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<b>Development</b>	Single storey family apartment connected to main dwelling.
<b>Location</b>	15 Leix Road, Dublin 7
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2713/18
<b>Applicant(s)</b>	Desmond and Ann Bolger
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v Grant
<b>Appellants</b>	Desmond and Ann Bolger
<b>Date of Site Inspection</b>	18 <sup>th</sup> September 2018
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. The site is a mature 1930s housing development in the inner suburbs in Cabra. It is an end of terrace corner dwelling in one of three terraces angled and set back in a crescent from the main road. The streetscape in the development is highly ordered and symmetrically laid out in blocks laid out around the church and school to the north west with the result that plots and rear gardens are quite irregular. This is most apparent on corner plots.
- 1.2. The site in this case is irregular but large at 344 sq.m. While narrow at the frontage (3.36m) it widens to 7.6m at the rear boundary. There is a bend in the otherwise deep linear plot at the rear building line of the house. The eastern boundary with no13 extends 45m whereas the western boundary is shorter at 37m. The angle of the house is such that the rear elevation faces the boundary with no.13.
- 1.3. The existing floor area is stated at 134 sq.m. The original house has a two storey footprint of 7.49m x 5.255m and has been extended to the side and rear. There is no side access to the back garden. There is one detached garage type structure which provides habitable type accommodation and is close to the house to its rear. There is also an old timber shed at the end of the garden where the site adjoins a pedestrian lane.
- 1.4. The adjoining terrace house has a similarly angled plot but it is narrower at a range of about 3.7m to 5.2m. This dwelling has been extended to the rear.
- 1.5. Parking is available in a paved and partly kerbed crescent area alongside the public road with access off the Main road. There is a footpath between this kerbed space and the pedestrian access to the house. Some houses (including the subject site) in the crescent have created driveways which are reliant on access through the open space.
- 1.6. The pedestrian lane to the rear is accessed off Cuala Road.
- 1.7. The house is a family home and at time of inspection the ground floor provide extended living accommodation, kitchen dining and utility in the extended area tot eh side. The garage had bikes and sofa and appeared to for den type use.

## 2.0 Proposed Development

2.1. The proposed development involves

- Demolition of detached shed.
- Construction of single storey extension of about 65sq.m incorporating a family apartment to rear of the existing dwelling and a connecting corridor with the main house.
- The apartment includes a double bedroom, living room and separate kitchen.
- The apartment has independent access to a deck within the garden.
- Residential private open space is stated to be 118 sq.m.
- The extension footprint extends 20.45m at its deepest and is setback 5.4m from the rear boundary.
- The design is a simple monopitched structure with a maximum height of 3.5m. roof cladding 'warm deck fibre glass roof' and rendered and painted finish.

Note: drawings are 1:75 which is not a regular scale.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority issued a notification of a decision to refuse permission on grounds of impact on the neighbouring dwelling.

'Having regard to the established character and pattern of development in the vicinity it is considered that the proposed development by reason of its excessive length and layout and relationship with the site boundary with no.13 Leix Road, it would seriously injure the residential amenities of adjoining properties by reason of its overbearing impact.....'

### 3.2. Planning Authority Reports

- 3.2.1. The planning report refers to Development plan policy: Section 16.10.12 regarding extensions and alteration and section 16.10.14 which support the principle of family apartments subject to criteria such as family relationship and an integral design with existing house.

- 3.2.2. Whilst accepting that ancillary accommodation can be provided there remains concern about impact of layout and design on the neighbouring property having regard to its plot width of 3.6m.
- 3.2.3. Noting its length at almost 21m and configuration it is considered that the proposed development does not integrate with the existing building and that the excessive length and design would be out of character and the established pattern of development and would set an undesirable precedent. Technical Reports

- Drainage: no objection subject to conditions

3.2.4. Objections: None.

### 3.3. **Prescribed Bodies**

- Irish Water: No report
- TII: If permission granted a special section 49 contribution levy applies to this site for light rail.

## 4.0 **History**

### 4.1. **The site**

- 4.1.1. PA ref: 2396/91 refers to permission for 3.5m high garage with utility and bedroom accommodation. This has been constructed
- 4.1.2. PA ref: 4270/17 refers to a refusal for a family flat in a detached structure to the rear of the site. Plans show the retention of the garage/bedroom accommodation previously permitted. This was not appealed. In this case the applicant stated that the house was desperately overcrowded with extended family amounting to 8 adults and 6 children at that time. In appraising the proposal, the planning report states

The Planning Authority is assessing this application for a “family apartment” under Section 16.10.14 “Ancillary Family Accommodation” of the current DCDP 2016-22.

The family apartment of 44.7sqm is to be located in the rear garden. It is 6150mm wide x 8850mm deep with an overall height of 4180mm onto the rear garden area. It provides for an open plan living/kitchen area and one double ensuite bedroom.

The family apartment is not acceptable to the Planning Authority for the following reasons:

- It is a separate dwelling unit and not an extension to the main family dwelling unit
- It is not directly connected to the main dwelling

Note to Applicant: The Planning Authority notes that there is potential for the construction of an extension to facilitate Ancillary Family Accommodation on this site. However, the Applicant must demonstrate compliance with Section 16.10.14 Ancillary Family Accommodation to the Planning Authority.

- 4.1.3. PA ref: I0448/17 refers to a social housing exemption certification Granted 06-Dec-2017 for a new single storey one-bedroom family apartment to be located to the rear garden. All drainage, structural and associated site works to be implemented.

#### 4.2. **In the vicinity of the site**

An Bord Pleanala ref: 301251 refers to refusal of permission for a 2 storey dwelling at 1 Bregia Road, Cabra.

Having regard to the established character and pattern of development in the vicinity, the provisions of the Dublin City Development Plan 2016-2022 and the nature and scale of the proposed development, with the proposed two-storey house to be constructed projecting forward of the building line along Bregia Road, it is considered that the proposed development would be visually obtrusive within the streetscape, would detract from the visual amenities of the area and would be contrary to the provisions set out under Section 16.10.9 of the Dublin City Development Plan 2016-2022, which require developments on corner/side garden sites to have regard to existing building lines, as well as the character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Having regard to the provisions of the Dublin City Development Plan 2016-2022 and to the layout and design of the proposed development, including the shortfall of private amenity space that would result for the host dwellinghouse and the potential for direct overlooking of the private amenity space serving both the host and proposed dwellinghouses, it is considered that the proposed development would constitute a substandard form of development, would be seriously injurious to the residential amenities of future occupants of the host and proposed dwellinghouses and would be contrary to Policy QH21 of the Dublin City Development Plan 2016-2022, which seeks to ensure that developments provide a satisfactory level of residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is **zoned** to protect and improve residential amenity.
- 5.1.2. Chapter 16 provides a range of guidance for **residential development**, whether new build, infill, subdivision or provided by way of extension and all are relevant to this apartment proposal. the development plan advocates quality architecture in addressing housing provision in a sustainable format whether through individual building design or as part of efficient use of land in the city environs.
- 5.1.3. **Section 16.10.14: Ancillary Family Accommodation** (See also sections 16.10.12 and 16.10.13). 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.

Generally, the purpose of ancillary family accommodation 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. 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.
- 5.1.4. In respect of corner site section 16.10.9 advises: However, some corner/side gardens are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than to create a poor quality independent dwelling, which may also compromise the quality of the original house.

The planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:

- The character of the street.
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.
- Impact on the residential amenities of adjoining sites.
- Open space standards and refuse standards for both existing and proposed dwellings.
- The provision of appropriate car parking facilities, and a safe means of access to and egress from the site.
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
- The maintenance of the front and side building lines, where appropriate.

## 6.0 Grounds of Appeal

6.1. The agent has submitted grounds of appeal on behalf of the applicant and this is based on the following considerations:

- There is no established pattern of development in the vicinity given the vast array of extension styles to side and rear of properties – photographs appended.
- The opinion of the planning authority is disputed in that the proposed apartment has been designed to have minimal impact by using a monopitched roof with the lower level along the boundary.
- The proposal is no more injurious than existing extensions in the area.
- The Board is requested to consider the original proposal however revised drawings illustrate how a 900mm set back from the boundary can be provided to further protect the amenities of no. 13.
- It would not set a precedent as it is a unique case for a family apartment which has adhered to the guidelines in relation to connection and functioning as one unit.

## 6.2. **Planning Authority Response**

No further comments

## 7.0 **Assessment**

### 7.1. **Issues**

- 7.1.1. This appeal is against a decision to refuse permission for a family apartment in the rear garden of a previously extended family home. While the principle of such a form of residential development is acceptable in an established residential area, there are issues with the design approach in the subject site. Having inspected the site and read the submissions, the issues relate to impact of residential amenity on both the neighbouring development and the principal dwelling of the site.

### 7.2. **Impact on neighbour.**

- 7.2.1. The proposed apartment extends over 20m deep into the garden alongside the boundary with no.13. It is at a height of 3.5m, although this drops to 2.8m at the boundary. The garden of no.13 is one of the narrowest in the vicinity for a mid-terrace at around 3.7m and so a 2.8m boundary wall instead of a circa 1.3m high wall would be quite an oppressive feature. The 2.8m wall would cast an extensive shadow during the afternoon and early evening sun into the garden area immediately to the rear of the extended house. There is also the potential overspill of run-off from this extensive roof with a gutter overhanging the western boundary wall.
- 7.2.2. I concur with the planning authority that the impact along this boundary would be considerable and would be unacceptable.
- 7.2.3. To address the issue of impact the applicant's agent has submitted an amended proposal which incorporates a set back from the boundary by 900mm. I accept that this would improve the issue of overshadowing and reduce the visual impact. I also note that the design and layout orients the windows away from no.13. which would contribute to protecting the privacy of this adjoining terrace and which is directly overlooked by no.15 due to the irregular plots. However, there remain issues in relation to the overall scale.



### **7.3. Design and Layout – Impact on existing house**

- 7.3.1. Having regard to the development plan standards, the original and extended house already on site and the site configuration, this is a very large and, in my judgement, poorly laid proposal that would serve to injure residential amenities for the existing occupants on site.
- 7.3.2. The proposed extension is a simple shed like structure but quite extensive and is I consider excessive and incongruous with the scale of the original houses. The accommodation scales at 56sq.m. in area. However, the 6.8m deep corridor adds another 12 sq.m approximately. Even taking account of the replacement shed, this is very large as an ancillary family apartment.
- 7.3.3. While I note the quantity of open space is adequate at 118sqm, the proposed layout would considerably diminish the private open space for the principal house, particularly in qualitative terms. The 20m deep extension and 900mm setback generates a lot of wasted residual garden space. I consider a more scaled down apartment proportionate to the house while maximising access to private open space from the entire house would be preferable and achievable.
- 7.3.4. The planning authority is also concerned about impact on character and in this regard, it is somewhat devoid of any architecturally detailing that relates to the scale form or material of the original dwelling. I accept however that it is simple and located to the rear and would not therefore detract from the streetscape and would not unduly detract from the character in visual terms.
- 7.3.5. While I generally agree with the planning authority that the proposal as presented and amended is excessive, consideration should be given to the circumstances of the application and the potential for a reduced and modified apartment rather than refusing permission. In this regard, I note that this application follows a refusal of permission for an initial proposal to construct a separate structure at the end of the garden as a family apartment and given the site configuration that was probably a better solution to protecting amenities all around. Even though an access could only be through the existing house or a very circuitous pedestrian lane, the planning authority was concerned at that time of not connecting to the house. The application has endeavoured to heed the note on the previous refusal and to address these concerns.

- 7.3.6. I also note in that case that the applicant justified the scale of accommodation based on an extended family living in the house which amounted to 8 adults and 6 children at that time. It is evident that this is still a family home and that the site can accommodate some further extension as it seeks to replace shed and remove sheds (although not stated specifically) at the end of the garden.
- 7.3.7. Notwithstanding what I consider would be a preferable arrangement given the plot juxtaposition, I consider the subject proposal would be acceptable if reduced in scale and depth. For example, the corridor could be reduced by 3m in depth and the remaining accommodation could be reduced in depth to provide no more than 38 sq. While I note that the design seeks to retain a courtyard/patio near the existing house and light into the existing kitchen, consideration should be given to setting the link corridor further from the boundary with 13 to provide a landscaped courtyard with potential access from the existing dining room rather than blocking up the sole existing window to this room. Retaining a window or patio door and linking to the outside would enhance the existing accommodation of the house.
- 7.3.8. On balance in view of the site history, the existing development on site and the site size together with the applicant's family needs I consider a reduced development would be acceptable and would not seriously injure the amenities of the neighbouring properties.

#### **7.4. Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore be excluded at preliminary examination and a screening determination is not required.

#### **7.5. Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. Grant of permission based on the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the site size and configuration, planning history for the site and the location of the subject site in a well-established residential area, the Board is satisfied that, subject to compliance with the following conditions, a grant of permission for the proposed family accommodation would be acceptable in terms of the policy requirements of the Dublin City Development Plan, 2016-2022, and would subject to compliance with the following conditions, not injure the existing residential amenities of properties in the vicinity of the site. The proposed development would therefore be acceptable in terms the proper planning and sustainable development of the area.

## 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 proposed development shall be amended as follows:

(a) The overall length of the link corridor shall be reduced by at least 3m on its eastern side and shall be set back in the order of 2.5m from the boundary with no.

13. The remainder of the proposed extension shall be reduced in depth so that that area does not exceed a total gross floor area of 38 sq.m.

(b) The family flat element of the extension shall be set back from the eastern boundary by a minimum of 900mm.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of residential amenity.

3. 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.

4. 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.

5. The shed at the end of the garden shall be removed and the garden area landscaped with a permeable surface for residential use.

**Reason:** In the interests of the proper planning and sustainable development of the area.

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 Luas Cross City 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Suzanne Kehely

Senior Planning Inspector

27<sup>th</sup> September 2018