



An
Bord
Pleanála

Inspector's Report PL29N.247854

Development	Retain partially completed structure and construction of a shed/ games room.
Location	No. 28 Oldtown Park, Santry, Dublin 9
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3996/16
Applicant(s)	Marie Clifford
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	James Hanratty & Betty Egan
Observer(s)	None
Date of Site Inspection	7 th April 2017
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located within Oldtown Park in Santry approximately 5km north of Dublin City Centre. Oldtown Park comprises a cul de sac of 28 no. semi-detached 2-storey dwellings of similar design comprising hipped roofs and brick and dash walls. Some of the dwellings have been altered by the additional of porches, extensions and new fenestration. The cul de sac is arranged around a central green area and the estate is surrounded by residential development on all sides. Access is via a “T” junction off Shanliss Road to the south.
- 1.2. No. 28 Oldtown Park is the southern-most dwelling on the eastern side of the cul de sac. The dwelling has been extended over 2-storeys to the side and rear and there is also a single storey lean-to annex to the rear. A partially constructed block building has been erected to the rear of the site. The remaining garden area measures approximately 67 sq.m.
- 1.3. The site is bounded to the south by 5 no. properties fronting onto Shanliss Road. The property also shares the rear boundary with No. 123 Shanliss Road and No. 1 Oldtown Road. The entire northern boundary is shared within No. 27 Oldtown Park.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following to the rear of No. 28:
 - Retention of partially completed structure;
 - Completion of construction of a detached single storey games room/ garden shed and all associated works;
 - The stated area of the structure is 46 sq.m. and its height to ridge is 4.5m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued notification of decision to grant retention permission and permission for the development subject to eight conditions.

3.1.2. Conditions 2 and 3 state that the structure shall not be used for human habitation and shall be used solely in conjunction with the residential use of the main house.

3.1.3. Other conditions are attached relating to construction works and drainage.

3.2. Planning Authority Reports

3.2.1. The recommendation to grant permission/ retention permission, as outlined within the Planner's Report, reflects the decision of the Planning Authority.

3.2.2. Under the assessment of the application, reference is made to Section 16.10.12 of the Development Plan, which relates to Extensions and Alterations to Dwellings.

3.2.3. It is considered unlikely that the structure would seriously injure the amenities of adjoining neighbours by reason of overlooking, overshadowing or by appearing overbearing. It is also stated that the games room/ shed is unlikely to have an adverse impact on the scale and character of the original dwelling.

3.2.4. Subject to condition relating to the use of the structure, it is considered that the development is consistent with the Development Plan and the proper planning and sustainable development of the area.

4.0 Planning History

Dublin City Council Reg. Ref: 1432/03

4.1.1. Permission granted in August 2003 for first floor extension at rear and Montessori pre-school consisting of single storey extension at front and rear and double storey extension at side and rear.

4.1.2. A condition attached to this permission stated that the use of the property as a childcare facility/pre-school hereby permitted, shall cease on 31st July 2006, unless planning permission for the continuation of the use is obtained from the Planning Authority.

Dublin City Council Reg. Ref: 0426/94

4.1.3. Permission granted for the retention of a single storey rear extension.

5.0 Policy Context

5.1. Dublin City Development Plan, 2016-2022

- 5.1.1. The appeal site is zoned “Z1” where the objective is *“to protect, provide and improve residential amenities.”*
- 5.1.2. Development standards for residential accommodation are set out in Section 16.10 of the Development Plan. With respect to private open space for houses, it is stated that generally 10 sq.m. per bedspace will normally be applied and rear gardens up to 60-70 sq.m. will be considered sufficient for houses in the city.
- 5.1.3. Backland development is addressed in Section 16.10.8 and extension/ alterations to dwellings is covered in Section 16.10.12. Section 16.10.13 considers the subdivision of dwellings and ancillary family accommodation is covered within Section 16.10.14.
- 5.1.4. Appendix 17 of the Development Plan includes guidelines for residential extensions.

5.2. Natural Heritage Designations

- 5.2.1. The South Dublin Bay and River Tolka Estuary SPA is located approximately 4km to the south-east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A joint third party appeal was lodged by the residents of No. 27 Oldtown Park, which adjoins the appeal site to the north, and No. 125 Shanliss Road which bounds the proposed development to the south.
- 6.1.2. The ground of appeal and main points raised in this submission can be summarised as follows:
 - Applicant built a foundation in the back garden of the property and has used the boundary wall between 27 & 28 Oldtown Park as a party wall to the new house being built.

- Part of the structure already built is very imposing upon No. 27 and has drastically changed the aesthetic value of the neighbouring properties – it is anticipated that this will worsen if planning permission is granted.
- Size and aspect of the proposed structure will encroach onto No. 27 and reduce privacy and sunlight to that property – front window will look into appellant's garden at a very short distance.
- Proposed building is disproportionate and far too large for a games room/ shed. Appellant is concerned that the true purpose is a residential building in which one or more persons will reside.
- Appellant is concerned that any additional buildings will overburden existing utilities, including sewerage, and this will have an effect on his property.
- Applicant told appellant residing at 125 Shanliss that she would be living in the new structure.
- Appellant objects to the size and scale of the development which constitutes overdevelopment.
- Structure will seriously overshadow appellant's rear garden and she will suffer a serious loss of light.
- Development will be the size of a small detached dwelling and will be turned into such.
- If a roof is on the structure it would be visually intrusive and unattractive for the appellant to look at.
- Applicant should be asked to raise the appellant's back wall to match existing wall and to improve the visual appearance from her back garden.
- It will be impossible to apply a finish and to maintain the wall facing the appellant's garden.
- Proposal will be out of character and will set an undesirable precedent for building detached mews dwellings in back gardens in the area.

6.2. Applicant Response

6.2.1. The applicant and her agent responded to the third party appeal with the following comments:

- Applicant was previously unaware that planning permission was required for the structure.
- Appellants at No. 27 had previously facilitated works by allowing access to applicant's rear garden.
- Appellant advised that they were not happy with the roof structure, which they felt was too high, and the height was reduced significantly.
- Appellant at No. 125 advised the applicant that her only real concern was the side of the new building facing her garden. Applicant agreed to finish the side wall with sand and cement render.
- Applicant has done everything possible to accommodate the appellants.

6.3. Planning Authority Response

6.3.1. The Planning Authority considers that the comprehensive Planner's Report deals fully with all the issues raised and justifies its decision.

7.0 Assessment

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

- Development principle;
- Impact on residential amenity;
- Use of the structure;
- Appropriate Assessment.

7.2. Development Principle

7.2.1. The appeal site is zoned Z1, where the objective is *"to protect, provide and improve residential amenities."* The provision of ancillary accommodation to the dwelling in

the rear garden would therefore be acceptable in principle subject to an assessment of the proposal under relevant Development Plan criteria.

7.3. Impact on residential amenity

- 7.3.1. A third party appeal was received from the residents of the adjoining property to the north and from No. 125 Shanliss Road to the south of the proposed structure. The main grounds of appeal relate to the impact of the proposed structure on their residential amenities.
- 7.3.2. The residents of No. 27 Oldtown Park to the north consider that the size and aspect of the structure will encroach upon their property and reduce their privacy and access to sunlight. There are also concerns that overlooking of property will occur from the window of the structure at a very short distance. The resident of the property to the south also has concerns regarding loss of light and the visual obtrusiveness. It is submitted that the proposed development will be out of character and will set an undesirable precedent for detached mews buildings in back gardens in the area.
- 7.3.3. From the outset, I note from aerial photography and planning history searches that the development of extensions and detached garden structures is commonplace within Oldtown Park and Oldtown Avenue. The properties have generously sized back gardens and there are detached adjoining garages to the rear in most cases. It would appear that the garage to the southern side of No. 28 was demolished or incorporated into the two storey side/ rear extension to the property.
- 7.3.4. Notwithstanding the extension to the subject property, there would still be a residual amenity area to the rear of 67 sq.m. if the proposed games room/ shed is granted permission. The Residential Quality Standards of the Development Plan state that a minimum standard of 10sq.m of private open space per bedspace will normally be applied and that generally up to 60-70 sq.m. of rear garden area is considered sufficient for houses in the city. The applicant has not disclosed the number of bedspaces within the existing dwelling; however, I would be satisfied that there is sufficient private open space to serve the dwelling and that overall the proposed structure used for leisure and storage purposes will improve the levels of amenity for existing residents of the dwelling.

- 7.3.5. With respect to the impact of the proposed development on adjoining residents, I consider that the greatest potential for adverse effects would arise from overshadowing of the adjoining property to the north. The northern parapet wall will rise to a height of 3.17m above ground level on this elevation when the southern elevation will be 2.626m in height. There would appear to be an issue outside the scope of planning regarding construction on the party wall and this may be the reason that a parapet wall is proposed to contain rainwater goods.
- 7.3.6. In my opinion, the most appropriate course of action would be to construct the building with similar side elevations. I do not consider that the partially constructed nature of the building is sufficient justification for increasing the height of the side elevation and therefore the degree of overshadowing of the adjoining property. If the Board is minded to grant retention permission/ permission, I consider that a condition should be attached requiring the northern elevation to be reduced in height to match the southern elevation and that no rainwater goods should overhang the adjoining property.
- 7.3.7. I would have no other objection to the visual impact of the proposed structure subject to condition requiring external finishes to match the main dwelling in terms of materials, colour and texture. I note that the structure is now gable fronted and this reduces the visual bulk when viewed from the side. The roof will have a low to medium pitch rising to a maximum height of 4.484m at a distance of approximately 4.3m from side boundaries. I do not consider that there will be any issue with overlooking, and subject to condition, the proposed development will not have a significant impact on adjoining residential amenities.

7.4. Use of the structure

- 7.4.1. The proposed structure is presented within application documents as a shed/ games room. However, there are concerns from appellants that the building will be used as a separate dwelling.
- 7.4.2. In my opinion, any future use of the building as a separate dwelling is a matter for the Enforcement Section of the Planning Authority. Conditions can be attached to any grant of permission relating to the use of the structure as an ancillary element to the main dwelling that shall not be sub-let or sold separately.

7.5. **Appropriate Assessment**

7.6. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise

8.0 **Recommendation**

8.1. It is considered that the proposed development/ development to be retained should be granted for the reasons and considerations hereunder.

9.0 **Reasons and Considerations**

Having regard to the zoning objective, the design, layout and scale of the proposed structure and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenities of property 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 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 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.

Reason: In the interests of clarity.

2. The proposed development shall be amended as follows:
 - (a) The northern elevation of the proposed structure shall be reduced in height to match that of the southern elevation.

(b) All rainwater goods shall be located within the site boundary and shall not encroach or overhang adjoining properties.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. The external finishes of the proposed development shall harmonise with those of the existing dwelling in respect of materials, colour and texture.

Reason: In the interest of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

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 and to ensure a proper standard of development.

6. The existing dwelling and proposed games room/ shed shall be jointly occupied as a single residential unit and the proposed structure shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

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

7. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

8. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 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 residential amenities of property in the vicinity

Donal Donnelly
Planning Inspector

18th April 2017