



An
Bord
Pleanála

Inspector's Report

ABP-304181-19

Development	Retention of foundations, rising walls and concrete floor between den and gym/office, completion of single storey den and office and gym
Location	66, Kilnamanagh Road, Walkinstown, Dublin 12
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4487/18
Applicant(s)	Philip Massey
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Anthony Dealy
Observer(s)	None
Date of Site Inspection	26 th July 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The site is located on Kilnamanagh Road 6km southwest of Dublin City Centre. The development is located to the rear of a two-storey end of terrace house which is located on the south side of Kilnamanagh Road opposite the Sisters of Charity Assumption Secondary School.
- 1.2. The site runs perpendicular to houses facing the Church on Kilnamanagh Road, to the rear of the site there are a number of commercial units which are accessed from Walkinstown Road through the Walkinstown Mall shopping centre located to the east of the site.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - The retention of foundations, rising walls and concrete floor with 8ft high dividing wall between children's play den and adult gym/office,
 - Completion of single storey children's play den and adult's office and gym (height 2711mm).
- 2.1.1. The stated site area is 1355 sq. metres. The floor area of the structure proposed is 51.025 sq. metres. The structure is a single storey structure located to the rear of the garden. It is proposed to externally clad the building. The structure is divided in two with two individual access doors.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission subject to 8 conditions. The following condition is of note:

C4. stipulated:

The structure the subject of this permission for retention and development shall not be used for human habitation or for the provision of a childcare facility for visiting members of the public or for any use other than as a use incidental to the enjoyment

of the dwelling house as such, unless authorised by a prior grant of planning permission. Reason: In the interest of residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planning Officer's report notes the zoning provisions of the area. Further information was requested in relation to the intended use of the structure and the separation distance from site boundaries. It was concluded following receipt of further information that adequate separation distance from site boundaries had been identified and the use of the structure incidental to the enjoyment of the family home and not for commercial purposes was acceptable.

3.2.2. Other Technical Reports

Drainage Department- Report dated 17th December 2018 – No objection subject to conditions.

4.0 Planning History

E0506/18 refers to an enforcement notice regarding a partially constructed unauthorised structure and associated concrete foundations without the benefit of planning permission.

5.0 Policy and Context

5.1. Development Plan

Zoning objective: The site is located within an area zoned Z1 'to protect, provide for and improve residential amenities'. The provision of a shed / gym or a childcare facility are 'permissible uses' under the zoning objective.

Relevant sections of the Development Plan include:

Section 16.2.2.3: Alterations and extensions (general)

- Extensions will be sympathetic to the existing building and adjoining occupiers,
- Alterations and extensions to roof will respect the scale, elevational proportion and architectural form of the building.

Section 16.10.12: Extensions and Alterations to Dwellings

Relates to alterations and extensions to dwellings and states that development will only be granted where it will not have an adverse impact on the scale and character of the area and will not adversely affect amenities enjoyed by occupants of adjacent buildings.

Appendix 17 of the Plan sets out design guidance with regard to residential extensions;

- 17.3: Residential amenity: extensions should not unacceptably affect the amenity of the neighbouring properties,
- 17.4 Privacy: Extensions should not result in any significant loss of privacy to the residents of adjoining properties.
- 17.6 Daylight and Sunlight: care should be given to the extensions and the impact on the adjoining properties,
- 17.11 Roof extensions: the design of the roof shall reflect the character of the area and any dormer should be visually subordinate to the roof slop, enabling a large proportion of the original to remain visible

5.2. **Natural Heritage Designations**

None

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The third party appeal was made by Anthony Dealy, 56 Kilnamanagh Road, Walkinstown, Dublin 12. The principle grounds of appeal can be summarised as follows:

- The development is not consistent with the existing development built and would be detrimental to the amenity of neighbouring residences.
- The structure is a standalone structure not attached to the dwelling.
- The side windows are within 1 metre of the site boundary and will result in a loss of privacy.
- 1:100 plan drawings did not accompany the response to the further information as requested by the planning authority. The information provided is illegible and not to scale.

- Failure to provide the 1:100 drawings means that the step in the western boundary wall has not been identified.
- It is not clear where the 1m separation distance from the boundary wall is measured from and it is set out that there is not a 1m separation distance from the boundary wall and the proposed structure.
- Query as to why the planning authority accepted the further information submission in the absence of appropriate drawings.
- The structure is a standalone shed and therefore should be finished to match the dwelling.
- It is set out that the development will adversely affect the appellant's property.

6.2. Applicant Response

None

6.3.

6.4. Planning Authority Response

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

7.0 Assessment

7.1. Introduction

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Design and layout
- Impact on Residential Amenity
- Other Matters

- 7.1.1. The proposed development provides for the retention and completion of a 51sqm standalone rear garden shed with a ridge height of 2.740m. The intended use will accommodate a home office/gym and a children's play den. The site is located on lands zoned Z1 'to protect, provide for and improve residential amenities'. The provision of a shed / gym is a 'permissible use' under the zoning objective.

7.2. Design and Layout

- 7.2.1. There is no specific policy relating to garden sheds or garden rooms in the Dublin City Development Plan 2016-2022. However, it is common practice to see garden sheds in rear gardens of domestic dwellings. Section 16.10.12: Extensions and Alterations to Dwellings of the development plan states that alterations and extensions to dwellings will not have an adverse impact on the scale and character of the area and will not adversely affect amenities enjoyed by occupants of adjacent buildings.
- 7.2.2. The third-party grounds of appeal assert that the design approach including separation distance from site boundaries are insufficient and will adversely affect his residential amenity. Site inspection indicated that the general character of the area has been altered over time with amendments and additions to existing houses and the insertion of other rear garden structures. In my opinion the **design** of the proposed structure including the contemporary clad exterior and the low ridge height and flat roof profile would be acceptable in terms of scale and mass, and the finish would contrast effectively with the existing dwelling. I also note that an appropriate amount of private open space would remain in the back garden after completion.
- 7.2.3. The appellant asserts that the separation distance between the boundary wall and the proposed structure is less than 1m. Site inspection indicated that the separation distance from the existing foundation base pad to the boundary walls ranged from a minimum of 630mm to a maximum of 930mm. In this regard, I note the external walls have not been erected on site and in order to provide for future access for maintenance, I consider a minimum separation distance of 1m is required between the structure and the site boundaries. I am satisfied that this matter can be addressed by way of an appropriately worded condition.

7.3. Impact on Residential Amenity

- 7.3.1. The third-party grounds of appeal assert that the proposal will detrimentally impact on the residential amenities of his property as a result of **loss of privacy** and potential overlooking from the side window of the structure. In relation to overlooking ground floor windows are not normally considered to give rise to undue overlooking of adjoining properties, as an adequate degree of privacy is provided by dividing walls. The existing boundary walls are ca. 2.5m high in this case and the completed ridge

height of the structure is 2.740m. I do not consider there to be any undue overlooking as a result of the development.

7.4. Other Matters

7.4.1. The planning authority attached a condition regarding the future use of the structure for domestic purposes only associated with the applicant's enjoyment of the dwelling and not for any commercial purposes. Having regard to the standalone nature of the structure to the rear of the house, I agree.

7.4.2. Further to the above and having regard to the scale of the development and the associated reduction in the rear garden area, I also consider it appropriate to attach a condition restricting further development within the curtilage of the house without a prior grant of planning permission.

7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, 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 the conservation objectives of any European site.

8.0 Recommendation

I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the Z1 zoning objective, the policies and objectives of the Dublin City Development Plan 2016-2022 and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development would, therefore, be in accordance with 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The proposed development shall be amended as follows:

(a) A minimum separation distance of 1m shall be provided between the external walls and all site boundaries.

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: To ensure adequate access to the structure, in the interests of residential amenity

3. The structure shall be used from domestic purpose only incidental to the enjoyment of the dwelling house; under no circumstances shall the structure be used as habitable accommodation.

Reason: In the interests of residential amenity

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling.

5. Details, including samples, of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. 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

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 protect the residential amenities of property in the vicinity of the site.

8. 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.

Irené McCormack
Planning Inspector

29th July 2019

