



An
Bord
Pleanála

Inspector's Report ABP-305906-19.

Development	Permission for retention of a single storey stand-alone home office and games room to the rear.
Location	29A Fernwood Lawn, Tallaght, Dublin 24.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD19B/0336.
Applicant(s)	Tom Kerlake.
Type of Application	Retention.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Tom Kerlake.
Observer(s)	None.
Date of Site Inspection	06/02/2020.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located in the residential estate of Fernwood Lawn, a suburban area which lies to the west of Dublin City and of the M50. Tallaght General Hospital lies approximately 250m to the east of the subject site, and across the Cookstown Way road. The Tallaght Hospital Luas stop is also within walking distance, 500m, from the site.
- 1.2. 29A Fernwood Lawn is an end of terrace two storey house which was constructed adjacent to no. 29 Fernwood Lawn and within what appears to have been the private open space afforded to the house when the development was originally constructed. The front door of the house lies to the side of the building. The site has a stated area of 0.024ha.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for permission for retention of a single storey stand-alone home office and games room to the rear of 29A Fernwood Lawn, Tallaght, Dublin 24. The application included a number of supporting documents including Plans, particulars and completed planning application form.
- 2.2. The cover letter notes that a 'Warning Letter' was served on the owner in relation to unauthorised development and this application seeks to regularise the situation. It is submitted that the building the subject of this retention application is a single storey 'Steel Tech' shed measuring 37.2m² in floor area. The owner acknowledges that the structure would not constitute exempted development or for use as a stand-alone habitable unit and should not be used for same.
- 2.3. Prior to the unit being advertised for rent as a stand-alone habitable unit, it was used as a home office and games room. The owner intends to retain using the building as such. The private open space retained on the site amounts to 46.85m².

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following three stated reasons:

1. Having regard to the planning notices and description of development submitted with the application, and having regard also to the condition of the site, observed on the site inspection, the proposal for retention of development does not relate to the development on the site, which is a separate dwelling to the rear, and which includes the subdivision of the site to prevent access to the rear structure except through the side gate. The proposed development would therefore seriously injure the amenities of property in the vicinity.
2. The development is not in accordance with:
 - standards for residential development contained in the 'Quality Housing for Sustainable Communities';
 - Best Practice Guidelines (2007). The dwelling to the rear does not comply with the requirements for corner garden infill development contained in section 11.3.2 of the South Dublin County Development Plan 2016-2022.
 - Minimum standards for private amenity space contained in section 11.3.1(i) and Table 11.18 of the County Development Plan;

The development constitutes overdevelopment on a constrained site and would not comply with the 'RES' land use zoning objective which seeks to improve and/or protect residential amenity. The development would seriously injure the amenities of the established house, the new development and adjoining properties in the area.

3. The development would constitute a breach of a condition of S99A/0958, that the house would be used as a single dwelling unit. The development would, therefore, contravene materially a condition attached to an existing permission for development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes screening for Appropriate Assessment and EIA.

The Planning Report concludes that proposed development is not acceptable, and the Planning Officer recommends that permission be refused for the proposed development, for reasons relating to the description of the development, non-compliance with guidelines and the CDP development standards and material contravention of a condition attached to a previous grant of permission on the site.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

Water Services: No objection.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

None.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref: S99/0958: Permission granted for the construction of a semi-detached 2 storey dwelling house adjacent to 29 Fernwood Lawn, Tallaght, Dublin 24.

PA ref: S99/0457: Permission refused for the construction of a semi-detached 2 storey dwelling house adjacent to 29 Fernwood Lawn, Tallaght, Dublin 24, for reasons relating to the proximity of the development to watermains.

PA ref: S99/0148: Permission refused for the construction of a semi-detached 2 storey dwelling house adjacent to 29 Fernwood Lawn, Tallaght, Dublin 24.

5.0 Policy and Context

5.1. Development Plan

The South Dublin County Development Plan 2016 – 2022, is the relevant policy document relating to the subject site.

The site is zoned 'RES' where it is the stated objective of the zoning 'to protect and/or improve residential amenity'.

Section 11.3.2 of the Plan deals with Residential Consolidation and deals with development of infill sites, corner or side garden sites, backland and institutional lands. In this regard, the following is considered relevant:

(ii) Corner/Side Garden Sites

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 building 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.

(iii) Backland Development

The design of development on backland sites should meet the criteria for infill development in addition to the following criteria:

- Be guided by a site analysis process in regard to the scale, siting and layout of development.
- Avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area.
- Development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking.
- Access for pedestrians and vehicles should be clearly legible and, where appropriate, promote mid-block connectivity.

5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Glenasmole Valley SAC (and pNHA) (Site Code: 001209) is located approximately 3.6km to the south of the site and the Wicklow Mountains SAC (Site Code 002122) lies approximately 5.9km to the south of the site. South Dublin Bay SAC (and pNHA) (Site Code 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) lie approximately 12.3km to the east.

The Dodder Valley pNHA, (Site Code 000991), is located approximately 2.5km to the east of the site.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

This is a First party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The issues raised are summarised as follows:

- The description of the development is clear and it is not the applicants intention to obtain permission for retention to use the building as a stand-alone residential property separate to 29A Fernwood Lawn.
- The applicant acknowledges that the sub-division of the site is in breach of conditions attached to previous grant of permission.
- Notwithstanding the comments of the Planning Officer, the structure to be retained will be for use only as a home office and games room ancillary to the enjoyment of the dwelling. It will not be used as a stand-alone habitable /residential unit.
- The internal fence has been removed – photographs submitted.
- The zoning permits such a building as part of the permitted residential use.
- Private open space to serve the overall property equates to 46.85m² when the fence is removed.

It is requested that permission be granted.

6.2. Planning Authority Response

The Planning Authority responded to the first party appeal advising that it confirms its decision and that the issues raised in the appeal have been covered in the planners report.

6.3. Observations

None.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Planning Authority Reasons for Refusal
2. Other Issues
3. Appropriate Assessment

7.1. Planning Authority Reasons for Refusal:

The Board will note that the PA refused permission for the proposed development for 3 no. reasons.

- 7.1.1. Reason no 1 considers that the ‘proposal for retention of development does not relate to the development on the site, which is a separate dwelling to the rear, and which includes the subdivision of the site to prevent access to the rear structure except through the side gate’.

Having undertaken a site inspection, I note that the internal fencing which had been erected to sub-divide the site has now been removed. The structure to be retained is indicated as being used as a games room and home office associated with the existing house on the site. I am generally satisfied that the description of the development is accurate and acceptable.

- 7.1.2. Reason no 2 considered that the development is not in accordance with a number of guidelines or section 11.3.2 of the South Dublin County Development Plan 2016-2022, or the minimum standards for private amenity space contained in section 11.3.1(i) and Table 11.18 of the Plan. In addition, it is considered that the development constitutes overdevelopment on a constrained site and would not comply with the ‘RES’ land use zoning objective which seeks to improve and/or protect residential amenity.

In terms of the above, I would advise the Board that the correct reference with regard to private amenity space is section 11.3.1(iv) – Dwelling standards which requires that housing must be required to accord with or exceed the minimum private open space standards set out in Table 11.20, which details the minimum space standards for houses, including private open space. With the structure the subject of this retention application in place, the remaining private open space for the existing house on the site is indicated as being 46.85m².

In terms of compliance with the CDP, Table 11.20 provides as follows:

Development proposals for housing must be required to accord with or exceed the minimum private open space standards set out in Table 11.20. Open space should be located behind the front building line of the house and be designed to provide for adequate private amenity.

Table 11.20: Minimum Space Standards for Houses

Type of Unit	Houses	Private Open Space
One Bedroom	50 sq.m	48 sq.m
Two Bedroom	80 sq.m	55 sq.m
Three Bedroom	92 sq.m	60 sq.m
Four Bedroom or more	110 sq.m	70 sq.m

While I acknowledge the PAs concerns in relation to the proposed development, and the context of the site on the date of their site inspection, I note that the proposed development seeks permission to retain the structure for use as a games room and home office associated with the existing house on the site. In principle, I have no objection subject to strict conditions limiting the use of the structure to those specific uses and not as a habitable structure.

The Board will also note that no details of the existing house on the site have been provided, and no plans or particulars are available on the PAs web site. Planning permission was granted under PA ref: S99/0958 for the construction of a semi-detached 2 storey dwelling house adjacent to 29 Fernwood Lawn, Tallaght, Dublin 24. There is no detail as to the number of bedrooms in the house, but I would consider that at a minimum there are at least 2 bedrooms. In this regard, the retention of the structure the subject of this appeal, would result in the provision of a

significantly reduced private amenity open space area to serve the house. As such, I consider that the scale of the building the subject of this retention appeal is excessive and would, if permitted, constitute an overdevelopment on the site and would not comply with the 'RES' land use zoning objective which seeks to improve and/or protect residential amenity. The development would seriously injure the amenities of the established house would be contrary to the proper planning and sustainable development of the area.

- 7.1.3. Reason 3 considers that the development would constitute a breach of a condition of S99A/0958, which requires that the house be used as a single dwelling unit. The development would, therefore, contravene materially a condition attached to an existing permission for development.

I note that the PA has considered that the structure to be retained is a separate residential unit and in this regard I would consider the inclusion of the above reason for refusal as being appropriate and relevant. However, the description for the development is not for the retention of a residential unit. While I have advised my concerns above in relation to the scale of the structure and the impact it has on the provision of private amenity space for the existing house, I am satisfied that the development does not propose a residential unit.

Should the Board be minded to grant permission in this instance, I would recommend the inclusion of a specific condition restricting the use of the structure to games room and home office only as described.

7.2. Other Issues

7.2.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.3. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Glenasmole Valley SAC (and pNHA) (Site Code: 001209) is located approximately 3.6km to the south of the site and the Wicklow Mountains SAC (Site Code 002122)

lies approximately 5.9km to the south of the site. South Dublin Bay SAC (and pNHA) (Site Code 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) lie approximately 12.3km to the east. The Dodder Valley pNHA, (Site Code 000991), is located approximately 2.5km to the east of the site.

Overall, I consider it is reasonable to conclude on the basis of the brownfield nature of the site and information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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

I recommend that planning permission be refused for the proposed development for the following stated reason.

Having regard to the scale of the building the subject of this retention application, the area of private open space afforded to the existing house on the site is significantly reduced to a level which does not comply with the minimum standards as set out in the South Dublin County Development Plan, Section 11.3.1(iv) and Table 11.20 of the Plan. As such, it is considered that the scale of the building to be retained is excessive and would, if permitted, constitute an overdevelopment on the site and would not comply with the 'RES' land use zoning objective which seeks to improve and/or protect residential amenity. The development would seriously injure the amenities of the established house would be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
12th February, 2020