



An
Bord
Pleanála

Inspector's Report

ABP-307480-20

Development

Retention development consists of the erection of a single storey shed unit to the rear of existing dwelling (20.5 sqm) for the purpose of habitation, with 2no. roof lights and all associated ancillary site works.

Location

24 The Drive, Hunter's Run, Clonee,
Co. Dublin, D15 H0F2

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

FW20B/0030

Applicant(s)

Olesea Iordan

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Linda Sherwin

Date of Site Inspection

20th August 2020

Inspector

Colin McBride

1.0 Site Location and Description

1.1 The application site is located within an established residential development in Littlepace Clonee. This is a corner site (0.0275ha) at the junction of the cul-de-sac development in The Drive and proximate to the junction with Littlepace Road, which is a main distributor road within the Hunter's Run development. The subject site at No. 24 The Drive comprises a two storey semi-detached property with a pitched roof. It is a prominent corner site. Onsite parking is provided within the curtilage of the site. The immediate vicinity of the proposal is characterised by hipped roofs although there are some such converted to gables in the wider Littlepace area.

2.0 Proposed Development

2.1. Permission is sought for the retention of a single-storey shed unit to the rear of an existing dwelling for the purposes of habitation, with 2 no. rooflights and all associated site works. The structure has a floor area of 20.5sqm and ridge height 3.66m.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 7 conditions. Of note is the following condition.

Condition no. 2: The retained shed shall be used solely for purposes incidental to the enjoyment of the main dwelling and shall not be used for human habitation, multiple occupancy living unit/non-residential uses or any business use.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (04/06/20): The proposal was considered acceptable in scale, design and impact on adjoining amenities subject to a condition restricting use to ancillary

uses to the main dwelling. A grant of permission was recommended subject to the conditions outlined above.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1 Submission by Linda Sherwin, 22 The Drive, Hunters Run, Clonee, D15K2T9. The issues raised include.

- The proposal is not for a shed but for human habitation and is not built within the boundaries of the site.

4.0 **Planning History**

4.1 PL06F.303859: Permission granted for conversion of existing attic space and new single-storey extension.

5.0 **Policy Context**

5.1. **Development Plan**

The relevant development is the Fingal Development Plan 2017-2023. The appeal site is zoned RS with a stated zoning objective to 'provide for residential development and protect and improve residential amenity'.

Chapter 12 Development Management Standards

Family Flats

Family flats (often known as granny flats) are a way of providing additional accommodation with a level of independence for an undefined temporary period of time. Family flats allow for semi-independent accommodation for an immediate family member (dependent on the main occupants of the dwelling). Applications for

family flats will be considered favourably subject to criteria set out in Objective DMS 43 below.

Objective DMS43:

Ensure family flats:

- Are for a member of the family with a demonstrated need.
- Are linked directly to the existing dwelling via an internal access door and do not have a separate front door.
- When no longer required for the identified family member, are incorporated as part of the main unit on site.
- Do not exceed 60 sq m in floor area.
- Comply with the design criteria for extensions, as above.

5.2. Natural Heritage Designations

5.2.1 None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Linda Sherwin, 22 The Drive, Hunters Run, Clonee, D15K2T9.

- The appellant notes that parts of the shed encroach over the boundary of the property onto the appellant's property.
- The appellant notes that that excess rainwater is discharging onto her property due to the encroachment.
- The shed should be completed within the confines of the applicant's property and sufficient distance should be maintained from the boundary to allow for construction without encroachment.

- Condition no. 2 should be maintained as the applicant has intention to have people stay in the shed.

6.2. Applicant Response

6.2.1 Response by the applicant Olesea Jordan, 22 the Drive, Hunters Run, Clonee, Co. Dublin.

- The structure is built within the constraints of the applicant's property.
- It is noted that appellants argument do not affect the status of the proposal in regards to the Planning and Development regulations.
- It is noted that rainwater is dealt within with the applicant's site boundary.
- It is noted that the size of the unit is allow for under exempted development provision (2001 regulations). The applicant was off the belief that it was exempted development however its use for habitation renders it not exempt and such is the reason for the retention application.
- It is reiterated that the structure is constructed within the site boundaries and that the dispute is a legal issue not a planning issue.

6.3. Planning Authority Response

6.3.1 No response.

7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/habitation

Design, scale, encroachment

Appropriate Assessment

7.2 Principle of the proposed development/habitation:

7.2.1 Permission is sought for the retention of a single-storey shed unit to the rear of an existing dwelling for the purposes of habitation, with 2 no. rooflights and all associated site works. The structure has a floor area of 20.5sqm and ridge height 3.66m. The indication on the file that the structure is intended as additional habitable space for the existing dwelling. Permission was granted with a condition (no. 2) noting the retained shed shall be used solely for purposes incidental to the enjoyment of the main dwelling and shall not be used for human habitation, multiple occupancy living unit/non-residential uses or any business use.

7.2.2 There are a number of policies concerning family flats in the Development Plan and such are outlined above. I do not consider that what is being sought in this case is a family flat. The proposal is for garden structure that provides additional habitable space such as an additional living area (layout has it as a living room) or guest bedroom on an occasion that it would be needed. I would question whether the proposal is an independent family flat as the layout does not include a kitchen area. I would note that the provision of a structure that provides for such additional living space and an occasional guest bedroom would not be contrary Development Plan policy and that an appropriate condition would suffice. The structure is not big enough to be a separate unit, does not having cooking facilities and does not have a separate entrance with a necessity to pass through the existing dwelling to access the structure. Any condition should state that the structure shall be used ancillary to enjoyment of the existing dwelling house and shall not be used as, sold, leased or rented as a residential unit independent of the main dwelling house on site.

7.3 Design, scale, encroachment:

7.3.1 The structure for retention has a floor area of 20.5sqm and ridge height 3.66m and is within the dimension limits for exempted development within the curtilage of a dwelling (shed or garage). The structure is a single-storey structure and is located to the rear of the existing dwelling. I am satisfied that overall scale and visual impact of the structure is satisfactory in the context of adjoining amenity.

7.3.2 The appellant's property is located at no. 22 and is the adjoining semi-detached dwelling to the east. The appellant notes that the structure encroaches onto her property and is closer to the boundary than anticipated. The appellant also raises concerns regarding water from the roof running off into her garden. The structure for retention runs the full width of the rear garden. I did not gain access to the appellant's property however the applicant has submitted photographs taken next door. The photos show that there are existing fence posts defining the boundary between the appeal site and the appellant's property along the eastern gable of the structure indicating that the structure is tight to the boundary with the appeal site but not encroaching beyond the limit of such. Notwithstanding such there is clear difference in opinion in regards to encroachment between the two parties. I would note that boundary/land ownership disputes are not issues for the Board to determine or a planning matter. The overall scale of the structure is satisfactory in the context of its physical and visual impact and would not be detrimental to the residential amenities of any adjoining properties. In relation to discharge of surface water I would consider it appropriate to apply a condition requiring that there be no discharge of surface water outside of the site boundaries.

7.4 Appropriate Assessment:

7.4.1 Having regard to the nature and scale of the proposed development and its proximity 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 a European site.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the design and scale of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual amenities of the area and the amenities of adjoining property. 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. No surface water shall be allowed to discharge outside of the site boundaries.

Reason: In the interest of public health.

3. The structure for retention shall be used ancillary to the enjoyment of the existing dwelling house and shall not be used as, sold, leased or rented as a residential unit independent of the main dwelling house on site.

Reason In the interests of orderly development.

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.

Colin McBride
Planning Inspector

26th August 2020