



An
Bord
Pleanála

Inspector's Report ABP-301190-18

Development	Retain alterations and extensions to dwellinghouse including use of building to the rear as family flat
Location	121 Cabra Road, Cabra, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4500/17
Applicant(s)	Derek Egan
Type of Application	Permission & Retention Permission
Planning Authority Decision	Grant
Type of Appeal	First-Party
Appellant(s)	Catherine Taylor
Observer(s)	None
Date of Site Inspections	18 th June 2018 & 20 th June 2018
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on Cabra Road adjacent to a local neighbourhood centre and approximately 2.2km northwest of Dublin city centre.
- 1.2. The site is rectangular in shape and has a stated area of 444sq.m, with approximately 10m frontage onto Cabra Road. It contains a two-storey semi-detached dwellinghouse set back c.15m from the footpath, with a two-storey side extension and a single-storey rear extension. To the front of the house is a hardstanding area, while to the rear is a single-storey outbuilding connected to the house via a link extension along the eastern boundary creating an enclosed amenity space. Attached to the west is No.123 Cabra Road, which contains a legal practice, while to the east is No.119 Cabra Road, a two-storey semi-detached house. The western side boundary to the rear of the house on site adjoins the rear of Nos.1 to 5 Imaal Mart, a single-storey terrace comprising a range of small commercial units. Directly to the rear of the site is the rear garden serving No.2 Imaal Road.
- 1.3. The surrounding Cabra area is characterised by rows of terraced and semi-detached dwellings of similar styles in a uniform and symmetrical layout fronting onto tree-lined streets. Ground levels in the vicinity drop gradually towards the southeast.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the following:
 - Extension measuring 23sq.m to previously permitted single-storey rear shed previously approved under DCC Ref. 3607/16 and use of this structure for ancillary family accommodation.
- 2.1.2. The development proposed for retention comprises the following:
 - alterations to the front elevation of a first-floor side extension, as previously approved under DCC Ref. 2780/16;
 - part-single and two-storey rear extension with a gross floor area (GFA) of approximately 15sq.m.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission and retention permission subject to eight conditions of a standard nature, including the following:

- Condition No 6: the ancillary family accommodation shall be incidental to the enjoyment of the principal dwelling on site, shall not be separated by sale or lease and shall revert back to being part of the principal dwelling once no longer required;
- Condition No 7: conditions of the previous permissions (DCC Ref. 2780/16 & 3607/16) shall be complied with in full.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (February 2018) reflects the decision of the Planning Authority. The Planning Officer notes the following:

- there is no objection to the height and extension of the outbuilding or its use as a family flat;
- there is no objection to the retention of front elevation alterations.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland – Section 49 contributions may apply;
- Irish Rail – no response;
- Irish Water – no response;
- National Transport Authority – no response.

3.4. Third-Party Observations

- 3.4.1. During consideration of the application by the Planning Authority, one observation was received from the adjoining resident to the north at No.2 Imaal Road and the issues raised within the observation are covered under the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The following recent planning enforcement case relates to the appeal site:

- DCC Enforcement Ref. E1019/17 – Works were completed substantially different to planning permission. A Warning Letter was issued in September 2017 and an Enforcement Notice was issued in November 2017.

- 4.1.2. The following recent planning applications relate to the appeal site:

- DCC Ref. 3607/16 – Permission granted by the Planning Authority (December 2016) for revisions to the previously permitted log-cabin structure, comprising a render finish and an increased floor area, measuring 33sq.m. Condition no.2 of the permission stated that the shed should not be used for human habitation and that it could be used for uses incidental to the enjoyment of the host house;
- DCC Ref. 2780/16 – Permission granted by the Planning Authority (August 2016) for a first-floor side extension and a log-cabin structure (c.26sq.m) to the rear.

4.2. Surrounding Sites

- 4.2.1. Reflective of the inner-urban location, there have been numerous applications and appeals for domestic and commercial extensions, as well as various material alterations to properties in the immediate area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z3 – Neighbourhood Centres' within the Dublin City Development Plan 2016-2022, with a stated objective 'to provide for and improve neighbourhood facilities'. Residential use is a permissible use in this area. The site is located approximately 350m outside the 'inner city' zone, as illustrated within Map K of the Development Plan.
- 5.1.2. Relevant planning policies for the proposed development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Section 16.10.14 of the Plan is particularly relevant, as this addresses 'ancillary family accommodation' and outlines that an extension to a family dwelling to accommodate a family member must comply with the following:
- a valid case is made with regard to the relationship with the applicant;
 - it is directly connected to the main dwelling;
 - the independent unit can be integrated into the dwelling once the family member no longer needs it.
- 5.1.3. Matters to be considered in assessing proposals for extensions and alterations to dwellings are outlined under Section 16.10.12 of the Plan, while Section 16.10.13 addresses the subdivision of dwellings.
- 5.1.4. BRE guidance addressing Site Layout Planning for Sunlight & Daylight (2011) is relevant in assessing potential impacts of a development on light to neighbouring properties.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The following grounds of appeal were raised:
- the shed to the rear has restricted light to the garden and living space of the appellant's property to the north at No.2 Imaal Road. A set of photographs are included with the grounds of appeal;
 - use of the shed for residential purposes would lead to concerns regarding noise, light and disturbance;

- the shed structure was initially built without planning permission and concerns are raised that the shed may be used for commercial purposes and would be difficult to maintain.

6.1.2. **Applicant's Response**

6.1.3. The applicant's response to the grounds of appeal can be summarised as follows:

- The applicant cares for his 93-year old aunt and 92-year old uncle in the ancillary family accommodation on a daily basis, and it is not being used for commercial purposes, as asserted by the appellant;
- The applicant had contacted the Planning Authority to understand the works required to ensue compliance with planning policy, including the need for an internal connection between the ancillary accommodation and the host house;
- An image is included to show the extent of shadow cast by the buildings on the subject site into the appellant's rear garden and note the extensions to the appellant's property.

6.1.4. **Planning Authority Response**

6.1.5. The Planning Authority did not respond to the grounds of appeal.

6.2. **Observations**

6.2.1. None received.

6.2.2. **Further Responses**

6.2.3. A response to the applicant's submission was received from the appellant and this can be summarised as follows:

- the appellant is not aware of elderly persons residing in the appeal site and requests documentation should be provided to prove same;
- alterations to the appellant's property are in existence for a substantial period;
- the proposals result in overdevelopment of the site, present fire risk, are excessive in height and set precedent for similar developments in the area.

7.0 Assessment

7.1. Introduction

7.1.1. The proposed development is for retention of alterations to extensions previously permitted (under DCC Refs. 2780/16 & 3607/16) to a two-storey semi-detached house and for permission to extend and use the previously permitted shed as ancillary family accommodation. Under the provisions of the Dublin City Development Plan 2016-2022, the principle of residential development, including extensions and ancillary family accommodation (family flat) on the subject lands zoned 'Z3 – Neighbourhood Centres' is acceptable, subject to planning and environmental considerations addressed below. I am satisfied that those aspects of the proposed development for retention relating to the alterations to the front façade of the side extension would be in keeping within the design of the house on site and the character of the area. Consequently, I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Use, Design & Layout;
- Impact on Residential Amenities.

7.2. Use, Design & Layout

7.2.1. The most recent permission for development on the appeal site (DCC Ref. 3607/16) allowed for change of the previously permitted log cabin structure to a rendered structure with a stated gross floor area of 33sq.m. Condition no.2 of the permission stated that the shed should not be used for human habitation and that it could be used for uses incidental to the enjoyment of the host house. It is now proposed to link the shed with the house via an internally-connected extension running along the eastern side boundary. The size of the structure accommodating the proposed ancillary family accommodation would increase by an additional 23sq.m under the proposals and the living accommodation would include one bedroom, a living room, a bathroom and a kitchen, as well as a link corridor, in total measuring 56sq.m.

7.2.2. Section 16.10.14 of the Development Plan provides specific guidance for ancillary family accommodation where an extension to an existing dwelling unit will be

favourably considered for an immediate family member for a temporary period of time, should the need be justified for the relative to live in close proximity to their family. The cover letter accompanying the planning application and response to the appeal states that the accommodation would allow the applicant to assist in the daily and medical needs of an elderly aunt and uncle of the applicant. The ancillary family accommodation would connect directly with the main dwelling via the extension and would only be accessible from the front of the main dwelling. The ancillary family accommodation could also be re-integrated into the dwelling once the family members no longer need it, as required under Section 16.10.14 of the Plan. Furthermore, a reasonable quantum of private amenity space (c. 62sq.m) would remain for the residents.

- 7.2.3. The standards for residential units in the Development Plan are based on the requirements of 'Quality Housing for Sustainable Communities- Best Practice Guidelines for Delivering Homes Sustaining Communities' for dwellings and 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' for apartments. There are no specific floor area standards relating to ancillary family accommodation. As a guide, the minimum size for a one-bedroom two-bedroom apartment in the Apartment Guidelines is 45sq.m, including living/dining/kitchen area, bedroom and bathroom. The ancillary family accommodation is stated to measure 56sq.m and I note that it would comply with minimum room sizes and widths set within the Guidelines, while being provided with south-facing and west-facing aspect and direct access to the rear amenity area. The proposed development would provide a suitable level of amenity for future family occupants.
- 7.2.4. In conclusion, I consider that a valid case has been set out for the ancillary family accommodation to temporarily accommodate the elderly relatives of the applicant and the size, orientation and layout of the proposed development would successfully lend itself to being temporarily used for ancillary family accommodation. The proposed 'family flat' is acceptable in principle and meets the criteria set out under Section 16.10.14 of the Development Plan and, subject to a condition clarifying the nature and extent of the use, permission should not be refused for this aspect of the proposed development.

7.3. Impact on Residential Amenities

- 7.3.1. The grounds of appeal assert that the existing shed has restricted light to the garden and living space of the appellant's property to the north at No.2 Imaal Road and that its future use as ancillary family accommodation would result in noise and general disturbance. The previous permission under DCC Ref. 3607/16 allowed for a pitch roof shed along the rear boundary, with a maximum ridge height of c.3.6m and a roof eaves height of c.2.7m along the boundary. Under the subject proposals the shed would be replaced with a flat-roof structure with a maximum parapet height of 3.2m, set off the rear boundary with No.2 by c.0.4m (see Drawing No. 2017-P-3004). No rear-facing windows are proposed. A 2m-high wall marks the boundary between the appeal site and No.2. No.2 features a garden over 9m in width and an end-of-terrace two-storey house that has been extended to the side and rear at ground-floor level. While the proposed ancillary family accommodation structure would be 0.4m to the south of the rear garden to No.2 and would to some extent overshadow the rear garden area, such overshadowing would not be excessive given the width of garden space to No.2 and the positioning of the structure directly to the south of No.2.
- 7.3.2. Potential impacts on the residential amenities of properties to the west in Imaal Mart do not arise, given their use for commercial purposes. No.119 Cabra Road, adjoining to the east, is situated on a similar level to the appeal site and features a two-storey semi-detached house positioned on a similar building line to the subject house on the appeal site. The proposed part single, part two-storey extension to the rear of the house along the boundary with No.119, would accommodate an internal link and part of the ancillary family accommodation at ground floor. To the rear boundary of No.119 is a large pitched-roof outbuilding extending for a depth of approximately 10m along the boundary with the appeal site, as well as a two-storey rear projection and single-storey rear extension with a total depth of approximately 6m along the boundary with the appeal site. The boundary between the appeal site and No.119 is marked by a 2m-high boundary wall and the proposed extension would be 2.85m in height and 0.5m off the side boundary. The proposed first-floor element of the extension would not project further to the rear than the existing two-storey rear projection to No.119 and, therefore, would not impact on the amenities of No.119 at first-floor level. Given the depth of extensions and the outbuilding,

measuring c.16m in total along the c.21.5m deep side boundary to the rear of No.119, and the proposed height and position of the proposed link extension, I am satisfied that the proposed development would not have an overbearing appearance when viewed from No.119 and would not unduly affect third-party amenities as a result of excessive overshadowing or restriction of light.

- 7.3.3. In conclusion, the proposed development and the development proposed for retention would not give rise to an unacceptable impact on residential amenity. Accordingly, permission and retention permission should not be refused for this reason.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development, the existing development on site and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that subject to conditions planning permission should be granted, for the reasons and considerations set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the zoning provisions for the site, to the nature and scale of the proposed development and the development proposed for retention, and to the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development and the development proposed to be retained would provide a suitable level of amenity for future family occupants, would be connected with and could be reintegrated with the house on site, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would comply with the provisions of Section

16.10.14 of the Dublin City Development Plan 2016-2022 relating to ancillary family accommodation. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out, 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 in writing 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 interest of clarity.

2. The proposed family flat extension shall be used solely for that purpose, and shall revert to use as part of the main dwelling on the cessation of such use.

Reason: To protect the amenities of property in the vicinity and in order to comply with the objectives of the current development plan for the area.

3. The external finishes of the proposed extensions including roof tiles/slates shall harmonise with those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

4. Apart from any departures specifically authorised by this permission, the development shall be carried out, retained and completed in accordance with the terms and conditions of the permissions granted on the 3rd day of August 2016 under planning register reference number 2780/16 and the 2nd

day of December 2016 under planning register reference number 3607/16, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.

5. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is 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, as amended. The contribution shall be paid prior to 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

7. The developer shall pay to the Planning Authority a financial contribution in respect of the Luas Cross City Project, in accordance with the terms of the Supplementary Development Contribution Scheme made by the Planning Authority under Section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under Section 49 of the Act be applied to the permission.

Colm McLoughlin
Planning Inspector

19th September 2018