



An
Bord
Pleanála

Inspector's Report ABP-300291-17

Development	The development will consist of the retention of a single-storey hobby room/ store room at the rear of existing dwelling.
Location	23, Saint Ignatius Road, Phibsborough, Dublin 7
Planning Authority	Dublin City Council (North Area)
Planning Authority Reg. Ref.	3794/17
Applicant(s)	Thomas Collins
Type of Application	RETENTION
Planning Authority Decision	GRANT with conditions
Type of Appeal	First Party
Appellant(s)	Thomas Collins.
Observer(s)	None
Date of Site Inspection	23/02/18
Inspector	John Desmond

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1.0 Site Location and Description

1.1. The application relates to the site of a 2-storey end-of-terrace property backing onto the Royal Canal in Phibsborough, c.160m west of Dorset Street. The redbrick-faced dwelling fronts directly onto the street and the side elevation and site boundary abuts an access lane to the canal towpath and to warehouse structures and parking located between the site and the canal to the north. The site has a stated site area of 117-sq.m. The dwelling has been extended with single and two-storey rear extensions. A single-storey detached, pitched-roof structure of 17.5-sqm stated GFA has been erected inside the rear (north) site boundary. The detached structure has an entrance onto the side lane and into the private yard to the rear of the dwelling. The said structure contains a shower and WC and the use of the structure is stated as 'hobby room / store'.

2.0 Proposed Development

2.1. It is proposed to retain the single storey detached structure, being a hobby room / store room, located to the rear of the property.

3.0 Planning Authority Decision

3.1. Decision

To GRANT permission subject to 5no. conditions. The following conditions are of note.

No.2 – prohibits use of structure for human habitation, or for the keeping of pigs, poultry, pigeons, ponies or horses or for any use other than as a use incidental to the enjoyment of the dwellinghouse.

No.3 – requires door to lane to west to be blocked up within 3 months of the final grant date.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the Planning Officer (19/10/17) is consistent with the decision of the Planning Authority and the conditions attaching thereto.

3.2.2. Other Technical Reports

Drainage Division (12/10/17) – No objection subject to standard conditions.

3.3. **Prescribed Bodies**

TII (29/09/17) – No observation.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

On site

Reg.ref.3043/01: Permission **REFUSED** by the Planning Authority for the conversion of garage into 1 bed apartment for two reasons relating to gross overdevelopment and the inadequate provision of private open space.

E0831/17: According to the Planner's Report, this enforcement file was opened concerning an '*alleged structure to rear for habitable use*'. No details on file.

5.0 **Policy Context**

5.1. **Development Plan**

Dublin City Development Plan 2016-2022

Land use zoning objective Z1 '*to protect, provide and improve residential amenities*'.

S.16.10.12 Extensions and Alterations to Dwellings

S.16.10.13 Subdivision of Dwellings

S.16.10.14 Ancillary Family Accommodation

5.2. **Natural Heritage Designations**

South Dublin Bay and River Tolka Estuary SPA 004024 c.2.2km to east

South Dublin Bay SAC 000210 c.4.4km to southeast

North Bull Island SPA 004006 c.5.3km to east

North Dublin Bay SAC 00206 c.5.3km to east

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main grounds of this first party appeal against condition no.3 may be summarised as follows:

- There has always been a double door access at this location to the rear of the dwelling.
- The access is used to:
 - deliver bins from the rear of the dwelling for collection, instead of through the house which would raise hygiene and smell issues;
 - deliver fuel, etc;
 - bring garden / house furniture, etc., to the yard / house.
- It is an alternative use of exit in case of fire and its removal is at odds with health and safety regulations for access and use / emergency services.
- The condition contravenes most housing policies where rear access is desired.
- The appellant is willing to relocate the door to the north boundary.

6.2. **Planning Authority Response**

Directs the Board to the Planner's Report which, it submits, justifies the decision.

7.0 Assessment

This is a first party appeal against the attaching of condition no.3 which requires the removal and blocking up of the entrance on the western elevation to the public lane.

As this is an appeal under S.139 of the Planning and Development Act, 2000, as amended, relating only to a condition, the Board may, at its discretion, determine the application de novo or limit its considerations to that of the condition.

The main issues arising in this case may be addressed under the following headings:

7.1 Policy / principle

7.2 Appropriate Assessment

7.1. Policy / principle

- 7.1.1. The site is located within an inner suburban location, on lands zoned objective Z1 '*to protect, provide and improve residential amenities*'. The Planning Authority had no issue with the principle of the proposed development which is a single-storey detached structure (17.5-sq.m stated GFL), indicated as a hobby room / store room, located to the rear of the house and proposed for retention. The Planner's Report makes no reference to any Council policy relevant to the provision of such structures and I could locate no such relevant policy under the Development Plan 2016-2022. The Council's approach to subdivision of dwellings (s.16.10.13) and to the provision of ancillary family accommodation (s.16.10.14) is noted, but is not relevant as the subject structure is not proposed as habitable accommodation independent of or ancillary to the dwelling. I consider the principle of the structure to be acceptable.
- 7.1.2. Condition no.3 of the decision omits the entrance from the structure to the public street, with a generic reason provided for attachment of same. The Planner's Report refers to no Council policy in this regard and I could locate no relevant policy under the Development Plan. The Planner's Report refers to the entrance being similar to a front door of a typical residential property, which might imply some concern that the structure would, or could, be used as an independent residential unit, although no such concern was explicitly stated. It is not unusual for a property in this location to have an access onto side or rear service or mews type lanes, whether from private open space, shed / ancillary structures or from the dwellinghouse proper. I note that

the property to the west has an entrance from the rear of the dwelling directly onto the lane. No traffic safety issues were raised by the Planning Authority and there is no report from its Roads Planning section. I consider the principle of the entrance door to be acceptable and reasonable.

- 7.1.3. The design of the door structure is not of particular relevance. The structure is not proposed as a residence and the decision of the Planning Authority appropriately limits the use of the structure through condition no.2 attached to the decision and the appellant has not appealed same. Any issue of possible non-compliance is a matter for the Planning Authority as the enforcement authority.
- 7.1.4. I would also note the concerns raised by the Planning Officer that the entrance does not appear to have the benefit of planning permission, that it does not form part of the application for retention and no justification has been submitted in this regard. The entrance forms part of the structure proposed for retention and is indicated clearly on the submitted plans. There is no requirement for the door to be referred to in the public notices. The Planning Authority had the opportunity to request further information concerning the door and justification of same but elected not to do so. I am satisfied that the applicant has justified the practical benefits of the door as a secondary entrance to the property and structure in the grounds of appeal. The appellant also submits that there has always been a double door access to the rear of the property at this location.
- 7.1.5. Accordingly, the Board should direct the Planning Authority to remove the offending condition

7.2. **Appropriate Assessment**

- 7.2.1. Having regard to the small-scale nature of the development proposed for retention, which is located within a built-up area at a distance from relevant European Sites, it is not considered that the proposed development would be likely to have a significant effect, directly or indirectly, individually or in combination with other plans or projects on any European site. I consider no Appropriate Assessment issues to arise.

8.0 Recommendation

- 8.1. Having regard to the nature of condition no.3 the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 (as amended) to **REMOVE** Condition no.3 for the reasons and considers hereunder.

9.0 Reasons and Considerations

The provision of an entrance to the public road, being a service type lane, from the structure proposed for retention for use as a hobby room / store room, would not contravene a policy or objective stated in the Dublin City Development Plan 2016-2022 and would not seriously injure the amenities of property in the vicinity.

John Desmond
Senior Planning Inspector

5th March 2018