



An
Bord
Pleanála

Inspector's Report ABP-304812-19

Development

Retention of change of use of a detached two storey garage from use as a garage/store to use as a one bed residential unit and associated ground works; vehicular entrance to be retained.

Location

Somerton, Whitehall Road, Dublin 12.

Planning Authority

South Dublin County Council.

Planning Authority Reg. Ref.

SD19A/0124.

Applicant(s)

Kieran and Rowena Mulcahy.

Type of Application

Retention Permission.

Planning Authority Decision

Refuse Retention Permission.

Type of Appeal

First Party v. Decision.

Appellant(s)

Kieran and Rowena Mulcahy.

Observer(s)

None.

Date of Site Inspection

11th September 2019.

Inspector

Susan McHugh

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	8
5.3. EIA Screening	8
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Planning Authority Response	10
6.3. Observations	10
7.0 Assessment	10
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14
10.0 Conditions	14

1.0 Site Location and Description

- 1.1. The subject site is located at the junction between Kimmage Road West and Whitehall Road, approx. 300m to the west of the Kimmage Cross Road. It is within an established residential area, characterised by large semidetached and detached houses on generous plots.
- 1.2. The corner site currently accommodates a large two storey 5-bed detached dwelling, which addresses both Kimmage Road West to the north and Whitehall Road to the west. The former two storey detached side garage is located to the side of the dwelling and addresses Whitehall Road. It has been converted internally and is in use as a one-bedroom residential unit. A brick trimmed screen wall with pedestrian access gate to the rear garden links both dwellings.
- 1.3. The shared vehicular entrance to the site is from Whitehall Road, southwest of the signal-controlled junction with Kimmage Road West, giving access to the shared front garden/paved over and accommodates a parking area. The shared garden to the rear is triangular in shape and has a south facing orientation.
- 1.4. The structure has separate services with the foul and surface water connected to the to the existing sewers which discharge to the main public sewers.
- 1.5. The appeal site has a stated area of 0.09ha.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of internal alterations and change of use of the detached two storey garage, from use as a garage/store to use as a one bed residential unit with a stated floor area of 65sq.m.
- 2.2. The entrance door to the former garage structure is from the front elevation giving access to ground floor hall, stairs, bedroom, bathroom and store. The living/kitchen/dining area is located at first floor.
- 2.3. The front elevation of the former garage structure includes a series of timber panels including the entrance door at ground floor and a porthole window at first floor. The rear elevation contains a ground floor window and access door to the rear garden from the bedroom, and a porthole window at first floor. The former garage has a

pitched roof which is 6.55m in height and includes two roof lights on the north eastern roof slope. The structure is finished in a stone/brick finish.

- 2.4. It is also proposed to delineate the front parking area inside the shared access with the use of new flush paving to distinguish between the parking areas and right of way serving both dwellings.
- 2.5. A second pedestrian access gate is to be provided along a newly constructed brick trimmed screen wall to serve the rear garden area for each dwelling.
- 2.6. It is proposed to subdivide the existing rear garden area, by way of a 2m high solid timber fence, providing a separate rear garden area of 49.3sq.m to serve the residential unit subject of retention.
- 2.7. The application was accompanied by a covering letter which outlines the proposed development with respect to the relevant development plan criteria and development management standards.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to **refuse** permission for retention for the following reasons;

1. *Having regard to the garage-like design of the structure, the lack of architectural integration with the surrounding buildings by virtue of having no active frontage with the street, and the substandard internal layout and configuration, it is considered that the development would result in a substandard form of residential development which would have a negative impact on the residential amenity of current and future occupants, would seriously injure the residential amenity of the area, would be contrary to the 'RES' zoning objective, which seeks 'To protect and/or improve residential amenity' and therefore, would not be in accordance with the proper planning and sustainable development of the area.*
2. *The proposed development would set an undesirable precedent for similar forms of residential developments in the vicinity, which would constitute sub-*

standard forms of residential amenity for present and future occupants and would depreciate the value of property in the vicinity.'

3.2. Planning Authority Reports

3.2.1. Planner's Report

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Express serious concerns that granting retention for the use of the current structure, which is in effect a garage structure, would set an undesirable precedent for similar residential developments in the immediate area, which would be contrary to the proper planning and sustainable development of the area.
- Consider that the proposal, by virtue of its design as a garage would be contrary to the 'RES' zoning objective and would not accord with the County Development Plan standards set out in section 11.3.2(ii) as it is not considered that the design of the façade, as a residential dwelling, would architecturally respond to its context, noting also that no passive surveillance to the front is provided.
- Concern that the current layout and configuration would result in a substandard form of residential amenity for current and future occupants, by virtue of limited natural light and windows at first floor level and garage-like exterior.
- Recommends permission for retention should be refused.

3.2.2. Other Technical Reports

Roads Traffic Section: No objections.

Environmental Services Department: Reference in Planner's Report to report received but none on file.

3.3. Prescribed Bodies

Irish Water: No objections.

3.4. Third Party Observations

None.

4.0 Planning History

P.A.Reg.Ref.S97B/0453: Permission **granted** February 1998 for relocation of entrance driveway and for garage with storeroom over at side.

P.A.Reg.Ref.S96B/0382: Permission **granted** December 1996 for conversion of garage to living accommodation and single storey extension.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative development plan for the area is the South Dublin County Development Plan 2016-2022. The site is zoned 'RES – *To Protect and/or Improve Residential Amenity*'. Residential use is 'permitted in principle' under this zoning objective.

5.1.2. **Chapter 2** refers to **Housing**

Section 2.3.1 refers to *Residential Design and Layout*.

Housing **Policy H11** states that '*It is the policy of the Council to promote a high quality of design and layout in new residential development to ensure a high-quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development*'.

Section 2.4.0 of the Development Plan considers *Residential Consolidation – Infill, Backland, Subdivision and Corner sites*.

Housing **Policy H17** states that '*It is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County*'.

H17 Objective 2 states '*To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision, backland*

development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 implementation’.

H17 Objective 3 states ‘*To favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation’.*

H17 Objective 5 states ‘*To ensure that new development in established areas does not impact negatively on the amenities or character of an area’.*

Section 2.4.1 considers residential extensions.

Policy **H18 Objective 1** states: ‘*To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 11 Implementation and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).’*

Chapter 11 refers to **Implementation**

Section 11.3.1 (iv) specifically refers to *Dwelling Standards*

Table 11.20 states that the minimum space for one-bedroom houses is 50sq.m. The required private open space for a one-bedroom house is 48sqm, and 60sqm for a three-bedroom house.

Section 11.3.2 (i) specifically refers to *Infill Development*. It states (inter alia):

Development on infill sites should meet the following criteria: Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual; A site analysis that addresses the scale, siting and layout of new development taking account of the local context should accompany all proposals for infill development. On smaller sites of approximately 0.5 hectares or less a degree of architectural integration with the surrounding built form will be required, through density, features such as roof forms, fenestration patterns and materials and finishes. Larger sites will have more flexibility to define an independent character; Significant site features, such as boundary treatments, pillars, gateways and vegetation should be retained, in so far as possible, but not to the detriment of providing an active interface with the street.

Section 11.3.2(ii) specifically refers to *Corner/Side Garden Sites*. It states that Development on corner and/or side garden sites should meet the criteria for infill development in addition to the following criteria: *The site should be of sufficient size to accommodate an additional dwelling(s) and an appropriate set back should be maintained from adjacent dwellings, the dwelling(s) should generally be designed and sited to match the building line and respond to the roof profile of adjoining dwellings, the architectural language of the development (including boundary treatments) should respond to the character of adjacent dwellings and create a sense of harmony. Contemporary and innovative proposals that respond to the local context are encouraged, particularly on larger sites which can accommodate multiple dwellings. where proposed buildings project forward of the prevailing line or height, transitional elements should be incorporated into the design to promote a sense of integration with adjoining buildings, and, corner development should provide a dual frontage in order to avoid blank facades and maximise surveillance of the public domain.*

5.2. **Natural Heritage Designations**

None of relevance.

5.3. **EIA Screening**

- 5.3.1. Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, 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

6.1.1. The first party appeal against the decision of the planning authority, was submitted by John Bird, Planning Consultant, and was accompanied by a cover letter with photographs attached, compiled by Holly Park Studio Architects. The main grounds can be summarised as follows;

- The structure has been in place for nearly 20 years and has not been the subject of any 3rd party submissions, appeals or subsequent enforcement action.
- None of the information included in the application and relating to specific sections of the County Development Plan has been challenged or refuted by the Planning Authority.
- The 'garage like appearance' is reminiscent of many older garage buildings, mews and mews conversions within the greater urban area. The building is also screened by mature trees including a fine beech, while the proposed uses make no significant change in external appearance.
- Request that the Board assess the relative impact of the structure and finishes on the appeal site, with the gable of the dwelling recently built opposite the site entrance.
- Contend that the structure was built to the highest standards of the time and included insulated cavity walls and insulated floor slab.
- Assert that in the absence of specific details, it appears that the general charge of sub-standard development has not been substantiated.
- Submit that when the structure was originally designed elements of finishes found in the main house were use, and that the 'architectural integration' of the garage/store would have been assessed at the time that it was granted permission.
- The existing vehicular entrance, low boundary wall and living room window provides overlooking, and with the car parking area located to the front will

constitute an 'active frontage'. Due to the presence of the large beech tree we consider that it would not be practical or desirable to move the entrance. Further consider it more desirable to maintain a single entrance in the vicinity of a busy signal-controlled junction.

- Proposed development would provide an additional housing unit, make better use of a low-density corner site and add to the housing mix in an area of predominantly larger dwellings, and is therefore in accordance with the wider objectives of the County Development Plan.
- Proposed development is in accordance with the proper planning and sustainable development of the area and the preservation of the residential amenity thereof.
- The appellants would be willing to submit modified plans if considered necessary and so requested by the Board.
- Suggest that had a planning application for a two-storey detached house been proposed it would be considered favourably.

6.2. Planning Authority Response

None received.

6.3. Observations

None.

7.0 Assessment

7.1.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues are addressed under the following headings:

- Residential Amenity
- Precedent
- Appropriate Assessment

7.2. Residential Amenity

- 7.2.1. As per the South Dublin County Development Plan 2016 – 2022 the site is within an area zoned 'RES', the objective of which is 'to protect and/or improve residential amenity'. Planning policy supports development of dwellings on corner/side gardens, subject to appropriate safeguards and standards.
- 7.2.2. While the principle of infill development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development is in accordance with Housing Policy H11, H17 and H18, dwelling standards and criteria for infill development and as set out under Sections 11.2.1(iv) 11.3.2(i) and (ii) of the Development Plan.
- 7.2.3. Reason for refusal no.1 refers specifically to the design and internal layout of the unit to be retained, which would result in a substandard form of residential development. This is considered to have a negative impact on the residential amenity and thereby contrary to the 'RES' zoning objective for the area.
- 7.2.4. Having regard to the Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections.
- 7.2.5. In my opinion, the proposed subdivision of this large corner site, to accommodate an additional housing unit, within an established residential area, is supported by Housing Policy H11, H17 and H18 of the South Dublin county development plan. In particular, it allows for the consolidation and sustainable intensification of a site which is at an appropriate location and will serve to support the ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County.
- 7.2.6. Reason for refusal no. 1 refers to the fact that 'the development would result in a substandard form of residential development which would have a negative impact on the residential amenity of current and future occupants.'

- 7.2.7. In this regard the overall floor area of the unit is approx. 65 sqm and therefore exceeds the minimum space requirement of 50 sqm. as set out in section 11.2.1(iv) Table 11.20 of the County Development Plan.
- 7.2.8. The area of private amenity space proposed is approx. 49.3sq.m, which marginally exceeds the minimum space standard of 48sqm for a one-bedroom house as set out in Table 11.20.
- 7.2.9. The application was accompanied by a detailed schedule of accommodation for each room and associated storage areas, which clearly demonstrates that the residential unit complies with and in many cases exceeds the minimum standards/requirements. I can confirm from my site visit that the provision of a separate ground floor utility area, walk in wardrobe and storage area under the stairs allows for ample storage space. I would also note that the ground floor bedroom which is single aspect benefits from a southern orientation with a window and glazed access door to the rear garden.
- 7.2.10. The generous open plan first floor living area, is dual aspect in addition to two roof lights positioned on the north eastern roof slope. I can confirm on the day of my site inspection, mid-afternoon in mid-September, that the first floor living area which benefits from a high ceiling receives ample natural daylight, while minimising any overlooking of adjoining residential properties. While I note that the applicant in the grounds of appeal has offered to submit modified plans were the Board to consider it appropriate, I am satisfied that this is not warranted in this case.
- 7.2.11. Reason for refusal no. 1 refers to the 'garage-like design' of the structure, and lack of 'architectural integration with the surrounding buildings'. I would note from the outset that the existing structure was permitted under Reg.Ref. P.A.Reg.Ref.S97B/0453, has been in place for 20years, and is clearly ancillary to the main dwelling house on site.
- 7.2.12. The concern that the structure which reads as a garage, tacitly implies that it should read as a dwelling unit and is in my opinion not a justification to refuse planning permission. The proposed development is effectively a retrofit of a garage into a residential unit with no external modifications. There are many examples of older buildings which have been converted or undergo a change of use over their lifetime, and I would concur with the applicant that the design of the structure is more akin to

a mews type dwelling. I am satisfied that the design of the garage structure does successfully integrate architecturally with the main dwelling, particularly with respect to the red brick finishes.

7.2.13. I would also note that the existing boundary wall, entrance gateway and beech tree are to be retained, and that apart from the proposed surface changes to the driveway, parking area, and new pedestrian gateway to the rear garden area the visual impact of the proposed change of use and minor works are virtually neutral.

7.2.14. The concern about providing an active interface with the street again in my opinion is overstated. I am satisfied that the existing garage structure which provides an attractive elevation with timber panelling and portal window to the street, does not extend forward of the building line of the existing dwelling to the north east and the adjoining dwelling to the south west no. 2 Whitehall Road respects the character of adjacent dwellings and the area.

7.2.15. I am satisfied, therefore, that the development to be retained is in accordance with housing policy H11, H17 and H18, complies with dwelling standards and criteria for infill development and as set out under Sections 11.2.1(iv) 11.3.2(i) and (ii) of the Development Plan and is acceptable in terms of design and residential amenity.

7.3. **Precedent**

7.3.1. Reason for refusal no. 2 refers to the undesirable precedent for other similar developments.

7.3.2. Notwithstanding the above and while noting that each application is considered on its merits, I am of the view that to permit this development in this instance would not result in an undesirable precedent.

7.3.3. I am satisfied, therefore, that the second reason for refusal should not be upheld.

7.4. **Appropriate Assessment**

7.4.1. Having regard to the nature and scale of the proposed development, being a minor residential extension in an established urban area, 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. I recommend that permission for retention be granted for the reasons and considerations below.

9.0 Reasons and Considerations

Having regard to the provisions of the South Dublin County Development Plan 2016-2022, and the nature, scale and design of the former garage and current residential use to be retained, it is considered that, subject to compliance with the conditions set out below, the development for which retention permission is sought would not materially contravene the current development plan for the area and would not seriously injure the residential or visual amenities of the area, or set an undesirable precedent for similar future development. The development for which retention is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained 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 and the development shall be retained in accordance with the agreed particulars.
Reason: In the interest of clarity.
2. The existing house and converted garage to be retained shall be jointly occupied as a single residential unit and the converted garage shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.
Reason: To restrict the use of the converted garage in the interest of residential amenity.
3. The applicant or developer shall enter into a water and/or waste water

connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

4. 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.

Susan McHugh
Planning Inspectorate

13th September 2019