



An
Coimisiún
Pleanála

Inspector's Report ACP-323335-25

Development	demolition of existing extension and construction of new extension, with ground floor courtyard and roof garden to first floor level
Location	38 Blackhall Place, Stoneybatter, Dublin, D07W8K6
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	WEB2134/25
Applicant	James Stafford
Type of Application	Permission (s. 34)
Planning Authority Decision	Grant with Conditions
Type of Appeal	First Party v. Condition (s. 139)
Appellant(s)	James Stafford
Observer(s)	None
Date of Site Inspection	25 th of October 2025
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. Number 38 Blackhall Place is a mid-terrace two storey dwelling finished in brick consistent with the terrace of houses it is located within. Blackhall Place is located just south of Stoneybatter in Dublin City and c. 270m north of the River Liffey.
- 1.2. A public footpath and paid on street parking is located to the front of the property. Another terrace of two storey houses is located to the rear of number 38 on Paul Street. The rear walls of the two storey elements of Blackhall Place and Paul St are c. 13m apart.
- 1.3. The site has a stated area of 0.006ha.

2.0 Proposed Development

- 2.1. The application comprises-
 - demolition of existing rear extension- 10.8 sq.m
 - construction of a new extension- 16.67 sq.m
 - Total proposed floor area- 78.67 sq.m
 - Ground floor courtyard- 4.7 sq.m
 - First Floor roof garden to new extension- 16.5 sq.m
 - 2 No. Roof lights with PV solar array to rear roof, and
 - associated site works.

3.0 Planning Authority Decision

3.1. Decision

On 17th of July 2025 Dublin City County Council issued a Notification of Decision to Grant Permission subject to 9 conditions. Planning Authority Reports

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report dated 08th July 2025 can be summarised as follows:

- The provision of a roof garden in such a built up urban environment poses several concerns.
- Appendix 18, Section 1.4 (Privacy and Amenity) of the DCDP notes there will be a general presumption against development of rear balconies and roof terraces.
- The proposal includes screening at a height of 1.5m from within the proposed roof garden. It is considered a screen 1.8m in height would be required to ensure that any potential undue overlooking of 3rd party sites was fully obviated.
- Whether the screen is 1.5m or 1.8m it would be potentially oppressive to the outlook of adjoining 3rd parties
- A similar development was proposed at no. 26 Blackhall Place (Ref. 3570/22). However the provision of the roof garden and associated door leading out to same was omitted by way of condition.
- Having regard to this and to the proximity to the surrounding rear gardens, including the existing houses backing onto the site from Paul Street, there is concern that the proposed roof garden would result in an undesirable precedent which could adversely impact on the residential amenities of adjoining occupiers by reason of noise and perceived overlooking and loss of privacy.
- It is considered that the proposed ground floor extension would be in keeping with the scale and character of the existing dwelling and would have no undue adverse impact on the amenities of the adjoining residents.
- There is concern however in relation to the impact of the proposed roof garden on the amenities and privacy of adjoining residents, both in itself and precedent it would set for further developments of this type on these constrained sites.
- It is therefore considered that this and all associated fittings for same should be omitted by condition.

3.2.2. Other Technical Reports

- Drainage Division- No objection subject to condition
- Archaeology- No objection subject to condition

3.2.3. Conditions

Condition 2 states-

“The development hereby permitted shall incorporate the following amendment(s):

a) The proposed first floor roof garden, associated parapet wall above the permitted ground floor extension and glazed screening shall be omitted in its entirety.

b) The proposed door from the first floor (reconfigured bedroom 1) to the flat roof shall be omitted, the door shall be replaced with a window, which shall be no greater than the existing rear window to the north (adjacent to no. 36 Blackhall Place).

Revised drawings shall be submitted for the written approval of the Planning Authority prior to commencement of development.

Reason: To protect the amenities of surrounding residents.”

3.3. Prescribed Bodies

- TII- Apply section 49 Levy if applicable

3.4. Third Party Observations

- None

4.0 Planning History

- No relevant recent planning history at this site.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028 (DCDP)

5.1.1. The following provisions of the Dublin City Development Plan 2022-2028 are relevant-

- The site is zoned Z1 ('Sustainable Residential Neighbourhoods') with a land use zoning objective '*To protect, provide and improve residential amenities*'
- The western part of the site is located within a red hatched conservation area
- The site is not located within an Architectural Conservation Area
- Volume 2- Appendix 18 deals with Residential Extensions.

- Section 1.2 deals with extensions to rear and states-

"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:

- *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"*

- Section 1.4 deals with Privacy and Amenity and states-

“Extensions should not result in any significant loss of privacy to the residents of adjoining properties.....

.....There will be a general presumption against the development of rear balconies and roof terraces. However, in inner urban areas, where there are limited opportunities for ground floor amenity provision, innovative design solutions for private amenity space will be considered on a case-by-case basis where it can be demonstrated that provision of same would not have a significant adverse impact on the residential amenities of adjacent properties. 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. It is advisable to discuss proposals with neighbours prior to submitting a planning application.”

5.1.2. The Applicant cites the following Policy and Objective in their appeal-

- Policy QHSN22 which relates to ‘Adaptable and Flexible Housing’
- Objective QHSNO10 which relates to Intergenerational Models of Housing

5.2. Ministerial Guidelines-

- 2024 Sustainable Residential Development and Compact Settlements Guidelines for Planning (Compact Settlement Guidelines)

5.3. Natural Heritage Designations-

5.3.1. The closest designated sites to the appeal site are-

- South Dublin Bay SAC (000210)-c. 5 kms to the south east,
- North Dublin Bay SAC (000206)- c. 6.5 kms to the east,
- South Dublin Bay and River Tolka Estuary SPA (004024)- c. 3.5 kms to the north east and

- North Bull Island SPA (004006)- c. 6.5 kms to the east

5.4. EIA Screening

- 5.4.1. The proposed development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulation 2001, as amended, and therefore no preliminary examination is required. See Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal has been lodged against condition number 2 by the applicant James Stafford. The grounds of appeal can be summarised as follows:
- Condition 2 and the removal of the roof terrace and access door is considered detrimental to the design and future viability/liability of the dwelling.
 - The refusal was based on concerns to protect the amenities of surrounding residents. The importance of protecting the surrounding residents' amenities is acknowledged.
 - However condition No. 2 insufficiently considered the relevant statutory and policy frameworks, including DCC's Development Plan and key national planning guidelines which promote sustainable urban living and innovative design solutions for private amenity.
 - Given the Inner City nature of the dwelling, it suffers from Insufficient Private Outdoor Space as explained.
 - The application proposes two such spaces- a 4.7 sq.m courtyard at ground level and 16.5 as a roof garden totalling 21.2 sq.m.
 - Condition 2 leaves only 4.7 sq.m and does not consider external storage requirements for bins and bikes.
 - The proposed roof garden is designed in full compliance with the Z1 zoning objective. It includes an L shaped setback to No. 36, sensitive orientation,

massing and detailing of glazed screens to mitigate overlooking, overshadowing and privacy concerns.

- A condition is suggested to limit the use of the roof terrace to daylight hours or limited day operation hours with a nighttime curfew.
- Referring to the red hatch Conservation zoning the proposal is modest in scale, form and is in harmony with the surrounding built environment. It does not detract from the architectural significance of the area. The roof terrace would not be visible from street level.
- Referring to DCDP Appendix 18 it is noted cases by case consideration is afforded to roof gardens in inner urban areas. The Architectural Design Statement submitted with the application and associated drawings outlines proposals to mitigate and protect existing residential amenity while providing needed private open space.
- The proposed roof terrace is consistent with both the DCDP and the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities 2024 as detailed.
- In order to mitigate residential amenity impacts to neighbouring properties the proposal incorporates-
 - Opaque glazing to 1.5m screens from the roof level
 - Opaque Glazed access door
 - L shaped set back, lower parapets and orientation to reduce overshadowing
 - Defensive planting as secondary overlooking measure and to dampen excessive noise.
- The proposal includes measures to comply with DCC Blue-Green Roof Infrastructure Guidance 2021 as detailed.
- Benefits of greenery on the roof are detailed.
- Design Measures to address overlooking, privacy & overshadowing are further discussed. The proposed approach aligns with Policy QHSN22 and Objective QHSNO10 of the DCDP. The design led solution is consistent with

section 15.9 (Residential Quality Standards) and Appendix 16 Development Standards) of the DCDP with emphasis on high quality design response to site specific condition including safeguarding residential and visual amenity.

- The existing lean to roof of No. 40 creates an existing buffer to that property.
- Potential of overshadowing is minimal given the location and orientation of proposed terrace.
- Proposal is carefully crated to avoid direct line of sight to neighbouring windows and efforts made to ensure the terrace would not cause undue overlooking during key daylight hours.
- The 2022 -2028 DCDP acknowledged impact of Covid 19 and importance of private open space.
- The permitted development with Condition 2 appears inconsistent with other permitted developments in DCC. A number of cases are cited including 109-112 North King Street- redevelopment to provide 8 apartments etc with balconies at first floor with high obscured glazing. These look south towards the rear of Blackhall Place and Paul Street.
- Residents of Black Hall Place have expressed support for the proposal and would consider lodging similar plans.

6.2. Planning Authority Response

- None received.

6.3. Observations

- None received.

7.0 Assessment

7.1. Introduction

- 7.1.1. This is an appeal brought by the First Party in relation to Condition 2 of DCC's decision to grant permission.

7.1.2. Condition 2 seeks to omit the proposed roof garden, ancillary features and replace the glazed door to the garden with a window. Final details are to be submitted and agreed with DCC in advance of the commencement of development.

7.1.3. Having examined the application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I am satisfied that this appeal can be considered under section 139 of the Planning and Development Act 2000 (as amended).

7.1.4. Therefore the issues to be addressed in this appeal are considered to relate to the following headings:

- Condition 2

7.2. Condition 2

7.2.1. DCC have imposed condition 2 omitting the first floor roof terrace over ground floor extension and doorway access to the terrace from a bedroom in order to protect the amenities of surrounding residents. This is justified in the Planners Report with reference to Appendix 18 of the DCDP. The Planners Report also considers a screen of 1.8m in height would be required to ensure that any potential undue overlooking of 3rd party sites was fully obviated. And notwithstanding this, the proposed screen of 1.5m or even up to 1.8m would potentially be oppressive to the outlook of adjoining residential properties.

7.2.2. Appendix 18 is titled 'Ancillary 'Residential Accommodation'. It is considered this section generally deals with residential dwellings. Section 1.4 deals with 'Privacy and Amenity' detailing a general presumption against the development of rear balconies and roof terraces with some exceptions for inner urban areas where there are limited opportunities for ground floor amenity provision. In such circumstances-

“design solutions for private amenity space will be considered on a case-by-case basis where it can be demonstrated that provision of same would not have a significant adverse impact on the residential amenities of adjacent properties”

- 7.2.3. It is the Appellants contention that the development as originally proposed has had consideration to the zoning objective and residential amenity of neighbouring properties. It is argued the proposal and in particular the roof terrace includes an L shaped setback to No. 36, sensitive orientation, massing and detailing of opaque glazed screens and defensive planting to mitigate overlooking, overshadowing and privacy concerns.
- 7.2.4. Blackhall Place is a terrace of narrow two storey houses running in a north south direction generally parallel to another terrace of two storey houses to the east called Paul Street. The distance between the two storey element of each No. 38 and the nearest houses directly east i.e. No's 2 and 3 are approximately 13m as per drawing P-02.
- 7.2.5. The depth of the rear area of private amenity space to the rear of number 38 is shown on drawing P-03 & 04 as c. 5.2m.
- 7.2.6. The proposed development is to replace the existing ground floor rear return (c. 10.8 sq.m) which runs on the southern side of rear boundary of No. 38. This is a modest lean to style extension. The existing rear open space area is indicated as 11.15 sq.m on drawing P-03.
- 7.2.7. The proposed ground floor extension will provide almost full coverage of the existing rear open space area save for an area described as a 4.7 sq.m 'Light Well Courtyard' as shown on drawing P-09.
- 7.2.8. Drawing P-10 proposes a 16.5 sq.m first floor roof garden. This includes a raised planter along the eastern most boundary and planting along southern boundary. Drawing P-11 shows a Satinised Glazing Door on the rear elevation of the two storey element of the house providing access to the roof garden. It also shows 600mm of glazed screening atop of a c. 0.9m parapet along the eastern most boundary. This is also shown in section drawings P-12, P-13 and P-14 to the southern and northern boundary. The overall height of the eastern most boundary including glazing is shown as c. 4.5m bounding No 2 and 3 Paul Street with the glazed screening appearing to be slightly set back of the north south and east boundary's.
- 7.2.9. The application is accompanied by a 'Design Statement' which includes photographs from the existing dwellings private open space. The Design Statement explains the brief for three bedrooms, the need to extend to the rear and the seeks to justify the

proposed roof terrace in the context of Appendix 18 of the DCDP. The two main measures to maintain privacy are the 1.5m boundary with glazed screens and defensive planting. The L shape of the extension was proposed to address overshadowing, supported by the glazed screens. The proposal provides for c. 21.2 sq.m of private amenity space while delivering the required 3 bedrooms. The design statement refers to requirements set out in the 2024 Compact Settlement Guidelines and figure 5.1 within.

- 7.2.10. I have considered the development as proposed including all of the information submitted with the application and appeal. I have reviewed the provisions of Appendix 18 of the DCDP and the site's inner city urban setting. I have also reviewed the 2024 Compact Settlement Guidelines including Figure 5.1 as referenced in the appeal and application.
- 7.2.11. I do not consider these Guidelines applicable to extension type developments to existing houses. In this regard I am satisfied the provisions of Appendix 18 of the DCDP are the main provisions for consideration.
- 7.2.12. Section 1.4 of Appendix 18 provides for consideration of roof gardens where there is limited opportunities for ground floor amenity provision. The development as proposed reduces the existing private amenity provision from 11.5 sq.m to 4.7 sq.m in order to extend the development and to provide a third bedroom as shown.
- 7.2.13. I am not satisfied there are limited opportunities for ground floor amenity provision in this context. Instead the application seeks to provide increased internal space while also trying to increase their private amenity space.
- 7.2.14. While this is an entirely reasonable requirement, the development as proposed does not strike the appropriate balance between providing for the applicants needs and delivering upon the Z1 zoning objective '*To protect, provide and improve residential amenities*'.
- 7.2.15. I do not consider the proposed 1.5m screening or defensive planting at the roof level of the extension to be appropriate mitigation against overlooking and perceived overlooking in residential settings such as Blackhall Place and Paul Street.
- 7.2.16. A minimum 1.8m high screening is likely required to all boundaries to successfully mitigate against overlooking. Given the small site area to the rear of the dwelling and

the extent of proposed development on this site, such 1.8m screening would also need to be set back significantly off the boundaries to provide a less visually obtrusive development when viewed from neighbouring properties while also protecting against overlooking of those properties. Given the small nature of the site I am not convinced this can be addressed by a revised condition to also provide meaningful private open space as required by the applicant.

7.2.17. I have considered the planning precedents as cited by the in the Appeal and in particular first floor balconies to apartments at 109-112 North King Street. I am not convinced these precedents are directly attributable to the development as proposed and in particular I am satisfied that Appendix 18 of the current DCDP relates to dwellings and not apartments.

7.2.18. The roof garden as proposed is therefore considered likely to result in adverse residential amenity impacts by way of overlooking and perceived overlooking to neighbouring residential properties. The height and proximity of the proposal is also likely to provide adverse visual impacts when viewed from those neighbouring properties.

7.2.19. In order to safeguard against concerns regarding the potential use of the roof space it is also considered appropriate the proposed door from the first floor (reconfigured bedroom 1) to the flat roof shall be omitted as also detailed in condition 2.

7.2.20. I am satisfied Condition 2 as per the Planning Authority's decision should be attached.

8.0 Water Framework Directive Assessment Screening

8.1. The subject site is located approx. 270m north of the River Liffey. The proposed development generally comprises the construction of a domestic extension to an existing dwelling.

8.2. No water deterioration concerns were raised in the planning appeal. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.

8.3. The reason for this conclusion is as follows:

- The small scale of development and the nature of works
- The location-distance from nearest Water bodies and lack of significant hydrological connections

8.4. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

9.0 AA Screening

9.1. Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive

9.1.1. I have considered case ACP-323335-25 in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The proposed development is located within a residential and Inner City Urban area and comprises an extension to an existing dwelling and all associated site works.

9.1.2. The closest European Sites are those detailed in section 5.3 above ranging from c. 3.5m-6.5m from the site.

9.1.3. 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 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.

- 9.1.4. I conclude, 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.

10.0 Recommendation

- 10.1. In accordance with section 139(1) of the Planning and Development Act 2000 (as amended), I recommend that the Planning Authority be directed to **ATTACH** condition number 2 and the reason therefor.

11.0 Reasons and Considerations

- 11.1. Having regard to the provisions of the Dublin City Development Plan 2022-2028, the Z1 land use zoning for the site and the pattern of development in the area, it is considered that the proposed roof terrace, by reason of its scale, use and proximity to adjoining residential properties, would injure the residential amenities of the area by reason of overlooking and loss of privacy. The Planning Authority's Condition 2 requiring the omission of the roof terrace and glazed door to the terrace is warranted.

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.

Adrian Ormsby
Senior Planning Inspector

25th of October 2025

12.0 Form 1 - EIA Pre-Screening

Case Reference	ACP-323335-25
Proposed Development Summary	Construction of extension and all associated site works
Development Address	38 Blackhall Place, D07W8K6
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

development under Article 8 of the Roads Regulations, 1994. No Screening required.	
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4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** 25/10/25