



An
Bord
Pleanála

Inspector's Report PL06S.247029.

Development	Retention of 3 structures and permission for front porch with lean-to roof.
Location	26 Shancastle Drive, Dublin 22.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD16A/0182.
Applicant	Vita Kurcinskiene.
Type of Application	Retention and permission.
Planning Authority Decision	Split.
Type of Appeal	First Party against refusal.
Appellant	Vita Kurcinskiene.
Observer(s)	None.
Date of Site Inspection	19 th October 2016.
Inspector	Ciara Kellett.

1.0 Site Location and Description

- 1.1. The appeal site is located south-west of the junction of the M50 and the N4 Motorway and west of the Liffey Valley Shopping Centre in a well-established, medium density, housing development. The Shancastle estate is made up of a number of cul-de-sacs which feature blocks of two storey terraced houses. The houses generally feature three windows at first floor level and one plus front door at ground floor level. The building line to the front has been maintained along Shancastle Drive and most of the front gardens are separated by a low block wall. There are few on-street trees and a number of the front gardens have been fully paved to provide off-street parking.
- 1.2. No.26 Shancastle Drive is an end of terrace house featuring a larger than average irregular shaped back garden. The back garden is east facing and joins the rear of gardens along Shancastle Avenue. The existing house is stated as being 98sq.m.

2.0 Proposed Development

- 2.1. There are four structures included as part of this planning application. Two of the structures have been fully completed and the third is partially constructed. Retention permission is sought to retain these three structures. A fourth structure is the addition of a front porch for which permission is being sought. The applicant has indicated that she would like to withdraw the fourth structure from the application.
- 2.2. The structure details are as follows:
 - Structure no.1: Single storey extension to the side of the house – 25sq.m and 3.7m high.
 - Structure no.2: Detached guest accommodation in the rear garden – 30sq.m and 3.4m high.
 - Structure no.3: Detached partially completed gym/games room in the rear garden – 116sq.m and 3.85m high.
 - Structure no.4: Permission sought for front porch - 3sq.m with a lean-to roof.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a “Split” decision: 1) Permission was granted to retain structures 1 and 2 subject to conditions, and 2) Permission was refused to retain structure 3 and permission was refused for structure 4.

Conditions included in the permission to retain structures 1 and 2 included a requirement to replace the double doors to the front elevation of structure 1 with a window in keeping with the existing windows of the dwelling. Structure 2 shall be used solely for the purposes incidental to the enjoyment of the dwelling house and shall not be used for habitation or the carrying on of any trade or business and shall not be sold or let, transferred or conveyed save as part of the dwelling. The house and the extension (Structure 1) shall be jointly used as a single dwelling unit.

The decision to refuse permission for structure 3 and structure 4 are stated as:

1. In relation to Structure 3, it is considered that the development to be retained, by reason of its size, scale, nature, location and appearance, would be out of character with the existing dwelling on site and adjoining residential development, would be aesthetically unsatisfactory, would result in overdevelopment of the site and would be visually obtrusive on the streetscape. As such the development would impact negatively upon the amenities of the area and would depreciate the value of property in the vicinity. Having regard to the pattern of development in the area, it is considered that the structure to be retained would constitute overdevelopment and would be insensitive to its context. The development would, therefore, materially contravene the Development Plan as it would be contrary to the zoning objective of the area, which is ‘RES’ – to protect and/or improve residential amenity, and would be contrary to proper planning and sustainable development of the area.
2. The proposed porch by reason of its scale, nature, location and appearance, would be out of character with the existing dwelling on site and adjoining residential development, would be aesthetically unsatisfactory and would be visually obtrusive on the streetscape. As such the proposed development

would impact negatively upon the amenities of the area and would depreciate the value of property in the vicinity. The proposed development would, therefore, materially contravene the Development Plan as it would be contrary to proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Site is zoned 'RES' to protect and/or improve residential amenity. Considers that the development of a family flat/guest accommodation extension to a dwelling is permitted in principle, subject to relevant provisions of the Plan.
- States that no details were submitted in relation to the intended occupant of the proposed guest accommodation. Notes that the 'family flat' by reason of its design, location and layout could function as a separate residential unit. It is not adequately connected to the main dwelling.
- Considers the visual and residential amenity impact of each structure:
Structure 1 (side extension): notes no objection subject to replacement of double doors with a window; Structure 2 (rear guest accommodation): visual impact considered acceptable, but use needs to comply with Section 11.3.3 (ii) family flat. States there is no direct link between it and the house and considers it to materially contravene the Plan. Notes that if a grant is forthcoming, a condition to limit it to storage use should be applied; Structure 3 (partially completed gym/games room): Notes serious concerns with size and visual impact and overdevelopment of the site. By reason of its scale, nature, location and appearance it would be out of character, aesthetically unsatisfactory and visually obtrusive on the streetscape. Considers permission should be refused; and, Structure 4 is not considered acceptable along the terrace of houses.
- The decision by the Planning Authority was in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports:

- Environmental Services Department – No objection subject to condition
- Irish Water – no objections

3.3. **Third Party Observations**

None

4.0 **Planning History**

The Planner's Report refers to an Enforcement File S7721 regarding unauthorised development of a side extension, two unauthorised structures in the rear garden, alterations to the front boundary, and builder's rubble/materials to be removed.

5.0 **Policy Context**

5.1. **Development Plan**

Chapter 2 refers to housing and Chapter 11 refers to Implementation. The Council has also produced guidance in the form of 'House Extension Design Guide'.

Sections 2.4.1 and 2.4.2 of Chapter 2 consider residential extensions and family flats respectively.

Policy H18 Objective 1 states: *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 11 Implementation and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).*

Policy H19 Objective 1 states: *To favourably consider family flat development where the Council is satisfied that there is a valid need for semi-independent accommodation for an immediate family member (such as an older parent or other dependent), subject to the design criteria outlined in Chapter 11 Implementation.*

Section 11.3.3 of Chapter 11 considers Additional Accommodation. Section 11.3.3(i) states with respect to Extensions: *The design of residential extensions should accord*

with the South Dublin County Council House Extension Guide (2010) or any superseding standards.

Section 11.3.3(ii) with respect to Family Flats states: A family flat is to provide semi-independent accommodation for an immediate family member (dependent of the main occupants of a dwelling). A family flat is not considered to represent an independent dwelling unit and as such open space and car parking standards are not independently assessed. Proposals for family flat extensions should meet the following criteria: The applicant shall be required to demonstrate that there is a genuine need for the family flat, the overall area of a family flat should not exceed 50% of the floor area of the main dwelling house, the family flat should be directly accessible from the main dwelling via an internal access door, and the design criteria for dwelling extensions will be applied.

The House Extension Design Guide produced by the Council provides advice on different types of extensions. Chapter 4 is entitled *Elements of Good Extension Design* and provides advice for different types of extensions. Of relevance to the subject application is the advice provided on front porches and side extensions. Side extensions should respect the style of the house, match or complement the style, materials and details, and match the roof shape and slope. There is guidance provided on Family Flats similar to the Development Plan. There is also general advice provided with respect to overlooking, overshadowing and overbearing impact.

5.2. Natural Heritage Designations

There are no European sites in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appealed the split decision of the Council with respect to refusing retention permission for Structure 3, the gym/games room. In summary:

- Applicant built at the rear of the garden to avoid blocking the sunlight of her neighbours.

- This structure provides more privacy for the neighbours back gardens and the neighbours are happy with this – 6 houses could see into the garden prior to the construction of the building. The building is not blocking sunlight from any of the neighbours.
- The plot ratio is 0.456. The site area is 593sq.m and the gross floor area of the house and 3 other structures is 269sq.m.
- Games room is not in any way intrusive or obstructive.
- Other neighbours have built large detached buildings taking up the rear garden entirely.
- Many factors define a property's value and questions the Planning Authorities assertion that the development affects the value of other houses in the vicinity.
- Appellant states that she wishes to withdraw her application to build a porch and confirms willingness to replace the double doors on the side extension with a window.
- Photos accompany the submission with a 'before' and 'after' view of Structure 3.

6.2. **Planning Authority Response**

The Planning Authority responded to confirm their decision and note that the issues raised in the appeal have been addressed in the Planner's Report.

6.3. **Observations**

None

7.0 Assessment

7.1. I consider the key issues in determining this appeal are:

- Residential and Visual Amenity
- Other issues
- Appropriate Assessment

7.2. Residential and Visual Amenities.

This application is for four separate structures. I will address each structure individually.

7.2.1. Structure no.1

Structure 1 is the existing structure to the side of the dwelling. It is stated as being 25sq.m in area and 3.7m high. Policy H18 of the Development Plan states that the Council will consider extensions favourably subject to compliance with relevant standards. I consider that the extension complies with the *House Extension Design Guide* which states that side extensions should respect the style of the house, match or complement the materials and details, and match the roof shape and slope. The extension façade material is similar to the existing house and the roof matches in terms of slope and shape. I agree with the Planning Authority that the double doors should be replaced with a window of a similar style to the existing ground floor window. I am satisfied that Structure 1 will not injure the visual or residential amenities of the area.

7.2.2. Structure no.2

Structure 2 is referred to as the 'Guest Accommodation' to the rear of the house stated as being 30sq.m in area and 3.4m high. It contains a bedroom, kitchenette and ensuite bathroom. It is not directly connected to the main house and no information is provided to demonstrate that there is a genuine need for the family flat as required for compliance with policies regarding Family Flat's in the Development Plan. The structure is located to the rear of the dwelling and is not visible from the

public road. I am satisfied that subject to conditions with respect to uses being ancillary to the main dwelling, Structure 2 would not seriously impact the residential or visual amenities of the area.

7.2.3. Structure no.3:

Structure 3 is the partially built gym/games room. It is stated as being 116sq.m in area and runs the length of the rear garden wall beside Structure 2. At the time of the site visit, the structure was almost completed. The building is water tight. Final finishes to the walls internally and externally and the completion of the roof are outstanding, but the extent of the structure in terms of footprint and height is complete.

The existing house is 98sq.m in area by comparison. The structure is very large – but due to the size of the garden, the scale is considered acceptable. The plot ratio including the structures and dwelling is stated as being 0.456.

The structure is single storey, therefore there will be no issues with overlooking. The orientation of the house and structure results in no overshadowing of neighbouring properties. There is a distance of c.22m between the rear wall of the structure and the rear facades of the houses on Shancastle Avenue. The structure will not have an overbearing impact on these houses.

The remaining garden area is in excess of the requirements of the Development Plan for three and four bedroom houses, 60sq.m and 70sq.m respectively. The rear garden space remaining is stated as being 210sq.m.

With respect to the visual impact, a small portion of the development can be seen from the public road. However, I am of the opinion that when the tiling on the roof is completed this will not have a serious negative impact.

Therefore, I am satisfied that subject to conditions precluding the use of the structure for habitable purposes, it will not negatively impact on the visual or residential amenities of the area.

7.2.4. Structure no.4:

Structure 4 is a proposed front porch of 3sq.m, which is just above the exempt threshold of 2sq.m. I note that the applicant has stated that she would like to withdraw this element of the proposal. Notwithstanding this, I am of the opinion that

a front porch would not seriously injure the residential amenities of dwellings in the vicinity.

7.3. Other Issues

- 7.3.1. I note that the Planning Authority refers to the fact that the applicant only requested retention of structure no.3 and not the completion. However, structure no.3 is almost complete. The structure is weather tight. In general, external and internal finishes are required. Therefore, I am satisfied that while the applicant did not expressly request completion of the proposal, the outstanding work is minor in nature and will not materially alter the development as currently built. If the Board consider granting retention permission, conditions with respect to the finishes should be applied.
- 7.3.2. I note the reference to material contravention in the Planning Authority's reasons for refusal of Structures no.3 and no.4. The site is zoned 'RES - To protect and/or improve residential amenity' and I do not consider that the proposed developments can be reasonably considered to constitute a material contravention of the zoning objectives under such circumstances whereby the structures are not overlooking, overshadowing or having an overbearing impact on property in the vicinity, or overdevelopment of the site.

7.4. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that retention planning permission should be granted subject to conditions, for the side extension (25sq.m), the rear extension to the north-east (30sq.m), the rear extension to the south-east (116sq.m), and permission for the porch (4sq.m) referenced structures 1, 2, 3 and 4 in the documentation, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands and to the compliance with the development standards for additional accommodation in the South Dublin County Development Plan, it is considered that subject to compliance with the conditions set out below, Structures no's. 1, 2, 3 and 4 as described in the planning application documentation, would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 development of the side extension shall be amended as follows:
 - (a) The existing double doors to the front elevation are to be removed and replaced with a window that is in keeping with the existing windows on the dwelling.

Documentary evidence showing compliance with these requirements shall be submitted to, and agreed in writing with, the Planning Authority within six months of this order.

Reason: In the interests of visual amenity.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed developments shall be restricted to uses for purposes incidental to the enjoyment of the dwelling house and shall

not be used for habitation or the carrying on of any trade or business, unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity.

4. Details of the materials, colours and textures of all the external finishes to the partially completed large structure (116sq.m in area) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The existing dwelling, side extension and two structures to the rear shall be jointly occupied as a single residential unit and the extensions shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

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

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 within three months of this order 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.

Ciara Kellett

Inspectorate

25th October 2016