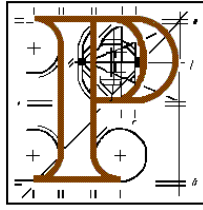


An Bord Pleanála



Inspector's Report

Appeal Reference No: 06D.246941

Development: Retention permission for partially constructed detached garage with habitable room to first floor and permission to complete construction of detached garage with habitable room to first floor, including the removal of roof windows and dormer window at The Last Straw, Ballycorus Road, Kiltarnan, Co. Dublin.

Planning Application

Planning Authority: Dun Laoghaire Rathdown Co. Co.
Planning Authority Reg. Ref.: D16A/0300
Applicant: Dr. Rizwan Uddin
Planning Authority Decision: Refuse permission for retention

Planning Appeal

Appellant(s): Dr. Rizwan Uddin
Type of Appeal: First Party
Observers: Mark and Cheri Feely
Date of Site Inspection: 5th October 2016

Inspector: Emer Doyle

1.0 SITE LOCATION AND DESCRIPTION

The appeal site is located off the Ballychorus Road to the east of the village of Kiltarnan, Co. Dublin. The site is a backland site with limited frontage on the Ballychorus Road and is irregular in shape with a stated area of 0.20 hectares.

A two storey dwelling and a detached garage are located on the site. Both buildings are substantially completed and on the day of inspection, construction was taking place on the dwelling. Neither building is visible from Ballychorus Road. The pattern of development on Ballychorus Road consists of large detached dwellings on substantial sites.

2.0 PROPOSED DEVELOPMENT

The development comprises of the following:

- Retention of garage with a stated floor area of 130 square metres over two floors.
- A letter submitted with the application states that the applicant is a medical consultant and has 5 teenage sons. A study in the garage would create a quieter environment to work. He needs a dedicated computer station for security and confidentiality for this work to view patients records.

3.0 PLANNING HISTORY

PA D08A/0967

Permission granted by Planning Authority for house and garage on site replacing a house that had been destroyed by fire.

PA D09A/0027

Permission granted by Planning Authority for a house adjacent to previously approved 08A/0967. An extension of duration for that development was extended by D09A/0027E until 27th July 2019.

PA D15A/0626/ PL 06D.246103

Permission granted by Planning Authority for partially constructed house previously approved under D08A/0967. Retention sought for (i) alterations to approved house plan with a net increase of 64

square metres and consequential alterations as a result of same (ii) alterations to approved detached garage with an additional floor area and consequential alterations to elevations as a result of same. Permission was granted and condition 2 stated that the grant of permission does not include the retention of the detached garage with an additional first floor area and increase in floor area and consequential alterations to elevations as a result of same.

An appeal to ABP on this application was withdrawn.

4.0 PLANNING AUTHORITY DECISION

4.1 TECHNICAL REPORTS

Planning Report

The planner's report noted differences between the structure as built and the drawings submitted to the Planning Authority. It was considered that whilst the justification for the use submitted was not reasonable for permitting a building that would otherwise not be permitted.

Drainage Report

This section had no objection subject to condition.

Transportation Report

No objection subject to conditions.

Environmental Health Officer

No objection.

4.2 Planning Authority Decision

Dun Laoghaire Rathdown refused permission for two reasons as follows:

1. The subject structure will have an undue adverse impact on the residential amenity of the adjoining property by reason of its

height, bulk, scale and floor area and is inconsistent with the provisions of Section 8.2.3.4 (Additional Accommodation in Existing Built-up Areas) (iv) (Detached Habitable Room) of the County Development Plan, 2016 – 2022. To permit the development therefore would seriously injure the amenities, or depreciate the value, of property in the vicinity, would be contrary to the provisions of the County Development Plan, 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

2. The development, if permitted, would contravene materially Condition 2 of the planning register reference D15A/0626 and would be contrary to the proper planning and sustainable development of the area.

5.0 GROUNDS OF APPEAL

A first party appeal against the Council's decision was submitted on behalf of Dr. Rizwan Uddin. The grounds of appeal and main points raised in the submission can be summarised as follows:

- There is no loss to the residential amenity of the adjacent property.
- Shadow diagrams submitted with the application illustrate this.
- The height of the building is compatible with the Kiltiernan Glenamuck LAP 2013.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

The Planning Authority response considers that the decision to refuse permission is the appropriate decision.

6.2 Observations on grounds of appeal

Observations on the appeal have been submitted from Mark and Cheri Feely which can be summarised as follows:

- Development is an ‘eyesore’ and impacts on the enjoyment of our garden.

7.0 POLICY CONTEXT

The Dun Laoghaire Rathdown Development Plan 2010 - 2016 is the operative County Development Plan for the area.

Zoning

The site is located within an area zoned as Objective A ‘To protect or improve residential amenity’

Section 8.2.3.4 (iv) outlines the policy for detached habitable rooms.

The site is located within the boundary of the Kiltiernan/ Glenamuck LAP 2013 within a residential zoning- Objective A.

ASSESSMENT

Having examined the file and having visited the site I consider that the main issues in this case relate to:

1. Principle of Proposed Development
2. The Nature and Use of the Development to be Retained
3. Impact on Visual and Residential Amenity
4. Other Matters

Principle of Proposed Development

The subject site is located within lands zoned ‘Objective A’ of the operative County Development Plan, which seeks to protect and/ or improve residential amenity and where residential development is permitted in principle subject to compliance with the relevant policies, standards and requirements set out in the plan. I consider that the principle of garage with a study on the first floor is ancillary to the residential use at this location and is acceptable.

The Nature and Use of the Development to be Retained

A letter submitted with the application indicates that the proposed use is as a study for a medical consultant. It is stated that for reasons of security, data protection and patient confidentiality, a dedicated computer station is necessary. The applicant has a large family with five teenage boys and parents who visit regularly and stay for prolonged periods. It is considered that for the reasons outlined above, a separate study away from the main house is the most appropriate way to manage his work.

I note that neither the observer or the Planning Authority have raised any particular concerns regarding the justification for the use. The Planning Authority in their response to the appeal consider that a 631 square metre house should reasonably be large enough to accommodate a study.

Having conducted a site inspection, during which access was obtained to the interior of the building, I confirm that the building is set out with a garage at ground floor level and an open plan study at first floor level. The proposed use of the building is in accordance with the policy for detached rooms set out in the development plan. I consider that the stated proposed use is incidental to the enjoyment of the dwelling house. If the Board is minded to grant retention permission for the development, I would recommend that a condition be included that the garage is used solely for domestic purposes incidental to the enjoyment of the dwelling house.

Impact on Visual and Residential Amenity

The first reason for refusal stated that the subject structure would have an adverse impact on the residential amenity of the adjoining property by reason of its height, bulk, scale and floor area and is inconsistent with the policy for detached habitable room. The observation submitted expresses concern in relation to the 'eyesore' visible from their back garden.

I consider that the structure is trying to perform two functions - firstly function as a normal garage at ground floor level and secondly provide a study at first floor level. Whilst the policy for detached habitable rooms is valid to some extent in terms of the first floor use, I consider that the building as a whole needs to be considered as a garage with a first floor study rather than a separate detached habitable room.

I have no objection to the visual impact of the structure which will only be visible from the observer's garden. A photograph of same is attached to the observation taken from their garden and I do not consider that it will give rise to any significant visual impact.

I note that the development plan policy in relation to 'detached habitable rooms' set out in Section 8.2.3.4 (iv) requires such ancillary accommodation to be modest in floor area and scale, relative to the main house and remaining rear garden. Having regard to the two functions of the structure, the information submitted in the application which states that the first floor element will only have a usable space of c. 40 square metres, the overshadowing diagrams submitted with the application, the location of the backland site not visible from Ballychorus road and the extent of landscaping on the site, I am satisfied that the site has the capacity to absorb the existing structure at this location and that it will not unduly detract from the visual or residential amenities or the overall character of the area.

Other Matters

Drawings

I note that the assessment of the Planning Authority report notes a number of discrepancies in the drawings submitted. These have been amended in the drawings submitted with the appeal and following the site inspection and the photographs attached I can confirm that the drawings submitted with the appeal reflect accurately the building as constructed.

Appropriate Assessment

Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

RECOMMENDATION

Based on the above assessment, I recommend that permission for retention be granted for development for the reasons and considerations set out below:

REASONS AND CONSIDERATIONS

Having regard to pattern of development in the area and the scale, design and stated use, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained and completed would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic safety and convenience. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 19th day of July 2016, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The garage shall be used only for purposes incidental to the enjoyment of the dwelling house as such and shall not be used for human habitation or the carrying on of any trade or business.

Reason: In the interests of residential amenity.

3. In all other respects the development shall comply with the terms and conditions attached to the permission granted under planning register reference number D15A/0626.

Reason: In the interests of clarity.

Emer Doyle
Inspector

17th October, 2016.