



An  
Bord  
Pleanála

## Inspector's Report PL.06D.247178

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<b>Development</b>	Permission for retention of two dormer windows in roof planes of a garage associated with a dwelling.
<b>Location</b>	34A Whitehall Road, Churchtown, Dublin 14.
<b>Planning Authority</b>	Dún Laoghaire Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D16B/0247.
<b>Applicant</b>	Maurice Healy.
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant</b>	Siobhan Cahill.
<b>Observers</b>	1 Observation submitted (24 signatures).
<b>Date of Site Inspection</b>	23 <sup>rd</sup> November 2016.
<b>Inspector</b>	Dáire Mc Devitt.

## 1.0 Site Location and Description

1.1. Whitehall Road is a mature suburban area in South Dublin, the application site (34A Whitehall Road) is a backland site developed in the late 1990s. There is a detached dormer dwelling on site and the structure which is the subject of this application is a detached former domestic garage located to the north of the house. Access to No. 34A is off Whitehall Road and along the northern boundary of No. 1 Castle Court. Castle Court consists of four single storey dwellings located to the front (east) of the application site along Whitehall Road. To the west is Castle Golf Club.

1.2 Maps, photos and aerial images of site are in the file pouch

## 2.0 Proposed Development

2.1. Permission is being sought for the retention of:

- two dormer windows to the roof of a detached garage associated with a dwelling house.

Reference is made in the public notices that the windows serve a garage room which has been converted to a games room.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission granted subject to 5 conditions, these included:

Condition no. 2

*The garage shall not be used as a separate dwellings/residence/family flat or for the purpose of human habitation, and shall not be let or sold separately as a residential dwelling of any type – including short and/or long term lettings by third parties.*

*Reason: To prevent un-authorized development.*

Condition no. 3

*The garage shall be used solely for use incidental to the enjoyment of the existing dwelling on site and shall not be used for the carrying out of any trade or business.*

*Reason: To prevent un-authorized development and to protect the amenity of adjoining residential properties.*

Condition no. 4

*The window to the eastern elevation shall be fitted with fixed and obscure glazing and so maintained.*

*Reason: In the interests of protecting adjoining residential amenity.*

## 3.2. **Planning Authority Reports**

### 3.2.1. **Planning Report (2<sup>nd</sup> August 2016)**

This forms the basis of the Planning Authority's decision. The main issue considered relates to residential amenity. The Planning Authority was satisfied that due to the proposed level of glazing that overlooking or loss of privacy of adjoining properties was not an issue.

To address concerns raised in the submissions regarding the potential use of the structure two conditions were attached restricting the use of the gamesroom.

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

Drainage Section (29<sup>th</sup> June 2016). No objection subject to conditions.

## 3.3. **Third Party Observations**

Three submissions were received at application stage, these included a submission by the current appellant. The issues raised in the submissions are largely in line with the grounds of appeal and the observation lodged and shall be dealt with in more detail in the relevant sections of this report.

The main points of concern raised can be summarised as follows:

- Residential amenity.
- Design is visually dominant and detracts from the character of the area.
- Unauthorised development.
- Dimensions shown on plans are inaccurate.
- Potential to be used as a separate residential property.
- Noise.
- Traffic.

## 4.0 Planning History

### **No. 30 Whitehall Road (site of No. 34A)**

**Planning Authority Reference D95A/0057.** Outline planning permission granted in April 1995 for a bungalow.

### **Planning Authority Reference D95A/0725 (ABP Reference 06D.098439).**

Permission refused in February 1996 for a dormer dwelling on approved site (D95A/0057) (PL.06D.098439).

**Planning Authority Reference D96A/0190.** Permission granted in September 1996 for a dormer dwelling on approved site (D95A/0057). This Permission refers to the House built on site.

**Planning Authority Reference ENF 7016** (Planning enforcement file) opened in April 2016 in relation to the change of use of the garage to residential use and the insertion of dormer windows into the roof planes without planning permission.

### **Adjacent sites:**

#### **No. 1 Castle Court:**

**Planning Authority Reference D13A/0443.** Permission granted in October 2013 for a single storey extension to the rear, single storey extension to the front, widening of entrance and other alterations to the house.

**(No. 1 & 2 Castle Court)**

**Planning Authority Reference D16B/0193.** Permission granted in June 2016 for single storey porch extension to the front of each house.

## 5.0 **Policy Context**

### 5.1. **Dún Laoghaire-Rathdown County Development Plan 2016-2022.**

Land Use Zoning Objective 'A' *to protect and/or improve residential amenity.*

#### **Section 8.2.3.4 (iv) Detached Habitable Room**

*This can provide useful ancillary accommodation such as a playroom, gym or study for the main residence. It should be modest in floor area and scale, relative to the main house and remaining rear garden area. The applicant will be required to demonstrate that neither the design nor the use of the proposed structure will detract from the residential amenity of adjoining property or the main house.*

*Any such structure shall not be to provide residential accommodation for a family member/granny flat.*

#### **Section 8.2.8.4 (ii) Separation distances**

*A minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, normally resulting in a rear garden depth of 11 metres. However, where sufficient alternative private open space (e.g. to the side) is available, this may be reduced to 7 metres for single storey dwellings – subject to the maintenance of privacy and protection of adjoining residential amenities.*

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

None of relevance.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

A third party appeal has been lodged by Siobhan Cahill, 1 Castle Court, Whitehall Road, Rathfarnham and can be summarised as follows:

- Overlooking and loss of privacy.
- Security concerns.

- Unenforceable condition restricting the use of upper floor to non-habitable uses.
- No planning history for the structure as constructed.
- It is in effect a second dwelling.
- Noise pollution.
- Extensive unauthorised development on site.
- Issues regarding land ownership.
- Devaluation of property.
- Includes letters of support from other residents of Castle Court:
  - Ms Liz Henry (No. 2 Castle Court).
  - Ms Anne Turbot (No.3 Castle Court).
- Letter of Support from:
  - former Senator Mary White (FF).
  - Catherine Martin T.D (Green Party).
  - Senator Gerry Horkan (FF).

## 6.2. **Applicant Response**

Response can be summarised as follows:

- The Planning Authority granted permission for the retention of the change of use from garage to habitable use ancillary to the main dwelling and the dormer features and attached relevant conditions.
- Complies with land use zoning ('A').
- Complies with Section 16.3.4 (iv) Detached Habitable Room.
- Complies with Section 8.2.8.4 (ii) separation distances.
- No issues of overlooking or loss of privacy of adjoining properties.
- The proposal is of a scale and form reasonable to its location.

- Proposal to be retained does not detract from the amenities of adjoining properties.
- Proposal is not overbearing in terms of scale, height and design.

### **6.3 Planning Authority Response**

The Planning Authority note that no new matters have been raised and refer the Board to the original Planner's Report on file.

### **6.4 Observations**

One observation has been received from local residents (24 signatures). The main issues can be summarised as follows:

- The change of use may or may not be reasonable but significant concerns regarding the granting of retention permission for the dormer windows.
- Concerns regarding overlooking of Castle Court housing development.
- Visually dominant windows.

## **7.0 Assessment**

Many of the issues raised in this appeal relate to previous permissions and unauthorised development on site. These are matters for the Planning Authority and the Courts and shall not be dealt with in this Report.

The following assessment considers the relevant issues under the following headings:

- Nature of Development.
- Residential Amenity.



- Appropriate Assessment.

## **7.1 Nature of the Development**

7.1.1 The appellant has raised a number of concerns regarding the potential use of the structure. In this regard the public notices are somewhat ambiguous and read as follows: *The development for which retention permission is sought, comprises two number dormer windows in the roof planes of the garage building associated with the dwelling house. The garage building has been converted to a games room, the use of which is directly associated with the existing dwelling house.*

7.1.2 At the time of inspection the structure was not in use. The interior has been the subject of extensive refurbishment works which remain unfinished. No works were taking place at the time of inspection.

7.1.3 The use of a detached structure for the purposes of a games room complies with Section 8.2.3.4 (iv). The Planning Authority attached two conditions restricting the use and occupancy of the games room, these conditions are considered reasonable and provide clarity as to the scope of the permission.

7.1.4 In my view the inclusion of appropriate conditions adequately addresses the grounds of the appeal in relation to the potential for residential use.

## **7.2 Residential Amenity**

7.2.1 Section 8.2.8.4 (ii) of the County Development Plan refers to the usual requirements for a minimum separation distances of 22 metres between opposing rear first floor windows. It also refers to the acceptance of rear garden depths of 7 metres where sufficient open space is provided and the protection of existing residential amenities is ensured.

7.2.2 The appellant has raised concerns that the minimum required separation distance of 22 metres is not adhered to and contends that the plans submitted are inaccurate. In my opinion the drawings and dimensions which accompany the application are substantially accurate and are considered acceptable. I also note that the requirement for 22 metres refers to the separation distance between first floor opposing windows and No. 1 Castle Court is a single storey property.

7.2.3 The distance from the garage/gamesroom to the boundary with no. 1 Castle Court is c.16 metres, this exceeds the minimum garden depth of 11 metres as set out in the Development Plan. No. 1 Castle Court is in the process of carrying out extensive alterations and has a recently completed single storey rear extension which has resulted in a rear garden depth from the rear building line of the single storey extension to the boundary with No. 34A of c.4 metres.

7.2.3 In order to address concerns raised by the third parties, the applicant has put a temporary opaque cover over the window panes to the eastern dormer with top section of the window only openable.

7.2.4 I am satisfied having regard to the use of the room as a gamesroom and the separation distance of the structure from the shared boundary with no. 1 Castle Court that there is no overlooking of internal ground floor areas. Any overlooking of adjoining rear amenity areas is considered incidental and a degree of overlooking is to be expected in urban areas. The use of opaque glazing would address the perception of overlooking from the eastern dormer window but is not required as the development to be retained complies with the minimum garden depths as set out in the Development Plan.

7.2.5 I therefore consider that the decision to grant retention permission by the Planning Authority should be substantially upheld.

### **7.3 Appropriate Assessment**

Having regard to the nature of the development to be retained and the location of the site in a fully serviced built up suburban area. No Appropriate Assessment issues arise and it is not considered that the development to be retained 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 permission for retention should be granted, subject to conditions as set out below.

## 9.0 Reasons and Considerations

- 9.1 Having regard to the provisions of the Dún Laoghaire Rathdown County Development Plan 2016-2022 and to the nature and design of the development to be retained, it is considered that, subject to compliance with the conditions set out below, the development to be retained 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 retained in accordance with the plans and particulars lodged with the Planning Authority, except as may otherwise be required to comply with the following conditions.

**Reason:** In the interest of clarity.

2. The garage/games room shall be used solely for the purposes as set out in this application. It shall not be used as a separate dwelling/residence/family flat or for the purpose of human habitation, and shall not be let or sold separately as a residential dwelling of any type – including short and/or

long term letterings by third parties.

**Reason:** To restrict the use of the structure in the interest of residential amenity.

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Dáire McDevitt

Planning Inspector

25th November 2016