



An
Bord
Pleanála

Inspector's Report 308064-20

Development	Construct a garden room in rear garden
Location	17 Hayfield, Model Farm Road, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	20/39355
Applicant(s)	Colette Cassidy
Type of Application	Planning permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Sean Hennessy
Observer(s)	None
Date of Site Inspection	9 th December 2020
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located in Hayfield housing estate off Model Farm Road to the west of Cork City. It is an established residential area. The estate is approached from Model Farm Road via Church Hill. The appeal site, No. 17, is a detached two-storey house near the entrance to the estate from Church Hill, which has a N-S orientation. The site to the immediate west (No. 18) is a corner site with a detached house of a similar size, and the southern boundary is with the rear garden of a further corner site, No. 19 Hayfield. The eastern boundary of the site abuts the rear boundaries of two detached houses, Nos. 5 and 6 Hayfield.
- 1.2.** The site area is given as 0.0415ha. The existing 2-storey house has a stated floor area of 206m². It has a south-facing rear garden with an estimated area of c.150m², with a depth of c.10m. There is an existing garden shed in the south-eastern corner. The appellant's property is immediately to the east (No. 5 Hayfield) and has a west-facing garden of a similar size and depth. There is an existing passageway alongside the eastern side of the house which is covered with a translucent material with an area of 21m².

2.0 Proposed Development

- 2.1.** It is proposed to construct a garden room in the south-eastern corner of the rear garden, on the site of the existing shed. The area of the proposed structure is given as 25sq.m. The proposed garden room would be 6650mm wide and 5400mm deep, with a flat roof of metal which has a very slight slope towards the rear. The height is stated to be 3m at the front and 2.8m at the rear. The front of the structure (western elevation) is proposed to incorporate an overhang (or recessed area) which acts as a covered deck and would have a triple sliding patio door. The northern elevation would also have a glazed window and the remainder of the structure would have timber cladding.
- 2.2.** The existing Barna shed is to be removed. The proposed setback from the western boundary is given as 5.670m and 4.120m from the nearest dwelling to the south-west (No.19). The setback from the house on the appeal site is stated as 2.79m and from the appellant's house as 11.37m.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 5 conditions. These were generally of a standard type. Condition 2 prohibited use for habitable purposes and restricted use to purposes incidental to the enjoyment of the dwelling. Condition 3 required the submission of a revised plan to clarify the precise location of the window on the side elevation. Condition 5 required the payment of a development contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report noted the submission from the appellant which related to overdevelopment of the site, loss of amenity to adjoining properties and potential for use of structure as habitable accommodation with associated nuisance. Reference was made to the planning history which consisted of a Section 5 Declaration regarding the development that is currently proposed. It was noted that the proposed structure (including the covered passageway) would breach the exempted development limitations for such structures (Class 3, Part 1 of the Second Schedule of 2001 P&D Regs).

It was noted that the intended purpose of the room is as additional play space for the family, that there is only one room (no subdivision), and that adequate garden space would remain. It was noted that there is an anomaly in the submitted plans, i.e., the single window on the north elevation is shown on the floor plan as being on the south elevation. Subject to the correction of this anomaly, it was considered that the proposal would not adversely affect the visual or residential amenities of the area. Permission was recommended subject to conditions.

3.2.2. Other Technical Reports

Area Engineer – no objection.

Drainage – no objection.

3.3. Prescribed Bodies

Irish Water – no objection.

3.4. Third party observations

The observation from the appellant is generally similar to the grounds of appeal. Issues raised principally related to overdevelopment of site, potential for conversion to habitable unit and use for parties etc. with associated nuisance, loss of outlook and close proximity to boundary wall.

4.0 Planning History

R574/20 – Section 5 Declaration by applicant regarding whether the construction of a garden room required planning permission – P.A. decided that

Having regard to:

- Class 3 Part 1 of the Second Schedule (Exempted Development) of the Planning and Development Regulations 2001 (as amended).
- The fact that the wording of the exemption states ‘total area’ rather than ‘floor area’ and also refers to ‘any tent, awning shade or other object’ means that the total area of the structure exceeds 25sq.m when the open covered deck area is taken into consideration. The exempted limit of 25sq.m for all such structures is also breached when the covered in area to the side (east) of the house is taken into consideration rather than the internal floor area alone (Condition and Limitation No. 2)

The proposed construction of a garden room to the rear of No. 17 Hayfield, Model Farm Road is therefore development and is not exempted development.

5.0 Policy Context

- 5.1.** Although the site is located within the area which is presently governed by Cork City Council, the site was formerly within the area governed by Cork County Council. The

relevant plans for the area are therefore Cork County Development Plan 2014 and Ballincollig to Carrigaline Municipal District Local Area Plan 2017.

5.2. Cork County Development Plan 2014

5.2.1. The site is zoned **Existing Built-Up Area**, the **objective ZU 3-1** for which is to normally encourage, through the LAPs, development that supports in general the primary use of the surrounding existing built-up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built-up areas will be resisted.

5.2.2. Chapter 14 contains further advice on **Existing Built-Up Areas** –

14.3.1 The approach is taken to allow a more positive and flexible response to proposals for the re-use or re-development of underused or derelict land and includes a mix of land uses. Development will be considered in relation to:

- The objectives of the Plan.
- Any general or other relevant objectives of the LAP.
- The character of the surrounding area.
- Other planning and sustainable development considerations relevant to the proposal or its surroundings.

5.3. Natural Heritage Designations

Cork Harbour SPA (004030) and lie Great Island Channel SAC (001058) approx. 10km to 16km to the south east.

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appeal was submitted by neighbouring residents to the east, at No. 5 Hayfield. The main points raised may be summarised as follows:

- **Overdevelopment of the site** - The site is small at 0.0145ha and the existing house is 206m². This means that 49% of the site is already developed. The

proposed development would increase this by a further 25m² which represents a 12% increase.

- **Impact on residential amenity** - the proposed development would adversely affect the residential amenities of No. 5 as the rear gardens are small and compact, the adjoining garden is west-facing, and the height of the structure will be at least 3m above existing ground level. Due to the close proximity to the boundary, it would therefore overshadow the appellants' west-facing rear garden which gets most of its sunshine from this location. Use as a place for storage and/or parties would give rise to noise and disturbance which would be a general nuisance. The proposed development would also be unsightly and detract from the amenities of the appellants' property.
- **Inadequate details of proposed development** - The submissions do not adequately describe the proposed development in terms of proposed materials and finished floor level. It is assumed that the materials will be timber with a steel frame and will be glazed. The FFL is stated as being at 'ground level' but this is not shown relative to any known fixed levels. Thus, it is not possible to have any certainty regarding the actual height of the building.
- **Potential use as habitable accommodation** – it is likely that the structure would be used as guest accommodation. The design lends itself to conversion to ancillary accommodation by the insertion of a bathroom and kitchenette facility. The use as a separate unit of accommodation would be wholly inappropriate and could well be used for parties etc. This is development by stealth.
- **Risk of fire** – There is no separation distance from the boundary and the proposed wooden structure would be tight up against the boundary. The storage of lawn mowers, petrol or use for parties would generate a fire hazard.

6.2. Planning Authority Response

The P.A. responded to the grounds of appeal on the 24th September 2020. It was stated that the planning authority has no further comments to make.

6.3. First party response to grounds of appeal

The first party's architect responded to the grounds of appeal on the 23rd of September 2020. The response was mainly in the form of a rebuttal of the grounds of appeal. Revised plans and photographs have been included with the submission and the background/justification for the development is outlined in detail. The following points are noted:

- **Inadequate details** – the proposed structure is a free-standing structure from an established company which is intended for use as additional accommodation as there is insufficient space in the house for quiet/study space. Details have been provided regarding the specifications, materials etc.
- **Materials and finishes** – the cladding will be vertical cedar and the roof will be Firestone EPDM. The windows will be aluminium framed energy rated.
- **Height and levels** – Plans, elevations and sections indicate that the FFL will be 0.270m and that the height will be 3.15m at the front and 3.04m at the rear. The top of the boundary wall is 1.8m, although it is noted that the height varies with the ground levels. Note that the option chosen would be substantially lower than an extension to the dwelling under exempted development regs.

7.0 Assessment

It is considered that the main issues arising from the appeal are as follows: -

- Overdevelopment of the site
- Impact on residential amenity
- Impact on visual amenity
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Overdevelopment of the site

- 7.1.1.** The appellant claims that the existing development on the site represents 49% site cover and that the proposed development would increase this by a further 12%. It is stated in response to the grounds of appeal, however, that the total footprint of the existing house combined with the covered side passage (which amounts to a total of 122m²), together with the proposed garden room with integral deck (stated area of 35.9m²), would result in a total footprint of 158m², which represents 37.8% site coverage. There is an existing garden shed on the site of the proposed garden room, which although smaller, occupies the south-east corner of the garden.
- 7.1.2.** I would agree that a site coverage of 38% and a plot ratio of 1:0.58 would not be excessive in a suburban context. It is further noted that the rear garden area (without any outbuildings) is c.150m², which comprises a lawn (with a garden shed) of c.114m² and a further paved patio area of c.36m². The proposed garden room would reduce the lawn area to c.78m² and the overall rear garden area to 114m², which is well above the minimum requirement of 60-75m² private amenity space for private rear gardens. The rear garden is south-facing and the layout on site clearly shows that it is a useable space with a trampoline, a tree house and outdoor furniture. It is considered, therefore that the proposed development, would not represent overdevelopment of the site.

7.2. Impact on visual amenity

- 7.2.1.** The appellants have raised concerns about the lack of detail regarding the height and materials and finishes of the proposed garden room. In the response to the grounds of appeal, the first party has provided additional details as follows:
- The garden room is a free-standing high-quality structure from an established company (gardenrooms.ie). It will have post foundations in concrete.
 - External walls will be of vertical cedar and the roof will be of Firestone with a weather security guaranteed. The walls will be insulated with both thermal and acoustic insulation. Windows and doors will be double glazed and of aluminium.

- The FFL is given as 0.27m and the height as 3.04m at the rear and 3.15m at the front.

7.2.2. The existing shed, which occupies roughly the same location, is a timber structure on concrete blocks with a pitched roof of felt and is stated to be 15 years old. The height of the side panel is just below the height of the eastern boundary wall and the ridge height is estimated to be c.2.5m. It is considered that the replacement of the shed with a more modern and more attractive structure with good quality materials would improve the visual amenities and outlook from adjoining properties. Although the structure would be larger and taller than the garden shed, the additional scale can be absorbed by the rear garden without significant injury to visual amenity of the surrounding properties.

7.2.3. It is considered, therefore, that the proposed garden room, by reason of its scale and design, would not detract from the character of surrounding properties and would not injure the visual amenities of the area.

7.3. Residential Amenity

7.3.1. The concerns raised by the appellants related principally to overshadowing and to potential use of the structure for storage, including flammable materials, or parties and the likelihood that it would be converted to habitable accommodation in the form of a separate unit.

7.3.2. As discussed above (7.2), the proposed garden room will replace an older and smaller shed in approximately the same location. The height at the common boundary will be c.3.04m above ground level and c.1.24m above the existing boundary wall (1.8m). However, the height of the wall varies along the boundary and appears to be slightly higher than 1.8m at the northern end of the proposed garden room. Although the appellant's garden is to the east (and hence is west facing), and as such there may potentially be some increase in shadow at the south-western corner of that garden (No. 5), I noted from my site inspection that there is a garden shed within the appellant's garden in approximately this location. This can be seen from Google Maps (satellite). There is mature vegetation in the north-western corner of the garden of No.4, and it is considered likely that the combination of these existing features would give rise to a similar shadowing effect on the rear garden of

No. 5. Thus, it is considered that the proposed development would not give rise to any significant increase in shadow on the adjoining gardens. Given its modest scale and height, it would also be too far removed from the rear elevations of the adjoining sites to result in any significant loss of light.

- 7.3.3.** The potential use of the garden room as a source of nuisance to the adjoining neighbours appears to be based on speculation. The intended use is stated to be as an additional space for either quiet study or as a playroom for the children. This is a normal domestic activity which is little different to the use of the garden as a playspace. The storage of garden products (including petrol for a lawn mower) is more likely to have occurred in the existing shed. Provided that use of the structure is restricted to domestic use, there is little likelihood of any undue nuisance arising from the use of the garden room. Should the Board be minded to grant permission, a condition to this effect should be attached to any such permission.
- 7.3.4.** The potential use as a separate habitation space with a kitchen and bathroom would require planning permission. There is no suggestion that this is proposed as part of the current application. Should the Board be minded to grant permission, a condition restricting the use of the garden room and the house as a single unit of habitation should be attached to any such permission.
- 7.3.5.** It is considered that subject to the conditions mentioned above, the proposed development would result in any significant injury to the residential amenities of adjoining properties.

7.4. Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development, 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.

7.5. Appropriate Assessment

Cork Harbour SPA (004030) and Great Island Channel SAC (001058) lie approx. 10km and 16km respectively to the east/southeast. There are no known hydrological links to the protected sites. Given the scale and nature of the development, the

distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

8.1 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1. Having regard to the policies and objectives as set out in the Cork County Development Plan 2014-2020, to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. 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, application as amended by the further plans and particulars received by An Bord Pleanála on the 23rd day of September 2020, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or

replacing them, the use of the proposed garden room shall be restricted to domestic use only and not for any commercial, habitation or agricultural uses (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of residential amenity.

3. The existing dwelling and proposed garden room shall be jointly occupied as a single residential unit and the garden room shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

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

4. The existing finishes of the proposed garden room (including roof materials) and the window on the northern elevation shall be as specified in the documentation and plans submitted to the Board on the 23rd day of September 2020. 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.

5. 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.

Reason: In the interest of public health.

6. 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.

Mary Kennelly
Senior Planning Inspector

15th December 2020