



An
Bord
Pleanála

Inspector's Report 29N.247336

Development	Retention and completion of proposed works for a single-storey garden and recreation room with pitched roof.
Location	145 Vernon Avenue, Clontarf. Dublin 3.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3330/16
Applicant(s)	Stephen Murray
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Aileen Forbes-Byrne
Observer(s)	None
Date of Site Inspection	December 5 th , 2016
Inspector	Breda Gannon

1.0 Site Location and Description

- 1.1. The site is located at 145 Vernon Avenue, Clontarf, Dublin 3. It accommodates a two-storey semi detached dwelling with a dash finish. The house is set back significantly from the roadway with a garden to the front enclosed by a stone wall. There is a recently constructed flat roofed extension to the rear. The rear garden is substantial and is enclosed by walls/fencing.
- 1.2. The area is residential in character and the site is adjoined on both sides by residential property and by a neighboring garden to the rear.

2.0 Proposed Development

- 2.1. Permission is being sought for the retention of existing foundations, rising walls and floor slab and for the completion of a garden and recreation room at the rear of the existing house. The free standing, single storey structure would have a floor area of 57sq.m and a height of 4.15m. It would have a pitched roof and large picture frame windows and a door in the front (west) elevation.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the development subject to 8 no. conditions, including conditions controlling the use of the building.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report of 5th September 2016, states that the scale and use of the building is considered reasonable. Having regard to its location at the rear of the subject site, it is not considered that any issues arise regarding overlooking or overshadowing, or, that the proposed development would have an overbearing impact on adjoining properties. To ensure the gym/games room is not used for human habitation, a condition should be attached ensuring that the use remains ancillary to the enjoyment of the existing dwelling. It is concluded that subject to

conditions, the proposed development is unlikely to have an adverse impact on adjoining properties.

3.2.2. Other Technical Reports

The Drainage Division Report of 8th August, 2016 raises no objection to the development subject to standard conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

The planning authority notes the following planning history;

1. 3832/15 – Permission granted for a 92 sq.m two-storey extension to the side and rear of the dwelling on the subject site.
2. 2820/16 – Application withdrawn for a 57sq.m single-storey garden and recreation room on the site.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Council Development Plan 2016-2022, which came into operation on October 21st, 2016.

The site is located in an area zoned Z1, Sustainable Residential Neighbourhoods, with an objective 'To protect, provide and improve residential amenities'.

Section 16.10.12 (Volume 1) and Appendix 16 (Volume 2) of the recently adopted Plan are concerned with residential extensions. Extracts from the plan are appended to the back of the report for the information of the Board.

5.2. **Natural Heritage Designations**

None

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- This is an unauthorised development having commenced without the benefit of planning permission.
- The site has a history of flooding. It is built on a large stream bed and 145 & 147 Vernon Avenue are both prone to flooding.
- The development raises health and safety issues. There is no access to the building (which will include weights and sports equipment) for an ambulance or fire brigade in the event of an emergency.
- The size, bulk and design of the development is not in keeping with the aesthetic of the surrounding area. No other building in the area has a second building within the same plot. The large second building proposed, with a pitched roof is inappropriate on a site of this size in a suburban location.
- The proposal includes large windows which will result in overlooking.
- The property has already been extended and includes a play room and attic space of 27 sq.m.

6.2. **Applicant Response**

No response to the grounds of appeal were received from the applicant.

6.3. **Planning Authority Response**

The planning authority's response of October 21st, 2016 states that the planning officer's report adequately deals with the proposal.

7.0 **Assessment**

- 7.1. The applicant is seeking to regularise an existing development which has commenced without the benefit of planning permission. The structure is located at the rear of the site and is well removed from adjoining residences. The rear garden is substantial and can accommodate a building of the proportions proposed without resulting in negative impacts on adjoining property. Notwithstanding the proposed height (4.1m), no issues arise regarding overshadowing. While two large picture frame windows are proposed in the front elevation and are orientated to face the rear of adjoining residences, the proposed building is not intended for habitable purposes. Having regard to the significant separation distance and the screening effect provided by boundary fencing and the single storey buildings at the rear of appellant's property, there will be no potential for overlooking with impacts on privacy.
- 7.2. It is intended that the building to be retained and completed will function as a garden and recreation room. Subject to a condition controlling its use, I do not consider that any issues arise which would result in unacceptable effects on the amenities enjoyed by the occupants of adjacent residences.
- 7.3. I do note that the structure is located close to the rear and side boundaries of the site. To ensure that there will be no impacts on the amenities of the adjacent gardens, I recommend that a condition be attached requiring that no part of the development, including rainwater goods, oversail adjoining property.
- 7.4. Whilst the appellant has raised issues regarding flooding, I note that the Drainage Division report has raised no concerns in this regard, subject to compliance with conditions.
- 7.5. The Dublin City Council Development Contribution Scheme 2016-2020 applies. Under Exemptions and Reductions it specifies that the first 40 sq. m of extensions to

a residential development is exempt. However, subsequent extensions or extensions over 40 sq.m are charged at the residential rate per sq.m.

- 7.6. The property has recently been extended and I note that planning permission was granted for an increase in floor area of 92 sq.m (3832/15). The proposed development would therefore be subject to a financial contribution under the terms of the scheme.
- 7.7. Note: The Board will note from the file there are two different copies of the planning authority's notification of decision to the applicant, specifying different conditions. It was clarified by letter dated 12/9/16 (appeal documents) that incorrect conditions were attached by way of a clerical error. Dublin City Council confirmed in this letter that the error was amended under Section 146 (1)(a) of the Planning and Development Act, 2000. The correct document is that of 12th September, 2016, containing 8 no. conditions.

8.0 Appropriate Assessment

- 9.0 The nearest Natura 2000 sites are the South Dublin Bay & River Tolka SPA to the south and North Dublin Bay SAC and North Bull Island SPA to the east. Having regard to the location of the development within a built up area, the nature and scale of the development and the separation distance from Natura 2000 sites, it is not considered that the proposed development either alone, or in combination with other plans or projects has the potential to impact on the qualifying interests of any Natura 2000 site. Appropriate Assessment is not required.

10.0 Recommendation

- 10.1. Having considered the content of the application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission for the retention and completion of the development be granted for the reasons and considerations set out below.

11.0 Reasons and Considerations

11.1. Having regard to the pattern of development in the area, the intended use of the building and the separation distance to adjacent residences, it is considered that subject to compliance with the conditions set out below the proposed development would not detract from the visual or residential amenities of the area, or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be retained 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 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 interests of clarity.

2. The development shall be completed to ensure that no part of the building oversails adjoining property or interferes with existing boundary trees/hedgerows. Prior to the commencement of the development revised plans showing the building scaled back to ensure compliance with the terms of this condition shall be submitted to and agreed in writing with the planning authority. the planning authority

Reason: To protect the amenity of adjoining property.

3. The use of the building shall be restricted to purposes incidental to the enjoyment of the dwelling and shall not be used for human habitation, for commercial or industrial purposes or for the housing of animals.

Reason: In the interests of residential amenity.

- 4 The external walls of the building shall be finished in a smooth plaster/dash finish, suitably painted. Roof tiles shall match those of existing dwelling in both colour and texture.

Reason: In the interests of visual amenity.

- 5 Water supply and drainage arrangements including the disposal of surface water, shall comply with the detailed requirements of the planning authority.

Reason: In the interests of public health and to ensure a proper standard of development.

- 6 Site development and building works shall be carried out only between the hours of 07.00 am to 18.00 hours Monday to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall be allowed only in exceptional circumstances where prior written approval has been received from the planning authority.

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

- 7 The developer shall pay to the planning authority a financial contribution of €4942.80 (four thousand nine hundred and forty two euro and eight cent) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that it 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. The application of any indexation required by this condition 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.

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.

Breda Gannon
Planning Inspector

15th December, 2016.