



An
Bord
Pleanála

Inspector's Report ABP-301624-18

Development

Permission to retain existing partially completed structure and permission to complete construction of a detached single storey games room/ garden shed at rear and all associated site works.

Location

28 Oldtown Park, Santry, Dublin 9

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

WEB1083/18

Applicant(s)

Marie Clifford

Type of Application

Retention Permission and Permission

Planning Authority Decision

Type of Appeal

Third Party

Appellant(s)

James Hanratty and Betty Egan

Observer(s)

None

Date of Site Inspection

21/08/18

Inspector

John Desmond

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
7.0 Assessment.....	7
7.1. Policy / principle	8
7.2. Development Plan standards	8
7.3. Impact on residential amenities.....	9
7.4. Appropriate Assessment	10
8.0 Recommendation.....	10
9.0 Reasons and Considerations.....	10
10.0 Conditions	10

1.0 Site Location and Description

- 1.1. The application relates to the site of 378-sq.m stated area accommodating a 2-storey semi-detached dwelling of c.166-sq.m stated gross floor area. The site is located within a mature suburban area approximately 4.5km north of the city centre and c.0.5km north of DCU.
- 1.2. The site is situated at the end of a row of similar dwelling, with its side boundary running along the rear boundary to residential properties running perpendicular thereto, fronting onto Shanliss Road to the south.
- 1.3. The existing house has been extended to the front (single-storey), side (two-storey) and rear (part two-storey and single storey) in the recent past. It is possible that the original dwelling and the later extension are in use as two separate residential units which share a common front door and entrance lobby. The original main part of the dwellinghouse has no access to the main rear yard, with only a small patio (c.12-sq.m) at the northeast corner. Most of the rear garden and the proposed development would seem to be accessible only from the later extension and not the original dwelling.
- 1.4. The property originally had a substantial area of private open space to the rear (c.130-sq.m) and an additional area of amenity space to the front. The floor plate and walls (to lintel height) of a single storey structure (46-sq.m stated GFA), without roof, are in place at the east end of the rear garden. The walls comprise bare (not rendered) single-leaf concrete blockwork.

2.0 Proposed Development

- 2.1. It is proposed to RETAIN the existing partly built structure and to complete the construction of a detached single-storey detached structure for use as a games-room / garden shed and all associated works.

The structure has a stated GFA of 46-sq.m. It is to include a toilet room, a utility area and a storage area in addition to a games-room, lounge and study area.

3.0 Planning Authority Decision

3.1. Decision

To **GRANT** permission subject to 9no. standard type conditions, and an additional condition (no.4) requiring further drawings of the west elevation (to show the proposed window) for agreement.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (16/04/18) is consistent with the decision of the Planning Authority and the conditions attaching thereto.

3.2.2. Other Technical Reports

Drainage Division (11/04/18) – No objection subject to conditions.

3.3. Third Party Observations

Two third party submissions were received from Betty Egan of no.125 Shanliss Road and James Hanratty of no.27 Oldtown Park. The points raised are generally repeated in the grounds of appeal and are summarised in the appropriate section, below.

4.0 Planning History

On site

PL29N.247854 / Reg.Ref.3996/16 – Permission **REFUSED** by the Board (28/04/17), overturning the Planning Authority's decision to grant permission for retention and completion of a detached single-storey structure for use as a games room / garden shed.

Reg.Ref.1432/03 - Permission **GRANTED** (August 2003) for first floor extension at rear, 2-storey extension to side and single storey extension to front and rear, to include Montessori pre-school use. A condition required the use of the property as a

childcare facility/pre-school to cease on 31st July 2006, unless planning permission for the continuation of the use is obtained from the Planning Authority.

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.*'

Section 16.10.2 Residential Quality Standards – Houses: A minimum standard of 10 sq.m of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces.

Generally, up to 60-70 sq.m of rear garden area is considered sufficient for houses in the city.

5.2. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA site code no.004024 (c.4.1km to the southeast).

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of the third-party appeal by James Hanratty and Betty Egan may be summarised as follow:

- The proposal changes the roof but does not address the previous reason for refusal by the Board PL29N.247854.
- The structure uses the party wall to the neighbouring property, no.27 Oldtown Park.
- Concerned that the applicant intends the structure as an additional dwellinghouse, or mews dwelling.

- Visual impact on no.27 and on no.125. This will worsen with works proposed for completion.
- Encroachment on no.27.
- Impact on privacy and sunlight to no.27.
- Excessive size for its use as a games' room / shed.
- Impact on existing sewage system which surcharges sometimes within no.27.
- Consequential adverse impact on value of no.27.
- There will not be 67-sq.m private open space as the area is less than the floor space of the proposed structure.
- The number of bedspaces of the main dwelling and extension has not been determined – this is necessary to calculate private open space requirements.
- The bedrooms in the existing house allegedly are rented and the existing extension is set as an individual unit, with a wall erected in the garden to provide a little private garden for this unit.
- There are no structures of this scale and height to the rear of other properties in the area.
- Overdevelopment – excessive in in size and height and contrary to Z1 zoning.
- Should permission be granted the walls of the structure should be finished to match the garden wall to no.125, but it cannot be finished without damage to the wall of no.125 as there is no room for scaffolding, and it will not be possible to maintain the wall to no.125.
- Enforcement action taken by the Planning Authority ref.E0747/16.
- Photos appended to appeal are noted.

7.0 **Assessment**

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

7.1 Policy / principle

7.2 Development Plan standards

7.3 Impact on residential amenities

7.4 Appropriate Assessment

7.1. Policy / principle

- 7.1.1. The principle of a detached ancillary structure to the rear of the existing residential property for use as a games' room / shed may be considered generally acceptable within the Z1 zone. There is nothing under the provisions of the Development Plan that would suggest such development is not generally acceptable, subject to the protection of residential amenities on site through the retention of sufficient private open space, in accordance with Development Plan standards, and the protection of the amenities of neighbouring residential property.

7.2. Development Plan standards

- 7.2.1. Concerning Development Plan standards, I consider the main issue to be the retention of adequate private open space to serve the existing dwellinghouse. A standard of 60-70-sq.m private open space would be considered generally sufficient for a house within the city (i.e. outside the inner city) based on 10-sq.m per bedspace under S.16.10.2 of the Plan. In this case the number of bedspaces in the existing dwelling is not stated and no floor plans of the dwelling have been submitted.
- 7.2.2. It has been alleged in the appeal that the extended dwellinghouse has been subdivided into two separate dwellings. Having inspected the site, this would appear to be the case, with two separate residential units accessed from a shared front entrance lobby. Private open space standards would apply separately to each unit depending on the number of bedspaces, as would be reasonable to prevent overdevelopment. In this regard the original dwelling has access to an enclosed private open space of only c.10-sq.m but can be expected to have a private open space demand of at least 50-sq.m based on it having 5-bed spaces. At time of the site inspection there was no access to the major part of the private open space to the rear of the property through the original dwellinghouse – access was only available through the side extension.

- 7.2.3. However, there is no record of a grant of planning permission for the conversion of the extended dwelling into two separate residential units and it would therefore be inappropriate to apply the standards in this way. The matter of potentially unauthorised development is for the consideration of the Planning Authority, not the Board.
- 7.2.4. It has been alleged in the appeal that the applicant indicated verbally that the proposed detached structure is also to be used as a new dwelling. The application (inclusive of development description and drawings) is not for a new residential unit. The use of the proposed structure can be clarified and / or limited by condition.
- 7.2.5. The site plan indicates 67-sq.m private open space which would be within the range envisaged for a new dwelling (6-bedspaces) under the Development Plan. The extent of private open space is disputed in the appeal. The site plan does not correctly show the area of open space to the rear and omits the private patio accessible only to the main dwelling. Taking the said area into account the total area of private open space would be in or around the 67-sq.m stated by the applicant. The area of private open space remaining to the rear of the property would be sufficient to provide a reasonable level of amenity for a single residential dwelling on this site.

7.3. Impact on residential amenities

- 7.3.1. The proposed development would visually intrude on the immediately adjacent residential properties to the south, east and north. The proposed development would also result in loss of sunlight and daylight to the rear garden of the neighbouring property to the north and, to a lesser degree to adjacent property to the east.
- 7.3.2. Many residential properties within the vicinity have undertaken significant development to the rear, including detached structures. The proposed structure, which is of an amended design to that previously refused by the Board, with a change from gable to hipped roof, with proposed roof height reduced from 4.484m to 4.067m above site level (c.4.284m and c.3.867m, respectively, above proposed finished floor level). The parapet wall to the north is indicated as reduced from

3.17m to 2.785m above ground level (c.2.97m to 2.585m above finished floor level respectively).

- 7.3.3. I am satisfied that, compared to the previously refused development, the proposed amendments would reduce the potential visual impact on neighbouring properties to a reasonable level and ensure that the level of overshadowing would not be excessive within a mature suburban context. The proposed development would not seriously injure the residential amenities of property in the vicinity.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the small-scale nature of the development proposed within an existing built-up area, 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. I recommend that permission be **GRANTED** subject to the conditions set out under section 10.0

9.0 **Reasons and Considerations**

Having regard to the nature, scale and location of the development proposed, it is considered that proposed development would not seriously injure the amenities of property in the vicinity, would be consistent with the zoning objective pertaining to the site, Z1 '*To protect, provide for an improve residential amenities*', and would be in accordance with the proper planning and sustainable development of the area, subject to compliance with conditions set out below.

10.0 **Conditions**

1. The development shall be carried out 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 games' room / shed structure shall be used jointly with and ancillary to the existing dwellinghouse on site and shall not be separately sold, let or otherwise transferred or conveyed.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

3. The games' room / shed structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other use other than as a use incidental to the enjoyment of the dwellinghouse as such, unless authorised by a prior grant of planning permission.

Reason: In the interests of residential amenity.

4. Within 6 months of the date of this decision the applicant shall submit, for the written agreement of the Planning Authority, revised Proposed Front Elevation (east) drawing of the games' room / shed structure showing the proposed fenestration consistent with that indicated on the Proposed Floor Plan (drawing no.PA-000001).

Reason: In the interest of clarity.

5. The external materials, including roof and wall finishes, shall match those of the existing house on site in respect of material and colour.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements, including the attenuation and 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

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 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: To safeguard the residential amenities of property in the vicinity.

8. The developer shall comply with the requirements of the Code of Practice of the Drainage Division, the Roads Streets and Traffic Department and the Noise and Air Pollution Section.

Reason: To ensure a satisfactory standard of development.

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

Reason: To protect the amenities of the area.

John Desmond
Senior Planning Inspector

22nd August 2018