

## 3.0 Planning Authority Decision

### 3.1. Decision

The decision to grant permission is subject to 8no. conditions.

The conditions under appeal are as follows:

#### **Condition 2**

*The applicant shall comply with the following requirements of the Planning Authority:*

- a) *The proposed south facing side window at first floor level serving bedroom 4 shall be reduced in size so that it is no larger than 1.2m in width and 1.3m in height and should be permanently fitted with obscure glass.*

- b) *The proposed rear window serving the bedroom at first floor level shall, if required, be increased in size in keeping with the existing fenestration of the house.*

*Reason: In the interest of residential amenity, to ensure no undue overlooking and to ensure the proposed new room has sufficient natural light.*

**Condition 7**

*The following requirements of the Engineering Department (Drainage Division) shall be complied with:*

- a) *The developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.*
- b) *The development is to be drained on a completely separate foul and surface water system.*
- c) *The development shall incorporate Sustainable Drainage Systems in the management of surface water. Full details of these shall be agreed in writing with DPPDC Section prior to commencement of construction.*
- d) *All private drainage such as downpipes, gullies, manholes, armstrong junctions etc. are to be located within the final site boundary. Private drainage is not permitted in public areas or areas intended to be taken in charge.*

*Reason: To ensure the protection of public drainage infrastructure and the satisfactory management of surface water runoff and flood risk as a result of the development.*

The remaining conditions are generally standard.

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

#### **3.2.1. Planning Report**

Basis for planning authority decision. Includes:

- Concern with regard to undue overlooking of the neighbouring rear garden from the new large side window at first floor level.
- No concern with regard to undue overlooking to the rear where there is an existing level of mutual overlooking in the urban context.

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

#### **Engineering Department – Drainage Division**

Recommended attachment of Condition No.7.

#### **Irish Water**

No submission received.

## **4.0 Planning History**

None at appeal property.

PA Ref. 0350/16: Adjoining house No.20 - Declaration Of exempted status for rear extension.

## **5.0 Policy and Context**

### **5.1. Development Plan**

Dublin City Development Plan 2022-2028

Zoning – Z1 Residential: to protect, provide and improve residential amenities.

Appendix 18, Section 1.2 – Extensions to Rear. In considering rear extensions factors to be taken into account include:

- Overshadowing, overbearing and overlooking – along with proximity, height and length along mutual boundaries.
- Degree of setback from mutual side boundaries.

### **5.2. Natural Heritage Designations**

None relevant.

### **5.3. EIA Screening**

- 5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and, therefore, the requirement for EIA or EIA screening does not arise.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first party appeal against conditions (2 and 7) only. The main grounds can be summarised as follows:

#### Condition 2

- The south facing window, with no opening sash and as tall as the ceiling height allows, plays a significant role in making a small room feel more generous, open and bright. It also facilitates passive warming from southern sunlight.
- The south facing window as proposed would create less overlooking than a larger west facing window.
- Its location adjacent to the new flat roof and its parapet means that the garden of the neighbour will be less visible than from a larger west facing window.
- The existing first floor rear facing windows have always overlooked the neighbours rear gardens.
- Increasing the size of the west facing window would increase overlooking to both neighbours (north and south).
- The Board is also asked to remove the requirement to obscure the south facing window.
- If the Board opts to retain the obscure glazing, which it is hoped the Board will not do, then the original size of the window as proposed should be retained.
- Reducing the height of the window, as required in the condition, will have no impact on overlooking but will reduce the light into the room by 25%.
- An attached drawing illustrates the sightlines from the original and proposed windows.
- The Board is requested to delete the condition.

## Condition 7

- Existing drainage comprises a shared private drain running parallel to the rear of the terrace.
- The proposal is to use the existing, combined services altering the layout to suit the design – illustrated on attached drawing.
- The rear garden is not large enough to accommodate a new soakaway for surface water. Measures to mitigate surface water, including greening the flat roofs, could be agreed with the drainage department – complying with Condition 7(c).
- Condition 7(b), if strictly applied, may require new separate drain runs through and under the house to the front garden, with manholes and associated pipework and new connections to the public services. This is unreasonable and may be difficult to achieve in practice. Previous permissions in the vicinity did not require such arrangements.
- The Board is requested to delete part(b) of the condition.

## 6.2. Planning Authority Response

None received.

## 6.3. Observations

None.

## 7.0 Assessment

- 7.1. As noted this is an appeal against conditions only. As per Section 139 of the Act I am satisfied, having regard to the nature of the conditions, that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted.

The issues raised, therefore, are addressed under the following headings:

- Condition No.2

- Condition No.7
- Appropriate Assessment

## 7.2. Condition No.2

- 7.2.1. While noting the design intent to exploit and capture the benefits of the south facing aspect of the proposed upper floor bedroom, I agree with the planning authority that the proposed window would create excessive overlooking to the rear garden of the neighbours property (No.22).
- 7.2.2. While the applicants are correct that the existing upper floor window of bedroom 3 does facilitate overlooking to the rear gardens, in common with all such windows along the terrace, this, I would argue, is an inevitable and accepted level of overlooking common to almost all housing schemes of this nature. The predominant line of vision, in these instances, is along the length of the gardens and, largely, parallel to the neighbouring property so that the sense of being overlooked is somewhat mitigated. In contrast, the proposed window would face directly into the garden of No.22 and at a distance of only about 2.3m from the common boundary. Notwithstanding the intervening parapet of the adjoining single storey element of the extension, and which would offer some mitigation, I consider that the resulting level of overlooking would be excessive and beyond that which could reasonably be expected. The sense of being overlooked experienced by the neighbour, given the direct line of vision to such a large window, would, in my view, be significant.
- 7.2.3. I note that the applicant is not keen on the idea of the window being glazed with obscure glass. I can appreciate that this is a far from ideal remedy for a habitable room. Given the applicants understandable wish to take advantage of the south facing aspect in relation to light and passive warming I consider that the south facing window could be replaced by a high level window. The window could be the same width as proposed but with a cill level at no less than 1.7m above finished floor level. This would still allow significant light into the room and provide some passive warming while safeguarding the amenities of the neighbours property.
- 7.2.4. I agree with the planning authority in relation to the enlargement of the proposed west facing window.

7.2.5. In conclusion, therefore, I consider that part (a) of condition No.2 should be amended.

### **7.3. Condition No.7**

7.3.1. I agree with the applicants that a strict interpretation of part (b) of this condition would be onerous in the context of the modest development proposed to a compact terraced property. The condition is most likely a standard condition applied to all, or nearly all, development proposals without, necessarily, taking account of all of the circumstances that arise at individual properties. I note also that there has been no response to the appeal from the planning authority.

7.3.2. I consider, therefore, that this part of the condition should be removed.

### **7.4. Appropriate Assessment Screening**

7.5. Having regard to the nature and minor scale of the proposed development within an established built up urban area it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

## **8.0 Recommendation**

8.1. I recommend, pursuant to Section 139 of the Act, that the Board should direct the planning authority as follows:

Amend Condition 2(a) to read as follows:

The proposed south facing window at first floor level serving bedroom 4 shall be reduced in size such that the cill level is no less than 1.7m above finished floor level.

Remove Condition 7(b).

## **9.0 Reasons and Considerations**

It is considered that the south facing window to bedroom 4, as proposed, would result in excessive overlooking of the neighbouring garden (No.22) and, as such, would seriously injure the residential amenities of that property. It is also considered that the specified drainage arrangements, requiring a completely separated system, would be unduly onerous given the minor nature of the proposed extension to a



terraced property currently served by a combined system running to the rear of the terrace.

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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Brendan Wyse  
Planning Inspector

8 October 2024