



An
Bord
Pleanála

Inspector's Report PL29N.247094

Development	Retention of first floor study, balcony area and roof light to the rear, provision of a dormer style window to front, gable to side elevation and change of use from granny flat to separate house at No. 112a Kincora Avenue, Clontarf, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2972/16
Applicant(s)	Jason Lawless
Type of Application	Retention and Permission
Planning Authority Decision	Split
Appellant(s)	Jason Lawless
Observer(s)	None
Date of Site Inspection	28 th October 2016
Inspector	Lorraine Dockery

1.0 Site Location and Description

1.1. The subject site, which has a stated area of 135 square metres, is located on the eastern side of Kincora Avenue, Clontarf, Dublin 3. The site contains a single storey, structure, of stated floor area 74.5 square metres, which fronts onto Kincora Grove. The structure is constructed in what was the side garden of a two-storey, semi-detached property, 112 Kincora Avenue.

2.0 Proposed Development

2.1. The proposed development comprises the

- construction of a zinc clad dormer style window to front elevation; gable to side; retention of first floor study, balcony and roof light.
- Removal of Condition No. 3 of PL29N.127584 relating to separation of granny flat into separate dwelling and
- all ancillary site works

3.0 Planning Authority Decision

3.1. Decision

3.2. Split Decision

Permission GRANTED for retention of existing first floor study and balcony area and rooflight to rear elevation and development of a zinc clad dormer style window to front elevation and gable to side elevation, subject to standard conditions

Permission REFUSED for the change of use from granny flat to separate dwelling 1 no. reason relating to overdevelopment of site; excessive density of development, depreciation of property values and creation of precedent.

3.3. Planning Authority Reports

The report of the area planner reflects the decision of the planning authority

3.4. Other Technical Reports

Engineering Department: No objections, subject to condition

4.0 Planning History

4.1. 3886/04

Permission GRANTED for vehicular and pedestrian access to the site

2722/01 (PL29N.127584)

Permission GRANTED on appeal for granny flat extension to side of 112 Kincora Avenue. Condition No. 3 stipulated that it not be separated from the main dwelling.

5.0 Development Plan

5.1. The Dublin City Development Plan 2016-2022 came into effect on October 21st 2016.

5.2. The subject application was assessed under the Dublin City Development Plan 2011-2017.

Zoning

'Z1'- which seeks to 'protect, provide and improve residential amenities'

Section 17.9 Standards for Residential Accommodation

Section 17.9.6 Corner/Side Garden Sites

Section 17.9.8 Extensions and Alterations to Dwellings

Section 17.9.10 Ancillary family Accommodation

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal can be summarised as follows:

- Subject development has private open space in excess of minimum requirements- excluding area for parking and bins
- Outlines examples of where lesser open space has been permitted not been as private as that proposed- sense of privacy and security in proposed development
- Similar type development at 86a Castle Avenue, Clontarf was granted permission for change of use into independent unit (Reg. Ref. 2404/15)
- Appeals to older people from vicinity looking to downgrade from larger homes- lack of smaller properties in the area- in accordance with Development Plan policies
- 112A refers to granny flat address- required separate address for utility providers
- Includes letters of support in Appendix, together with photographs and letter of consent from owner of property

6.2. **Planning Authority Response**

No further comment

6.3. **Other Party Responses**

None

6.4. **Observations**

6.5. None

7.0 Assessment

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

- Principle of proposed development
- Impacts on amenity
- Appropriate Assessment

7.2 Principle of proposed development

7.3 The proposed development relating to the change of use to granny flat to separate dwelling comprises the main element of this appeal. I note the relevant sections of the City Development Plan that was operative during the assessment of the file. The granny flat was permitted on this corner site in 2001. In the interim, there is a recognised need for housing of varying sizes to cater for a diverse population. A good mix of house types and sizes provided in tandem with suitable physical, social and community infrastructure is recognised as good planning practice. It would appear from the drawings submitted that the property may indeed already be in use as a separate dwelling, with the floor layout differing from that previously permitted under PL29N.127584. This however is a matter for the enforcement section of the planning authority. The structure is already in place on the site and in terms of principle, I would not have issue in relation to its change of use to an independent unit providing it complies with all relevant Development Plan standards. This shall be further examined below.

7.4 The principle of the remainder of the works as described in the submitted public notices are acceptable.

7.5 Impacts on amenity

7.6 The existing structure is in place for a number of years and therefore the internal change of use would do little to impact on the visual amenity of the area. The site is well screened and the property is not unduly visible on the streetscape.

- 7.7 In terms of compliance with Development Plan standards I note that the existing unit, as permitted, has a stated area of 50.4 square metres. This figure is being increased by 24.1 square metres in the application for retention at attic level. This is a one-bed unit with a total proposed floor area of 74.5 square metres. I consider this to be acceptable and in compliance with Development Plan standards. However, if the Bord is disposed towards a grant of permission I recommend that a condition be attached to any such grant stipulating that this be a one-bed unit and that the attic level accommodation not be used as a habitable space.
- 7.8 In terms of open space provision, I consider that the space to the north and west of the property is residual in nature. The orientation of the area to the front of the property is such that the open space would be quite dark in nature. This is especially pertinent considering its location between two high walls although I do note that from the photographs submitted with the appeal, that this area to the north of the property is landscaped to a relatively high level. The area to the east of the property is the most usable area, which is stated to measure approximately 44 square metres, although I do note that it is currently being used partly as an off-street parking area, as previously permitted. This area is again landscaped. I note that there is on-street parking on the public roadway outside the property, which could be used by occupants of the subject property. The private open space is very private in nature. I also note the limited size of this one-bed unit. Finally, I note the public open space provision in the vicinity. Having regard to all of the above, I consider the open space provision to be acceptable in this instance.
- 7.9 Overlooking or overshadowing of adjoining properties is expected not to be an issue in this instance. I consider that the proposed change of use would have little impact on either the visual or residential amenities of the area. It would add to the mix of units being provided within the area. I do not believe that the proposal if permitted would lead to the overdevelopment of the site and if permitted would not lead to depreciation of property values in the vicinity. The remaining works proposed for permission are considered acceptable in principle.

7.10 Having regard to all of the above, I consider that the proposed works are compatible with the zoning objective for the area, which seeks to 'protect, provide and improve residential amenities' and I consider the proposed works to be consistent with the proper planning and sustainable development of the area.

7.11 **APPROPRIATE ASSESSMENT**

7.12 The subject site is located in an established residential area and is not located adjacent to nor in close proximity to any European sites, as defined in Section 177R of the Habitats Directive. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest European site, 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**

8.1. I recommend that planning permission should be granted, subject to conditions set out below.

9.0 **Reasons and Considerations**

9.1. Having regard to the provisions of the provisions of the Dublin City Development Plan 2011-2017 and to the nature, form, scale and design of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not adversely affect the residential or visual amenities of the area and would integrate well with other properties in the vicinity. 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 retained 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 points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. 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 and to ensure a proper standard of development.

3. The proposed dwelling shall be used as a single residential unit. The unit permitted is a one-bedroom unit and the space at attic level shall not be used for habitable purposes

Reason: In the interests of clarity

4. Notwithstanding the provisions of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), no extensions, garages, stores, offices or similar structures shall be erected within the curtilage of the site, without a prior grant of planning permission

Reason: In the interests of amenity and to ensure a satisfactory standard of open space be retained for the proposed dwelling

5. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

6. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

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. The contribution shall be paid prior to the commencement of development 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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

Lorraine Dockery
Planning Inspector

02nd November 2016