



An
Bord
Pleanála

Inspector's Report ABP-301198-18

Development

Replacement of the existing flat roof garage / shed (34.5m²) with an existing roof height of 2.9m above laneway fronting on to Kenilworth Lane West, with a new pitched roof (ridge height 5.6m above laneway) and associated general renovations to include a mezzanine loft with velux roof light. The works include the demolition of an existing ground floor bathroom extension (5m²) in the main house to facilitate a single storey link corridor (12.7m²) to development.

Location

14, Leinster Road West, Dublin 6

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

4512/17

Applicant(s)

Michael McGuinness

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal	First Party
Appellant(s)	Michael McGuinness
Observer(s)	None
Date of Site Inspection	28/06/2018
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of Leinster Road West, approx. 50m to the east of the junction with Harold's Cross Road. The site extends from Leinster Road West (northern boundary) to Kenilworth Lane West (southern boundary). Currently on site is a two-storey red-bricked dwelling (no. 14) with a front garden facing Leinster Road West. To the rear of the dwelling, a private garden is bound to the south by a single storey garage that opens directly on to Kenilworth Lane West. No. 14 is the end-of a terrace of five dwellings, some of which have been extended to the rear.
- 1.2. Kenilworth Lane West has a number of mews dwellings on the southern side – formerly the rear gardens of the dwellings on Kenilworth Square. A smaller number of the larger dwellings on Leinster Road, to the east of the subject site, have developed mews units to the rear, accessing off a section of Kenilworth Lane West at its widest point.
- 1.3. To the west of the subject site a former church has been developed into commercial units – Century House.

2.0 Proposed Development

- 2.1.1. On the 14th December 2017, planning permission was sought for the demolition of an existing ground floor bathroom (5sq.m.), the construction of a glazed corridor (12.7sq.m.) and the conversion of an existing single storey garage (34.5sq.m.) to the rear of 14 Leinster Road West into ancillary family accommodation. The proposed accommodation would entail a new pitched roof at a height of 2.9m replacing the flat roof of the garage.
- 2.1.2. The application was accompanied by a planning report that states the proposed development is an extension to the existing dwelling to allow the applicant to share the house with his daughter and her family. The report states that the current proposal addresses the previous reasons for refusal by linking the development to the main dwelling.

3.0 Planning Authority Decision

3.1.1. On the 16th February Dublin City Council issued a notification of their intention to REFUSE permission for the following reason:

- 1 The proposed development, by reason of its location, setting and poor response to policy in providing a glazed link the length of the garden, does not comply with development plan standards for ancillary family accommodation, including having direct access to the lane to the rear. Therefore the proposed development would be substandard, set an undesirable precedent for similar piecemeal development in the area and would be contrary to the policies and objectives of the current Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.
- 2 The development does not meet the minimum residential standards for houses, in regard, amongst other things, floor area, aspect and natural light, would be seriously substandard and would set an undesirable precedent for substandard development in the area. The proposed development would therefore seriously injure the amenities of properties adjoining and along the lane and would be contrary to the policies and objectives of the current Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. **Drainage Division:** No objection

3.2.2. **Roads & Traffic Planning Division:** No objection subject to conditions.

3.2.3. **Planning Reports:** Planning history indicates owner seeks an additional residential unit. The only change from previous refusal is the provision of a glazed link to the main dwelling. This is not a satisfactory response to the need to indicate that the proposed development is not separate from the main dwelling, given that access from the lane is still provided. Residential amenity of the proposed unit is substandard in terms of floor to ceiling height and lighting by way of rooflights. Overall size, layout and quality would not comply with section 16.10.14. Recommendation to refuse.

4.0 Planning History

- 4.1.1. Reg. Ref. **3919/17**: Planning permission was refused for the replacement of the existing flat roof garage/ shed (34.5m² - with an existing roof height of 2.9m above laneway), fronting on to Kenilworth Lane West, with a new pitched roof 2-storey studio apartment (ridge height 5.6m above laneway - including mezzanine loft with Velux roof Light) (44m²), for residential use, as an extension to the main house, on the same footprint. The reasons for refusal referred to non-compliance with the ancillary family accommodation policy and that the proposed unit was considered to be a studio apartment.
- 4.1.2. Reg. Ref. **1416/97**: Planning permission was refused for a two storey two-bedroom mews on the grounds that the proposed development represented over development of the restricted site and would seriously affect the residential amenity of property by reason of loss of amenity space and aspect.
- 4.1.3. Reg. Ref. **1865/96**: Planning permission was refused for a two storey two-bedroom mews on the grounds that the proposed development represented over development of the restricted site, did not comply with mews development policies and would seriously affect the residential amenity of property by reason of loss of amenity space, privacy and aspect.

5.0 Policy Context

5.1. Dublin Development Plan 2016-2022

- 5.1.1. In the Dublin City Development Plan 2016 -2022 plan, the site is zoned '**Z2 Residential Conservation**' which has the stated objective "to protect and improve the amenities of residential conservation areas". Within Z2 zones 'Residential' is a permissible use.
- 5.1.2. **Chapter 16** includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design.
- 5.1.3. **Section 16.10.2** of the development plan refers to residential quality standards for Houses. It states that in relation to floor areas: Houses shall comply with the principles and standards outlined in section 5.3 'Internal Layout and Space provision' contained in the then DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

5.1.4. **Section 16.10.14** of the development plan states that ancillary family accommodation refers to an extension of a single dwelling unit to accommodate an immediate family member for a temporary period (e.g. elderly parent) or where an immediate relative with a disability or illness may need to live in close proximity to their family. The purpose of such development is to provide an amenable living area offering privacy, manoeuvrability and accessibility directly connected to the main dwelling. Usually, there is no exterior difference in appearance between an extension and ancillary family accommodation. Section 16.10.14 states that Dublin City Council will, in principle, favourably consider applications for such sub-division provided the planning authority is satisfied that:

A valid case is made, including details of the relationship between the occupant(s) of the main dwelling house and the proposed occupant(s) of the ancillary family accommodation, the proposed accommodation is not a separate detached dwelling unit, and direct access is provided to the rest of the house, the accommodation being integral with the original family house shall remain as such when no longer occupied by a member of the family.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An agent on behalf of the applicant has lodged a first party appeal against the decision of the Planning Authority to refuse permission. The appeal submission states that the applicant wishes to live in the proposed unit and allow his daughter and her family to live in the main dwelling, as the applicant will require family assistance over the coming years. The appeal is accompanied by a letter from his doctor.

6.1.2. The grounds of the appeal can be summarised as follows:

- The proposed development facing Kenilworth Lane West will complement the Church Hall extension to the immediate west.
- Raising the eaves 1.5m above the wall allows for the construction of a mezzanine with a roof light. The proposed unit comprises an en-suite bedroom, living room and kitchen facilities.

- The proposed development complies with the Z2 zoning objective as it will improve the residential amenity of the area.
- Previous applications for mews developments were refused. The subject application addresses these reasons for refusal as it is not a stand-alone unit.
- The proposed glazed link will add additional floorspace to the main dwelling.
- The proposed garage doors are to create a visual history of the laneway. They do not open and they will not provide access to the laneway.
- The Planning Authority's second reason for refusal is not relevant as the proposed development is not a separate dwelling unit. The appellant wishes to assure the Board that there is no intention to create a separate residential unit.
- The proposed development is an opportunity to allow the applicant to continue living in his family home whilst retaining some independence and at the same time improving the architectural aspect of the laneway.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the submissions on file. I am satisfied that the single issue raised is the principle of development.

7.2. **Principle of Development**

7.2.1. The proposed development of ancillary family accommodation is acceptable in principle, being a residential unit in a Z2 zone. The applicant has submitted that the proposed development is not a separate residential unit and should be considered ancillary family accommodation. The need to accommodate a relative in close proximity to family is recognised. The need to provide a degree of independence whilst in proximity to support allows older or incapacitated people to remain living in the community. I consider that the applicant has made a valid case for needing ancillary family accommodation, as required by section 16.10.14 of the development plan.

7.2.2. The proposed residential unit is to be linked to the main dwelling by a 12sq.m. glazed corridor running from the rear of the main dwelling to the new residential unit.

According to the applicant, this would allow him to remain close to his family whilst retaining some independence.

- 7.2.3. The development plan policy on ancillary family accommodation refers to the extension of a single dwelling unit to provide for the temporary housing of a relative that requires accommodation close to their family. The proposed development complies in principle with the policy – in that the proposed unit is directly linked to the main dwelling. The proposed development however cannot truly be considered an extension of the main dwelling. It is clearly a stand-alone space, linked by footprint only to the main house. The proposed development does not appear as an extension of the main dwelling, nor does it function as such. The mere creation of a physical link from one space to another ignores the intention of subdividing the dwelling for a temporary period. On this point, I agree with the reasoning of the Planning Authority – the glazed link appears as a ‘nod’ towards compliance with the letter of the law rather than a true attempt to integrate the proposed residential accommodation into the main dwelling.
- 7.2.4. Nonetheless, the applicants need to retain a degree of independence is understood. A policy that allows persons to remain living in their family home is to be welcomed. If the Board are concerned about the sub-letting of the unit, the proposed non-openable doors to the rear could be replaced with a high-level window. This would allow the proposed unit to be accessed only from within the main dwelling, ensuring its use by a family member only. The spirit and intent of the Planning Authority’s policy on ancillary family accommodation is achieved. The configuration and footprint of the main dwelling would not readily or easily allow an extension, without impacting the light available to the rear rooms. The proposed development continues the mews development pattern on the lane, albeit on a more confined and smaller scale.
- 7.2.5. Should the Board decide to grant permission, it is recommended that a condition restricting the use of the proposed unit to ancillary family accommodation only and a restriction on its sale or sub-letting be attached.

8.0 Appropriate Assessment

- 8.1.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise and it is

considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

9.0 Recommendation

9.1.1. I recommend permission be granted subject to the following:

10.0 Reasons and Considerations

Having regard to the pattern of development in the vicinity of the site, and to the nature, scale and extent of the proposed development, and having regard to the provisions of the current Development Plan for the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of property in the vicinity, would comply with the provisions of the Development Plan. 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 and completed in accordance with the plans and particulars lodged with the application. 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 existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension 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.

3. The proposed doors on the rear elevation facing Kenilworth Lane West shall be replaced with high level windows.

Reason: In the interest of clarity.

4. 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.

5. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours 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 amenities of property in the vicinity.

6. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

7. All boundary treatments shall be in accordance with those indicated in submitted documentation.

Reason: In the interests of residential and visual amenity, and to ensure the provision by the developer of durable boundary treatment.

8. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development

9. 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.

Gillian Kane
Senior Planning Inspector

29 July 2018