



An
Bord
Pleanála

Inspector's Report

ABP-307707-20

Development	RETENTION: of a family apartment located to the front and side garden of the main dwelling.
Location	1A, Cromcastle Road, Kilmore, Dublin 5
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2474/20
Applicant(s)	Natalie Lynch
Type of Application	Retention Permission and Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant	Natalie Lynch
Observer	None
Date of Site Inspection	09 th October 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The proposed development is located in the side garden of no.1A Cromcastle Road, which is a corner site (262.94sq m) located on the southern side of the road in the Kilmore area of Dublin 5, approximately 6km northeast of Dublin city centre. The structure the subject of this appeal is a single storey two-bedroom family apartment (47.49sq m) of height 2.93m, with a grey wooden panelled exterior, located in the side (eastern) garden of no.1A Cromcastle Road, with the Cromcastle Road running along its northern boundary and Cromcastle Park running along its eastern boundary. The structure partially protrudes to the front, beyond the front elevation wall of no.1A and has a 1.8m panelled timber fence surrounding it on two sides (front and eastern side). There is currently a separation distance of approximately 1.08m between the structure and the existing dwelling at no.1A.
- 1.2. The site overlooks a large green area to the front (north) with the Oscar Traynor road (R104) traveling in an east-west direction beyond. The Northside Shopping Centre is located approximately 80m to the north, at the other side of the R104. The site was previously subdivided to cater for an end of terrace, two-storey, 3 bedroom dwelling at no.1A Cromcastle Road.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - Retention of 2-bedroom, single storey detached family apartment (2.93m in height and 47.49sq m in area, providing ancillary use to the main dwelling), including all connections to utilities (gas, water, sewer, electric) located to the front and side of main dwelling at no.1A Cromcastle Road;
 - Retention of existing side and front boundary fence (1.8m in height).
 - Proposed finish of brick slip cladding on the apartment to match that of the existing main dwelling.
- 2.2. The Board should note that the following element of the proposed development is new and has been proposed under the current appeal, therefore it has not been previously assessed by the planning authority:

- Permission for connecting corridor from western elevation of family apartment to eastern elevation of main dwelling house.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason:

Having regard to the 'Z1' zoning objective for the site, section 16.10.12 of the Development Plan, it is considered that the proposed development for which no required justification has been provided, represents significant overdevelopment of the site, would be an incongruous feature within the streetscape, and would adversely impact upon the openness of the adjoining streetscapes, and which would set an undesirable precedent for other such developments. The proposed development would therefore, seriously injure the amenities of property in the vicinity, be contrary to the provisions of the City Development Plan 2016-2022, and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's report reflects the decision of the Planning Authority, the main points can be summarised as follows:

- The proposal appears as a further subdivision of the site;
- No justification or need for the family apartment at this location has been given.
- The apartment structure is detached from the main dwelling and does not contain any direct connection to the dwelling. Section 16.10.14 of the Dublin City Development Plan 2016-2022 requires that such accommodation should be directly connected to the main dwelling. No proposal has been made to show how this would be achieved, or how it would be successfully reintegrated with the parent dwelling once no longer required for the current purpose.

- The structure effectively occupies the side garden of 1A Cromcastle Road, and its irregular shape reflects the 'forced-in' nature of the proposal.
- The structure projects beyond the established building line along Cromcastle Park by 3m and as such it is considered that the proposal is an incongruous feature in the streetscape.
- The high fence surrounding the site reduces the openness of the streetscape and adds to the visual disamenity of the development.
- The separate apartment and the existing dwelling house at no.1A would generate a potential net 8no. bedspaces which would have to be served by a restricted c.35sq m rear garden area. An existing garden shed which is located in the rear garden of no.1A would further reduce the private open space available.
- The smaller of the two bedrooms in the apartment at 6.22sqm does not meet the minimum requirement of 7.2sqm for a single bedroom as set out in the 2007 national guidance document 'Quality Housing for Sustainable Communities'.

3.2.2. Other Technical Reports

- DCC Drainage Division – Report dated 14/04/2020 – No objection to proposed development subject to conditions.
- DCC Transportation Planning Division – Report dated 22/05/2020 – this department raised concerns regarding the widening of a vehicular entrance on site to the front of the dwelling at no.1A and the proximity of the entrance to the junction with Cromcastle Park and Cromcastle Road. The previous permission granted under 5748/06 did not allow for vehicular access along the full width of the property. Further information was requested clarifying:
 - the existing car parking arrangements for no.1A and for the apartment on site.
 - Also, the applicant was asked to confirm the status of the widened vehicular access from the approved 2.5m. The Transportation Planning

Division stated that the applicant should note that the maximum permissible width for a residential vehicular access is 3.6m.

3.3. Prescribed Bodies

Irish Water – No response.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. On subject site:

- P.A. Ref. 0136/20 – 2020 – Dublin City Council (DCC) – SHEC granted for subject detached habitable structure.
- P.A. Ref. 5748/06 – 2007 – DCC - Permission granted for two storey, three bedroom attached house with attic store and two velux roof lights to front, new vehicular entrance to existing house. This dwelling was constructed in what was the original side garden of no.1 Cromcastle Road.

4.2. Enforcement:

- P.A. Ref. E1188/19 – 2019 – DCC – Enforcement case opened on site for unauthorised timber structure which is in residential use and surrounding timber fencing which is over 1.2m in height, located in the side and front garden of 1A Cromcastle Road.

5.0 Policy Context

5.1. National Guidance

- 5.1.1. Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DoEHLG) (2018)
- 5.1.2. Quality Housing for Sustainable Communities- Best Practice Guidelines for Delivering Homes Sustaining Communities (DoEHLG, 2007).

- Section 5.3: Internal Layout and space provision.

5.2. Development Plan

The operative development plan is the **Dublin City Development Plan 2016-2022**.

The site is zoned as Z1 Residential where it is an objective “*To protect, provide and improve the residential amenities*”. The following Sections are relevant:

- **Section 16.10.1:** Residential Quality Standards- Apartments
- **Section 16.10.2:** Residential Quality Standards- Houses
- **Section 16.10.14:** Ancillary Family Accommodation.

Extension to a family dwelling to accommodate a family member must comply with the following:

- *A valid case is made with regards the relationship with the applicant;*
- *It is directly connected to the main dwelling;*
- *The independent unit can be integrated into the dwelling once the family member no longer needs it.*
- **Section 16.10.12:** Extensions and Alterations to Dwellings.
- **Section 16.10.13:** Subdivision of dwellings.
- **Section 16.2.2.3** Alteration and Extensions.

More generally section 16.2.2.3 states that extensions to houses should respect the context of the existing building and surrounding area and the amenities of neighbours.

- *Respect any existing uniformity of the street, together with significant patterns, rhythms or groupings of buildings.*
- *Retain a significant proportion of the garden space, yard or other enclosure.*
- **Section 16.2.2.4 Boundary Walls and Railings**

New boundary walls or railings should:

- *Replicate an existing or traditional pattern which is characteristic of the immediate locality.*
- *Use a design and materials appropriate to the existing or proposed building and street-scene.*

5.3. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, are raised by the first party appellant and can be summarised as follows:

The applicant acknowledges the decision of DCC and has submitted additional information as follows to support the proposal on site:

- The applicant has attached documents/reference letters describing the family situation and the need to retain the family apartment. A letter has been attached from the applicant's brother (Darren Lynch) who currently resides in the apartment, the subject of this appeal. He states he built the cabin (apartment) 4.5years ago and before that was living in a homeless unit for a period of 2.5years. His 8-year-old daughter currently lives with him in the apartment and they have nowhere else to live currently. His father and partner live two doors down and have both suffered strokes in the recent past. His sister resides in 1A Crowmcastle Road with her family. He pleads with the Board to consider his current situation and the need for his own apartment.
- The Board should note that the applicant states as an alternative option that they now propose to construct a link connecting the main house to the family apartment, with all finishes to match the existing dwelling, thus making it one continuous dwelling. Revised drawings showing the proposed connection to the main dwelling and finishes have been submitted with the appeal.
- The following letters have also been submitted as part of the appeal, in support of the applicant's proposal and highlight her brother's housing need at this location:
 - Letter of support from the Alan O' Connor, resident's (Darren Lynch) employer.
 - Letter of support from Ray Corcoran, community youth worker.

- Letter of support from Declan Corry, Barrister at Law.
- Letter of support from Kathleen Byrne, Retired Public Servant.
- Letter of support from Andrew Pollard, Pollard Property Maintenance.
- Character reference in support of Darren Lynch from Br. Anthony J. Kavanagh.
- Letter of support from Jacinta Kelly, Residential Support Worker.
- Letter of support from Keith Greene, Project Worker, HSE.
- Letter of support from Emer Ward, Counsellor, Ballymun Youth Action Project.
- Letter of support from Fr. Peter McVerry, Peter McVerry Trust.

6.2. Planning Authority Response

- None received.

6.3. Observations

- None.

7.0 Assessment

- 7.1.1. I acknowledge that the current proposal differs from that which was originally submitted to the Planning Authority. The appellant now proposes to change the type of development on site from the original retention of a family apartment to the front and side garden of the main dwelling at no. 1A Cromcastle Road to an alternative option. The applicant now proposes to construct a link connecting the main house to the family apartment, and seeks 'permission' for same link corridor, along with retention permission for the existing structure on site. Thus, the apartment for which retention is sought, would now fall under Ancillary Family Accommodation. I do not consider the proposed changes material in nature, however if the Board disagree, they may consider it appropriate to request the applicant to re-advertise the development detailing the additional works and new proposed use. Details of the link

corridor and proposed new use are discussed further and an assessment of same is carried out under Section 7.3 below.

7.2. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in relation to the revised current proposal are as follows:

- Principle of Development
- Design Standards
- Impact on Residential Amenity
- Appropriate Assessment

7.3. Principle of Development

7.3.1. The current size of the proposed development is c. 47.49m² and includes a single bedroom, double bedroom, bathroom and open lounge/kitchenette area. As part of the revised proposal submitted with the current appeal, the applicant now proposes to link the apartment via a connection corridor circa. 1m long and 1.85m wide, from the western elevation of the apartment structure to the eastern elevation of the existing main dwelling. The link corridor will provide access from the lounge area of the apartment to the sitting room of the main dwelling.

7.3.2. Section 16.10.14 of the development plan provides guidance for independent living accommodation, where an extension to an existing dwelling unit will be favourably considered for an immediate family member for a temporary period of time should the need be justified for the relative to live in close proximity to their family. The grounds of appeal argue the attached apartment is to be used to provide accommodation to the applicant's brother and his daughter. It is stated that the main dwelling on site is the applicant's family home. This dwelling was permitted under P.A. Ref. 5748/06 in 2007 and was built in the original side garden of no.1 Cromcastle Road (the applicant's father and partner reside in this dwelling). Based on the information submitted, which includes details of the applicant's brother's need to provide accommodation for his daughter (the applicant's niece) and also the 10 different letters of support detailing the need to reside in close proximity to his family,

I would consider that a valid case is made for the need for ancillary accommodation. However, having said this, even though I do consider the principle of the development of this independent unit (connected to the main dwelling) is justified, the proposed unit still has to satisfy the other policies, objectives and standards as listed in the development plan and national policy guidance, these are further examined in the sections below.

7.4. Design Standards

- 7.4.1. Section 16.10.14 of the development plan states the proposed independent accommodation should not be a separate dwelling unit and direct access is required to the rest of the house. The applicant has sought to adhere to these standards by proposing a connecting corridor to link the existing apartment to the eastern side elevation wall of the main dwelling house.
- 7.4.2. The standards for residential units in the development plan are based on the requirements of the Quality Housing for Sustainable Communities- Best Practice Guidelines for Delivering Homes Sustaining Communities for dwellings (2007) and Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities for Apartments (2018).
- 7.4.3. Under the 2018 guidelines the minimum size standard for a two-bedroom apartment is 63sqm, the current apartment has an area of 47.49sqm. The required minimum aggregate floor area of living/dining and kitchen area is 28sqm, the current apartment has a floor area of 20.28sqm. The minimum floor area for a double bedroom is 11.4sqm, the current double bedroom on site has a floor area of 14.87sqm. The minimum floor area for a single bedroom is 7.1sqm, the current single bedroom on site has a floor area of 6.22sqm. It should be noted that a minimum aggregate bedroom floor area of 20.1sq m is allowed for under the 2018 guidelines. Although it may be argued that the minimum aggregate bedroom floor area is achieved, the current independent unit does not meet the other minimum size requirements as set out in the development plan policy or the national guidelines, and therefore I consider the proposed development is substandard residential development.

7.5. Impact on Residential Amenity

7.5.1. The subject site is unusual in that it originally formed part of the side garden of no.1 Cromcastle Road. A previous application on site was permitted for a two-storey semi-detached dwelling to the side of no.1 under P.A. Ref. 5748/06, this dwelling (no. 1A Cromcastle Road) is the applicant's main dwelling and the independent living unit to be retained is located in the side garden of this dwelling.

7.5.2. Open Space

The independent residential unit the subject of this appeal occupies the majority of the side garden of no.1A. The open space that surrounds the unit is limited by virtue of the narrow nature of the space between the unit and the existing circa. 2m high fencing, and also a large conifer tree located in the south-eastern corner of the site which shades the area. It is not considered that this strip of space is of any great amenity value to the occupants.

The proposed development and the adjoining main dwelling at no.1A would generate a potential net of 8no. bed spaces (3 in the existing independent residential unit and 5 in the main dwelling). The entire property on site would be served by approx. 35sqm of private open space which exists to the rear of the main dwelling house at no.1. I note that the current back garden at no.1A would also appear to have a garden shed located along the rear wall (south eastern corner) which further reduces the area of private open space available. Section 16.10.2 of the development plan *Residential Quality Standards – Houses* states that a minimum standard of 10 sq m of private open space per bedspace will normally be applied and that generally, up to 60-70 sq m of rear garden area is considered sufficient for houses in the city. Considering the removal of the majority of the private amenity for the main dwelling and the lack of provision of private amenity space for the unit to be retained, I consider the proposed development has a negative impact on the existing residential amenity of its occupants of both residential units.

7.5.3. Character of the area

It is acknowledged that the applicant proposes to change the existing finishes on the residential unit to brick slip finish cladding to match that of the existing house and this change is welcomed. However, the more pressing issue on site is the location of

the residential unit and the impact that this has on the character of the surrounding area.

The dwellings fronting onto Cromcastle Road are all similar in design and plot size, with the majority having private off-street parking and small rear gardens. The front building line of the dwellings along this section of terraced houses varies, with single storey extensions and porches extending beyond the main front building line on the majority of dwellings present. While it is accepted that a certain degree of variance should be permitted, the current residential unit, the subject of this appeal, breaks the existing front building line of no.1A by approx. 3m and the common first floor building line, shared by the other dwellings on the street by approx. 4.5m. The structure also projects beyond the established building line along Cromcastle Park by approx. 8m, which is considered a significant. I note that Section 17.7 *Appearance of Appendix 17* of the development plan states that '*Extensions to the front, which significantly break the building line, should be resisted*'. I consider the proposed development by virtue of its size and siting, protruding beyond the existing building line along Cromcastle Road, is overdevelopment of the site and would set an undesirable precedent for similar developments in the area and has a negative impact on the character of the area.

7.5.4. Provision of carparking

I note the comments received from the Transportation Planning Division of DCC regarding the provision of car parking on site. The applicant has not put forward any proposal for the provision of carparking for the ancillary residential unit, the subject of this appeal. I note under the previous development permitted on the site under P.A. Ref 5748/06, that a new vehicular entrance and provision of off street carparking was to be provided. The entrance permitted was limited in size to approximately 3m in width. Following a site visit I noted that the front boundary wall has been completely removed and access to off street carparking is now provided along the entirety of the front of the dwelling at no.1A. The applicant should note that the maximum permissible width for a residential vehicle access is 3.6m and the current proposal on site is not considered appropriate due to the proximity of the junction with Cromcastle Park and the precedent it may set for other similar type entrances in the vicinity.

7.6. **Appropriate Assessment**

Having regard to the nature and limited 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 a European site.

8.0 **Recommendation**

8.1. Therefore, having regard to the foregoing, it is recommended that the proposed development, as presented, is refused for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the limited size of the site and the scale and nature of development to be retained, the planning history on the site, the national guidance Quality Housing for Sustainable Communities- Best Practice Guidelines for Delivering Homes Sustaining Communities and Sustainable Urban Housing, Design Standards for New Apartments – Guidelines for Planning Authorities 2018 and Section 16.10.12 and Appendix 17 of Dublin City Development Plan 2016-2022, it is considered that the development to be retained would result in an unsatisfactory standard of residential accommodation for occupants of both the main house and the ancillary accommodation, by reasoning of the lack of open space and substandard floor areas, would result in overdevelopment of the site and have a negative impact on the residential amenity of the existing dwelling and would set an undesirable precedent for similar developments in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

30th October 2020