



An
Bord
Pleanála

Inspector's Report ABP-301050-18

Development	Permission for retention of alterations and additions providing a family flat in lieu of approved 2-storey extension.
Location	8 Glenomena Grove, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0838
Applicant(s)	Joe Cunniam
Type of Application	Retention Permission
Planning Authority Decision	To Grant Retention Permission for the buildings and works and Refuse Retention Permission for the use of the existing extension as a 'Family' flat.
Type of Appeal	Third Party
Appellant(s)	Pauline Welley, Frances O' Gorman and Senan Haugh, Tom and Anne O' Donnell and William Sweeney
Observer(s)	No observers
Date of Site Inspection	29.05.2018
Inspector	Erika Casey

1.0 Site Location and Description

1.1. The subject site is located in a mature residential area. The prevailing character in the area is low density, suburban, two storey semi-detached dwellings. The subject dwelling has an area of 177.32 sq. metres and is located in a cul de sac on a site of 0.031ha. The existing dwelling is served by 2 vehicular entrances from the cul de sac. The two storey extension to the side is set back from the main facade of the dwelling and has a separate own door entrance.

2.0 Proposed Development

2.1. The proposed development comprises the retention of alterations and additions to a previously approved 2 storey extension (Reg. Ref. D03B/0161) to include:

- Omission of the approved open porch to the front of the dwelling.
- Alterations to approved extension at ground floor to provide kitchen/dining areas with internal stairs to first floor bedroom in lieu of a utility room, shower room and lounge area in lieu of study.
- Alteration of approved extension roof profile providing ridge height to match the ridge height of the existing house and to omit the staggered fascia to the rear of the north west and south west elevations.
- Alterations to approved extension at first floor bedroom to omit the ensuite, the provision of a wc and the conversion of store room to bathroom for the family flat.
- The provision of a landing window at first floor in the house to the rear of the south west elevation.

2.2. Permission is also sought for the retention of the use of the extension as a family flat. The stated area of the development to be retained is 62.09 sq. metres.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Split Decision:

3.1.2 To Grant Retention Permission for the building and works subject to conditions.

Condition 2: The house shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Condition 3: Glazing within the first floor window to the hall on the south west elevation shall be permanently maintained as opaque.

3.1.3 To Refuse Permission for the use of the existing extension as a 'Family' flat for the following reason:

"The Applicant has not stated who the Granny/Family Member Flat is for, nor has a valid justification for the Granny/Family Member Flat in use terms been provided. It is therefore, considered that the use of the extension as a Granny/Family Flat for which retention permission is sought does not accord with and is contrary to Section 8.2.3.4 (iii) of the 2016-2022 Dun Laoghaire Rathdown County Development Plan, would set an undesirable and poor precedent for similar type development in the area, and would be contrary to the proper planning and sustainable development of the area."

3.2. Planning Authority Reports

3.2.1. Planning Reports (09.11.2017, 19.12.2017 and 29.01.2018)

- The 'Family' flat has largely been constructed within the footprint of the extension permitted under Reg. Ref. D03B/0161.
- The existing dwelling is not interlinked at ground floor level, however, a connection exists at first floor level through the bathroom of the 'Family' flat.
- At clarification of further information stage, the response from the applicant noted that there is no specific family member requiring the use of the extension as a 'Family' flat.

3.2.2. Other Technical Reports

- **Drainage Planning (02.11.2017):** No objection.
- **Transportation Planning (25.10.2017):** No objection subject to conditions.

3.3. Prescribed Bodies

- No submissions.

3.4. Third Party Observations

3.4.1 5 no. third party observations were made. The issues raised can be summarised as follows:

- The extension has always been let as a separate dwelling on a commercial basis. It does not, therefore, meet the criteria for family flat developments under the current County Development Plan.
- The need for the temporary subdivision of the property for a family member has not been proven. Concern that the application is in reality a planning application for retention of a separate dwelling structure.
- The development is in breach of the conditions imposed under the parent permission. Object to independent access and internal stairs.
- No permission for the second vehicular access has been sought. Concern regarding additional traffic generated by the development.
- Consider that other ad hoc extensions to the existing dwelling are not detailed in the application. State that application drawings are unclear.
- Concerns regarding intensification of student accommodation in the area due to proximity to UCD. The development is not in the interests of the future social fabric of this established family neighbourhood and is not in keeping with the area.

4.0 Planning History

Planning Authority Reference D03B/0161

4.1 Permission granted in April 2003 for a development comprising (a) demolition of the existing car port (b) the conversion of the existing garage to study (c) the erection of a two storey extension, approximate floor area 37 sq. metres to the side of the existing house and in front of the existing garage (d) a new porch in front of the existing hall door.

4.2 Condition 2 stated:

“The entire premises be used as a single dwelling unit.

Reason: To prevent unauthorised development.”

Planning Authority Reference D02B/0070

4.3 Permission sought for a two storey extension to the side of existing premises to include additional bedroom, bathroom and kitchen space with study in existing garage. Application was withdrawn.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A: *“To protect and/or improve residential amenity”*. The principle of a residential extension is acceptable under this zoning. Relevant policies and objectives include:

5.1.2 **Section 8.2.3.4** of the Plan addresses additional accommodation in existing built up areas. This notes the following key points:

- In determining first floor extensions the Planning Authority will have regard to factors such as:
 - Overshadowing, overbearing and overlooking -along with proximity, height and length along mutual boundaries.
 - Remaining rear private open space, its orientation and usability.
 - Degree of set-back from mutual side boundaries.
- Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation), and impacts on residential amenity. External finishes shall normally be in harmony with existing.

5.1.3 Section 8.2.3.4 (iii) addresses Family Member/Granny Flat extensions. It states:

“A ‘Family’ or ‘Granny’ flat refers to a temporary subdivision of a single dwelling - often by adding an extension to the dwelling or converting an attached

garage - for a subsidiary element, for use by a member of the immediate family (e.g. elderly parent) but not as a fully independent dwelling. These will be assessed against the criteria applied to 'normal' domestic extensions.

Proposals should be:

- *Interlinked with the primary dwelling and capable of being readily subsumed back into same.*
- *Such that the Planning Authority is satisfied that there is a valid justification for the proposal in use terms.*

Permission will normally be on condition that:

- *The flat can be subsumed back into the main dwelling when it is no longer required.*
- *It shall not be let or sold, other than as an intrinsic part of the overall property.*
- *Where the owner wishes it to remain subdivided on a permanent basis, an application shall be made for sub-division which will be assessed on the more demanding criteria as would be applied to a separate dwelling house.*

5.2. Natural Heritage Designations

- None applicable.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 4 no. third party appeals were made. Issues raised overlap and can be summarised as follows:

- Consider that allowing the family flat to remain intact in its present form makes it near impossible to ensure the condition restricting the use of the property will be adhered to in the future. The built form of the dwelling internally and externally lends itself to future use as two separate dwellings. Request a condition be imposed removing the second entrance and internal staircase.

- The development at present functions as a fully self-contained flat with its own door access. The only internal connection is at first floor bathroom level. Concern that the permission endorses a significant unauthorised development on the site.
- The development as retained does not comply with the Dun Laoghaire Rathdown County Development Plan which states that where the need for such family flats no longer exists, that the building must be capable of being subsumed into the main building.
- Consider that the development is not in the interests of the community and has a negative impact on the residential amenity of the area. Consider that the intensification of occupation and letting use sets an undesirable precedent and may result in traffic problems.
- Concern that the application was deficient and did not disclose certain information including that the property is for sale and consider there is legal uncertainty as to the legal status of the applicant.

6.2. Applicant Response

- The applicant is the joint executer of the estate. Solicitor letter submitted. They have the legal right to make the application.
- The extension as constructed was to provide independent accommodation to a family member. The extension has never been commercially let. At times, the previous owner resided in the extension and the main house was let to students. This did not have a negative impact on the residential amenities of the area.
- It is not intended that the extension will be used as a family flat and it will be subsumed back into the house as originally envisaged. Happy to accept a condition to that affect. The property will remain as one dwelling.
- Notes that the internal stairs has now been removed. Further internal revisions proposed by way of revised drawings submitted with appeal response including: reinstatement of interconnection at ground floor level; change of use of kitchen in main house to a dining room and provision of a new kitchen in the

extension; and bathroom at first floor level to be dedicated as an ensuite for bedroom 4. It is submitted that these revisions clearly make the property a 4 bed, 2 storey dwelling in one usage.

- Note that after discussions with the Planning Department, it was accepted that as there was no family member actually residing in the extension, retention as a family flat was not applicable. It was agreed, therefore, that the extension would be subsumed back into the dwelling.
- The assertion that the development will result in intensification of occupation are unfounded. The property has always remained a 4 bed property and at all times remained in the ownership of one family. It is intended that the development will remain as a family home.
- The appellants appear to be trying to retrospectively make objections to the subject extension that should have been made at the time of the parent permission. The current applicant has no responsibility for the works undertaken by the previous owner. The current application just seeks to regularise the planning situation.
- The second driveway has been insitu for over 40 years and was not constructed to facilitate the extension to the dwelling. The driveway and entrance do not form part of the application and are thus outside the scope of the appeal.
- It is evident from the lodged and approved planning drawings submitted under D03B/0161 that there is full permission for a door in the front elevation of the extension. In this context, a condition to remove it would be inappropriate.
- The dwelling cannot be separated into 2 dwellings now or at any time in the future without obtaining planning permission.
- Note that the property is no longer on the market due to the need to regularise the planning situation. The property was never marketed as including a family flat.

6.3. Planning Authority Response

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.4. Observations

- No observations.

6.5. Further Responses

Pauline Walley, 22 Glenomena Grove (18.05.2018)

- Permission never existed for a second front door to the premises. Reference to planning history of site. No written application was ever made to create a second front door. It cannot be suggested that because some deviation is contained on the plans that somehow express authorisation has been granted. Applicant seeks to retain second door to facilitate the maintenance of the extension as a separate dwelling.
- Permission is in breach of the Development Plan. DLRCC granted de facto approval for two dwellings on the site.
- Concerns regarding legal status of the applicant.
- Extension was never used to accommodate a family member and was let on a commercial basis.

Tom and Anne O'Donnell, 24 Glenomena Grove (21.05.2018)

- Property was commercially let for many years.
- Decision to retain dwelling in its current form will facilitate the future use of the extension as a separate dwelling. Concerns regarding second front door.

Dun Laoghaire Rathdown Co. Co. (11.05.2018)

- No further comment.

Dolores and Liam Sweeney, 16 Glenomena Grove (19.05.2018)

- The revised plans are welcomed as would contribute to subsuming the extension into the main dwelling. However, the issue of the two front doors remains and is an impediment to the full realisation of a single dwelling.
- Concerns regarding future letting of the property on a commercial basis.

7.0 Assessment

7.1.1 The main issues are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Procedural.
- Principle of Development.
- Appropriate Assessment.

7.2 Procedural

7.2.1 Concerns are raised by one of the appellants that the applicant does not have sufficient legal interest to make the application. Legal documentation has been submitted with the appeal response to state that the applicant, Mr. Joe Cunniam, is the joint executer of the property. I am satisfied, therefore, that the applicant has sufficient legal interest to make the application.

7.3 Principle of Development

7.3.1 The proposed development seeks retention of alterations and additions to a previously approved 2 storey extension located to the side of the dwelling as well as its use as a family flat. The exterior amendments are generally cosmetic and minor in nature and primarily comprise of elevational amendments including the omission of a porch, modifications to the roof profile and provision of a landing window. I have no objection to these amendments and I am satisfied they have no negative impact on the residential amenities of the area.

7.3.2 The amendments also relate to a series of internal amendments that were implemented to facilitate the use of the extension as an independent family flat.

These include alterations to the internal configuration of the accommodation and the provision of an internal stairs.

- 7.3.3 At further information and clarification of further information stage, clarity was sought from the applicant as to the intended use of the extension as a family flat. It became apparent that it is no longer intended to utilise the extension as a family flat as there is no adequate justification for such a use. The appellant has further clarified this matter in their appeal submission, confirming that the extension is to be subsumed into the main dwelling house and that the house will be used in its entirety as one dwelling unit. The purpose of the application is to regularise planning to enable the sale of the property. In this regard, they do not object to the split decision to preclude use of the extension as a family flat. The Council imposed a specific condition precluding the sub division of the dwelling and preventing its use as two or more separate units.
- 7.3.4 The concerns of the appellants primarily focus on this condition and that it is not sufficient to preclude the use of the dwelling as two separate habitable units. They are concerned that the internal and external layout of the extension and in particular the fact that it is served by its own independent access door and has an internal stairs completely separate the extension from the fabric of the main dwelling and will facilitate its future letting on a commercial basis. In this context, there are concerns that the current layout make the enforcement of such a condition regarding the future use of the extension untenable and that the extension will in fact be used and function as a fully self-contained flat.
- 7.3.5 The Dun Laoghaire Rathdown County Development Plan sets out specific guidance regarding Family Flat/Granny Flat Extensions. The plan notes that when such a granny flat is no longer required, it must be designed so that it can be subsumed back in to the main dwelling and shall not be let or sold, other than as an intrinsic part of the overall property. It is further detailed that where the owner wishes for the property to remain sub divided on a permanent basis, an application shall be made for subdivision which will be assessed on the more demanding criteria as would be applied to a separate dwelling house. The applicant is explicit that they do not wish for the property to remain sub divided on a permanent basis and that they are happy to subsume the extension into the main property. The use of the extension as an independent granny flat is no longer required.

- 7.3.6 I note the appellants concerns regarding the layout of the extension and the fact that it does lend itself to functioning as an independent living unit. To address this issue however, the applicant has submitted revised drawings with their appeal response to demonstrate how the extension will be subsumed into the fabric of the main dwelling house. It is detailed that the internal stairs is being removed. It was observed on site that these works have now been undertaken by way of exempted development and the internal stairs is no longer insitu.
- 7.3.7 Other internal amendments are also indicated in the revised drawings submitted including the reinstatement of the interconnection at ground floor level linking the existing kitchen in the original house and the extension at ground floor level. It was also observed during the site visit that this ground floor connection has now been constructed. The kitchen in the main house is to be removed and used as dining room, and the kitchen to serve the dwelling as a whole will be located in the extension. At first floor level, there is an existing connection between the landing and bedroom 4. As indicated on the drawings submitted with the appeal, the toilet and stairs at this level have now been removed. I consider these revisions appropriate and largely address the concerns that the extension will function as a separate dwelling unit. Having regard to the drawings submitted and the internal works observed, the dwelling in my view now clearly functions as one habitable home and not two separate dwellings.
- 7.3.7 Notwithstanding these amendments, the extension is still served by an independent access door to the front. It is argued by the applicant that it was always intended that the extension would have a separate front door access at ground floor and that this is clearly shown in the parent planning application drawings. Whilst the drawings submitted with the parent permission (D03B/0161) are not particularly clear, it is evident that an additional entrance was proposed in the front elevation. This was to provide access to a new corridor running parallel to the utility room which lead to the rear garden. The appellants state that as the unauthorised works undertaken at the property omitted the internal connection at ground floor between the main dwelling and the extension, this in effect, turned the new door into a “front door” that opened into a fully self-contained flat. Concerns are also raised that the parent permission did not include a description of this second front door in the public notices or

planning documentation and that vague plans cannot be relied on as the basis for permitting retention of this second front access.

- 7.3.8 Notwithstanding this, I would concur with the applicant that the permission as previously granted did provide for a new entrance at this general location and the principle of this open and additional front access has, therefore, been established under the parent permission. Whilst the door was not included in the development description, it is clearly shown on the application drawings. Furthermore, the second door has now been insitu for over 15 years. I also note that as the applicant is now providing a clear connection between the main house and extension at ground floor level and that the internal staircase has been removed, this will further ameliorate the appellants concerns regarding the functionality of this entrance and the potential for the extension to be used as a separate dwelling unit.
- 7.3.9 In conclusion, whilst the appellants concerns regarding the potential for the extension to be occupied as a separate dwelling unit are noted, I consider that the omission of the internal staircase and the interconnection of the extension into the main fabric of the primary dwelling at ground and first floor as provided for in the revised drawings submitted with the appeal response and observed on site, are sufficient to ensure that the extension is subsumed into the main dwelling. I am satisfied that the use of the extension as a granny flat is no longer required and that the works proposed works to subsume the extension are in compliance with the policies set out in the development plan. This coupled with a condition precluding the use of the dwelling as two separate dwelling units is sufficient in my view, to ensure that that the future use of the property will be regulated and that it will be occupied as one dwelling.
- 7.3.10 Concerns have also been raised by some of the appellants regarding the fact that the dwelling is served by two vehicular entrances, and that the development will result in an unacceptable intensification of use and give rise to traffic problems. I would concur with the applicants that the subject dwelling has been served by two entrances for some period of time. I am satisfied, based on the application drawings submitted under the parent permission and those submitted under D02B/0070, of which the applicant has provided extracts from, that the entrance was insitu prior to the proposed extension. I also note that the entrance does not form part of the

current application and no objections to the development were raised by the Transportation Department of Dun Laoghaire Rathdown County Council.

- 7.3.11 With regard to traffic impacts, the dwelling is served by at least three off street parking spaces. On street parking is also available. The dwelling is a modest 4 bedroom dwelling and I am satisfied that the proposed works will not give rise to an unacceptable level of intensification of use or give rise to traffic hazard.

8.0 Recommendation

- 8.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, the location of the site in an established residential area and its zoning for residential purposes, to the nature, form, scale and design of the development proposed for retention, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not seriously injure the residential or visual amenities of the area or give rise to a traffic hazard. The development proposed for retention would 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 application, as amended by the further plans and particulars submitted to the Planning Authority on the 27th day of November, 2017 and the 28th day of December, 2017 and to An Bord Pleanála on the 23rd of March 2018.

Reason: In the interest of clarity.

2. The extension proposed to be retained shall not be used as a Family Member/Granny Flat unless otherwise authorised by a prior grant of planning permission. The existing dwelling and proposed extension for retention shall be

jointly occupied as a single residential unit and the extension for retention 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.

Erika Casey
Senior Planning Inspector

30th May 2018