



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304542-19

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| <b>Development</b>                  | Demolition of screen wall and gate to the side and construction of a detached garden building. |
| <b>Location</b>                     | Willowdale, 24, Orwell Park, Rathgar, Dublin 6   |
| <b>Planning Authority</b>           | Dublin City Council South  |
| <b>Planning Authority Reg. Ref.</b> | 2460/19  |
| <b>Applicant(s)</b>                 | Alan and Monica Holmes   |
| <b>Type of Application</b>          | Permission.  |
| <b>Planning Authority Decision</b>  | Grant Permission with conditions   |
| <b>Type of Appeal</b>               | Third Party  |
| <b>Appellant(s)</b>                 | Sheila Cooney.   |
| <b>Observer(s)</b>                  | None.  |
| <b>Date of Site Inspection</b>      | 18 <sup>th</sup> August 2019   |
| <b>Inspector</b>                    | Bríd Maxwell   |

## 1.0 Site Location and Description

- 1.1. The appeal site 807.4m sq.m comprises a mature detached residential property Willowdale, 24 Orwell Park in Rathgar. The dwelling is a period red brick property set within a mature garden. The dwelling is sited towards the eastern side of the site and a screen wall and gate to the western rear side of the property provides access to the rear garden. The surrounding area is predominantly residential in character. Adjoining to the west is the avenue serving as pedestrian access to *Minore 23 St Kevin's Park*. The avenue is heavily vegetated with mature trees. On the opposite side of the avenue No 22 is matching property.

## 2.0 Proposed Development

- 2.1. The proposal involves the construction of a new garden building to include garage at ground floor level and private games room. The proposal involves:

*“ Demolition of existing screen wall and gate to the side of the existing property.*

*Construction of a detached garden building of one and a half storeys to the side of the property to accommodate motor vehicles at ground floor level and a games room at upper level. The structure includes three dormer windows facing north east into the rear garden of the existing dwelling.*

*Insertion of a new external door from the rear of the existing house to the garden.*

*All associated drainage and site development works.”*

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1 By order dated 2 May 2019, Dublin City Council issued notification of its decision to grant permission and 8 conditions were attached which included the following:

- Condition 2. Development Contribution €777.60 in accordance with the Development Contribution Scheme.

- Condition 3. Structure shall be used only for purposes ancillary to the residential use of the main dwelling on the site and no be used as sleeping accommodation or for any commercial purposes and shall not be let or sold independently of the main dwelling.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

Planner's report deems the proposed development to be in accordance with the proper planning and sustainable development of the area and recommends permission subject to conditions.

### 3.2.2. Other Technical Reports

Engineering Department – Drainage Division Report indicates no objection subject to compliance with Greater Dublin Regional Code of Practice for Drainage Works Version 6.0; Separate foul and surface water system with combined connection connecting to combined sewer system. Incorporation of SUDS in management of surface water. Private drains within the site boundary.

## 3.3. **Third Party Observations**

Submission by Declan Lysaght Architects on behalf of Mrs Sheila Cooney of Minore, 23 St Kevin's Park, Dartry, the adjoining owner. Objection to the proposal is on the basis of construction on or about the boundary. Brick finish will be impossible to construct without provision of scaffolding within the adjoining garden area, permission for which will not be forthcoming. Proposal results in loss of privacy. Structure should be set back to enable construction within the site boundary. Building will be obtrusive and adversely affect residential amenity and privacy.

Arboreal report should be provided to indicate how the proposal can proceed without damage to the mature landscaping at the boundary.

## 4.0 **Planning History**

4797/08 Permission granted for a single storey extension to side and internal alterations.

## 5.0 Policy Context

### 5.1. Development Plan

The Dublin City Development Plan 2016-2022 refers.

The site is zoned Residential Neighbourhoods (Conservation Areas) Z2. The objective “*To protect and or improve the amenities of residential conservation areas.*”

CHC4 To protect the special interest and character of Dublin’s Conservation Areas.

Section 16.10.12 o the Development Plan “Extension and Alterations to Dwellings”.

### 5.2. Natural Heritage Designations

The site is not within a designated area. The closest European sites are those located in the coastal area of Dublin including the South Dublin Bay SCA (Site Code 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code 004024).

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, and to 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal is submitted by Simon Clear & Associates Planning and Development Consultants, on behalf of Mrs Sheila Cooney, Minore, 23 St Kevin’s Park, Dartry .

- Submission to the local Authority specifically requested an arboricultural report to indicate how the proposed development could proceed without damage to the trees and the established mature landscape at the boundary between the site and neighbouring property.

- Report commissioned by the appellant by Joe McConville, Arboricultural consultant identifies the effects that the proposed development will have on trees in neighbouring property and injury to amenity.
- Development Plan Objective of Z2 zoning was not properly addressed in the planning report. Policy Chapters 11 and 15 Development Standards particularly pertinent.
- Guiding principle is to enhance the architectural quality of the streetscape of the area and to protect residential character of the area.
- Question whether the housing of vintage cars, a temporary use associated with the interests of the current owner, is a priority for the area over the protection of the character and amenity of the area which includes mature trees and having regard to the impact on the amenities of adjoining residential properties.
- Garage interferes with an original set-piece configuration in a residential conservation area which setting should be protected as a priority.
- Development is contrary to City Development Plan which has a policy to support the implementation of the Dublin Tree Strategy, which provides the vision for long term planting, protection and maintenance of trees hedgerows and woodland within Dublin City.
- Arboricultural report prepared to assess the impacts of the proposed development demonstrates that the proposed building encroaches significantly into the root protection areas of the Yew, Tulip and slightly into the Beech tree located on the appellant's property.
- Information submitted in plans and elevations is unacceptable for interpretation. Elevation facing avenue from Minore to Orwell Park appears to be divided into panels the finish of which has not been specifically identified.
- Detail of panel finish to west elevation is not described on the elevation. Unclear whether brick or plastered finish. No permission forthcoming for works from appellant's property.

- Proposed building by reason of height is more than a domestic garage and will tower over and dominate views from avenue giving rise to overshadowing the established garden ambience.
- Concerns regarding future prospects for use of the building.
- Injudicious design does not take into account the natural features existing on boundaries between properties.
- Arboricultural assessment by J M McConville and Associates concludes that construction works including storage for plant, equipment will impact on root protection areas of the Oak and Beech. Due to the proximity of the proposed building to the stem of the Tulip Tree construction without damage to this tree is impossible.

## 6.2. Applicant Response

6.2.1 The response by NODE Architecture on behalf of the applicant is summarised as follows:

- Issues raised within the grounds of appeal are unfounded and decision to grant permission was correct.
- New building has been designed to fit seamlessly into the existing environment with minimal impact on the adjacent properties.
- Style of the works is sympathetic to the existing house and will form a private courtyard to the rear when complete.
- Proposed garden building will be a welcome addition to the property providing functional storage area and additional living area without compromising the existing building. Original period details and configuration will be kept intact.
- No adverse effect on character or endangerment to the integrity of the existing structure.
- There are no trees or mature landscaping within the application site in location of the new building. Hedge along this part of the boundary will be removed in the location of the new structure.

- The proposal is located entirely within the site of no 24 and walls have been set back 300mm from the boundary to ensure no encroachment.
- Any future change of use would require further application.
- Regarding issues in respect of drawings -all finishes clearly identified. Alternative arrangements for construction within the site boundary.
- Height of the building is not excessive or unduly dominant.

### 6.3. **Planning Authority Response**

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

## 7.0 **Assessment**

- 7.1. As regards the principle of development, the site is zoned Z2 Residential Conservation Area. The objective “To protect and/or improve the amenities of residential conservation area.” The Plan notes that Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from new developments or works that would have a negative impact on the amenity or architectural quality of the area. The principal land use in residential conservation areas is housing but can include a limited range of other uses. The guiding principle is to enhance the architectural quality of the streetscape and the area and to protect the residential character of the area. I consider that the principle of the proposed development involving construction of a garage at ground floor level with games room overhead which is intended to enhance the established residential use on the site is acceptable in principle and in accordance with the Z2 zoning objective.

- 7.2. As regards the design detail of the proposal I note that the proposed structure is set back 0.3m from the common boundary and no overlooking arises. On the issue of height, I consider that the proposed height is appropriate to the context and will not be visually dominant. As regards external finish a mixed brick and render finish with clay roof tiles to match that of the existing dwelling is proposed. I am satisfied that the proposed structure is sensitively designed and will not have a negative impact on the character of the established dwelling, adjacent dwellings and the conservation area context. On the matter of feasibility of construction from within the site boundaries I note that the first party has indicated within the response to the grounds of appeal that in the event of access from the appellant's property to enable construction not being forthcoming alternative arrangements can be made.
- 7.3. As regards impacts on established landscaping, and particularly mature trees within the appellant's property I note the report submitted with the grounds of appeal by Joseph McConville, Arboricultural Consultant. The accompanying drawing 4389/19/001 demonstrates the recommended root protection area of the mature trees within the appellant's site adjacent to the appeal site boundary. It suggests that the proposal will inevitably impact on the roots of a yew and tulip tree, both of which are graded as within the B category "Those trees of moderate quality and value in such a condition as to be able to make a significant contribution." The estimated remaining contribution is predicted to be more than 40 years. The yew is noted to be in good condition while the tulip is in fair condition. I note that the trees are not covered by tree preservation orders. As regards the other trees identified I consider that appropriate conditions can apply regarding siting of plant and equipment to mitigate impact on the oak and beech. I consider that the benefits arising in terms of the improvement to residential amenity on the appeal site is appropriately balanced against the protection of established landscaping and the character of the conservation area and no undue impact on established adjacent residential amenity arises.
- 7.4. As regards comments regarding detail on drawings these are noted, however I consider that adequate details have been provided to enable full assessment of the development. The western elevation incorporates rendered and painted recess panels to be infilled with timber trellis for planting. On the matter of potential future



change of use I note that any future change of use will require a further planning application.

- 7.5. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, and proximity to the nearest European Site, 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.

## 8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

## 9.0 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 garden building shall be used solely for purposes ancillary to the residential use of the main dwelling on the site. It shall not be used as sleeping accommodation or for any commercial purpose and shall not be let or sold independently of the main dwelling.

**Reason:** To restrict the use of the building in the interest of residential amenity.

3. The external finishes of the proposed building shall be the same as those of the existing dwelling in respect of colour and texture, Samples of the proposed

materials shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. Measures for the protection of the trees located on the adjoining property during the course of construction work shall be submitted to and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** To facilitate the protection of trees in the interest of visual amenity.

5. 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.

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Brid Maxwell  
Planning Inspector

29<sup>th</sup> August 2019