



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308107-20

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<b>Development</b>	Removal of a garden shed and construction of a detached garden room to the rear.
<b>Location</b>	36, Shelbourne Road, Dublin 4
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	2641/20
<b>Applicant(s)</b>	M Doran & E Pfeiffer
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	1) Philip Murray 2) Peter Nugent
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> November 2020
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 797 sqm comprises a two-storey, red brick, mid-terrace, period dwelling on the eastern side of Shelbourne Road opposite the Cannon Mews development. The site has an extensive, T-shaped rear garden that runs along the back of the existing row of terraces and is accessed by way of shared, gated access laneway from Shelbourne Road to the north of the site. There is a railway line to the east (rear) of the site that forms a 4.5m high stone boundary wall.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

- 2.1. An application submitted to DCC on the 17<sup>th</sup> April 2020 sought permission for the removal of an existing garden shed and the construction of a detached garden room to the rear of No. 36 Shelbourne Road, Dublin 4. The proposed single-storey structure (36sqm) consists of:
  - a) A garden room (27sqm), bike store (5sqm) and a WC (4sqm) all of which are subservient to and accessed from the main residence; and
  - b) A canopy over the existing car parking space; and all associated landscaping site works.
- 2.1.1. The application was accompanied by the following:
  - Architectural Design Statement. It is stated that the garden room will be used as a home office / play / painting room.
  - A letter of support from John White, No 38 Shelbourne Road was attached requesting that a condition be attached requiring that the development not be used as a dwelling separate from the main house or a rental property.
- 2.2. Further information was submitted on the 20<sup>th</sup> July 2020 summarised as follows:
  - Carport element omitted. The structure has been reduced to measure 7.25m long x 6.2m wide with a height of 4.5m
  - Ridge height reduced by 580mm and is now the same height as the train line wall.

- Roof to be clad with timber shingles
- Reduction in size effectively moves the structure 5m away from the boundary with No 34 Shelbourne
- With regard to trespass it is submitted that the structure is located 2m+ away from the train line wall and replaces an existing single storey structure which adjoins the train line wall. Stated that the existing structure offers a greater security risk. A dialogue was opened with Irish Rail with regards to the siting of the proposed garden room and its position was agreed with all parties concerned.
- The revised internal height of 3.6m cannot be considered double height, rather storey and a half and is akin to the height of the rooms in the applicants dwelling.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. DCC issued notification of decision to grant permission subject to 8 no conditions.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

- The **Case Planner** in their first report sought further information inviting the applicant to submit revised plans to address the size, height and bulk of the proposal. Further information was requested on the 7<sup>th</sup> July 2020.
- The **Case Planner** in their second report and having considered the further information recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Dublin City Council reflects this recommendation.

##### 3.2.2. Other Technical Reports

- **Drainage** – No objection subject to conditions as outlined in the report.

#### 3.3. Prescribed Bodies

- **Iarnrod Eireann x 2** – No stated objection subject to conditions.

### 3.4. Third Party Observations

- 3.4.1. There are two letters of support from (1) John White, No 38 Shelbourne Road and (2) Clare Tolan, No. 42 Shelbourne Road. John White has requested a condition requiring that the development not be used as a dwelling separate from the main house or a rental property.
- 3.4.2. There are 3 letters of objection recorded on the planning file from (1) Philip Murray, No 34 Shelbourne Road, (2) Peter Nugent, No 32 Shelbourne Road and (3) Marcella Higgins, No 40 Shelbourne Road.
- 3.4.3. The issues raised relate to impact on residential amenity, visual impact, visual montages are overly favourable, future use of building as residential unit, description of scheme as a room for reading and painting purposes is misleading, condition required that not to be used as a separate dwelling or rental accommodation, habitable development should not be permitted on a landlocked site, design is not in keeping with Z2 residential character of the area, risk of trespass, graffiti and loss of security due to proximity of garden room to railway and height of development would facilitate a mezzanine floor in the future.

### 4.0 Planning History

- 4.1.1. There is no evidence of any previous planning appeal on this site. The following history is noted from the appeal file:
- **Reg Ref 2869/18-** Permission was REFUSED for removal of an existing garden shed and the construction of a detached garden structure to the rear of No. 36 Shelbourne Road, Dublin 4. The proposed single storey development consisted of a garden room (21m.sq), ensuite guest bedroom (16m.sq), gallery (13m.sq) with fixed rooflight, all ancillary to, and accessed from, the main residence canopy to existing carparking space; and all associated landscaping siteworks.
  - **Reg Ref 2051/12** – Permission was GRANTED for the demolition of the 11sqm single storey rear extension and shed and shed abutting adjoining property and the construction of a single and two storey rear extension and associated landscaping. The development consisted of an additional 15sqm at first floor including a

bedroom and en-suite bathroom and an additional 32sqm at ground floor including a kitchen with dining area.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The site is within an area zoned **Z2 Residential Neighbourhoods (Conservation Areas)** where the objective is “to protect and/or improve the amenities of residential conservation areas. Relevant Policy from the Development Plan are as follows:

5.1.2. **Policy CHC4:** *To protect the special interest and character of all Dublin’s Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.*

*Enhancement opportunities may include:*

- 1) Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting*
- 2) Re-instatement of missing architectural detail or other important features*
- 3) Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns*
- 4) Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area*
- 5) The repair and retention of shop- and pub-fronts of architectural interest.*

*Development will not:*

- 1) Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area*
- 2) Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail*

3) *Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors*

4) *Harm the setting of a Conservation Area*

5) *Constitute a visually obtrusive or dominant form.*

*Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of Conservation Areas and their settings.*

*The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.*

## **5.2. Natural Heritage Designations**

5.2.1. The site is not located within a designated Natura 2000 site.

## **5.3. EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development comprising a detached garden room located in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. There are 2 no third party appeals on the file form (1) Philip Murray, No 34 Shelbourne Road and (2) Peter Nugent, No 32 Shelbourne Road. The issues raised may be summarised under the following general headings:

- **Height** – Offer to reduce height by 580mm is marginal. There is no valid reason why the garden room needs to be 5m. No objection to a smaller lower structure set back from the railway. Pre-planning concern regarding height was initially ignored. The amended height of 4539mm is unnecessary.



- **Security** –What is referred to as an “existing single storey structure” is in fact a “lean to” with a plastic corrugated roof and a drop of c10ft from the train line. Such a structure and location would discourage a trespasser. This is not the case with a roof in line with the rain line wall.
- **Visual Impact** – The submission that the garden room is “screened by the 2.4m high neighbouring wall to the west” is completely meaningless where the proposed height is over 5 metres. The scheme contravenes Policy CH4 in that the development constitutes a visually obtrusive form.
- **Residential Amenity** – The structure is situated to the rear of No 36 Shelbourne Road (not the applicants house). The height, scale and position of the scheme will create an overbearing impact to the detriment of residential amenity.
- **Iarnrod Eireann** – Observations dated 11<sup>th</sup> May 2020 refers to the location of the proposed structure close to the signal platform as introducing an increased risk of trespass. This makes the appellants house and garden vulnerable to trespass. The “garden room” provides a short hop for any trespasser to gain access to the rear of Shelbourne Road.
- **Precedent** – Precedents submitted with the application confirm that the architectural style of the proposal is within a rural setting and alien to the character of this Residential Conservation Area.

## 6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by Hughes Planning & Development Consultants and may be summarised as follows:

- **Location** – The siting of the structure was informed by numerous factors including visibility from the main dwelling, its views towards the entirety of the wider garden, access to existing drainage, more efficient use of an underutilised area of the garden which is generally shadowed and reduced impact to adjoining properties.
- **Security** – It is submitted that the likelihood that would be trespassers would target a jump exceeding 2m distance from the railway line onto a pitched roof with no guarantee of safe landing in favour of a straightforward drop onto the existing

boundary wall is considered entirely irrational. DCC and Iarnród Éireann are satisfied that the proposal will result in no security issues at this location.

- **Visual Impact** – The height has been reduced to 4.5m. The structure is single storey and situated at a significant distance from all elements and exceeds the required 22m separation distance between rear opposing two storey residential dwellings. As such no undue visual impact will arise because of this proposal.
- **Design** – The structure is entirely obscured from the public realm of the immediate area. The structure has no impact on the character and setting of the residential conservation area. No justification is needed with regards to the height of the structure other than the fact that it is the personal preference of the applicant and the Planning authority have approved permission.

### 6.3. **Planning Authority Response**

6.3.1. None

### 6.4. **Observations**

6.4.1. None

### 6.5. **Further Responses**

6.5.1. None

## 7.0 **Assessment**

7.1. This assessment is based on the plans and particulars submitted to Dublin City Council on the 17<sup>th</sup> April 2020 as amended by plans and particulars submitted by way of further information on the 20<sup>th</sup> July 2020.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle

- Visual Amenity
- Residential Amenity
- Security
- Appropriate Assessment
- Other Issues

### 7.3. Principle

- 7.3.1. The appeal site is wholly contained within an area zoned Z2 Residential Neighbourhoods (Conservation Areas) where the objective is “to protect and/or improve the amenities of residential conservation areas” and where residential development such as a “garden room” where the use is ancillary to the main house is considered a permissible.
- 7.3.2. However, should the Board be minded to grant permission it is recommended that a condition be attached restricting the use of the garden room to a use incidental to the enjoyment of the dwelling house, that it not be used for human habitation and that it not be sold, rented or leased independently of the house. This is in line with Condition No 2 of the notification decision to grant permission issued by DCC.

### 7.4. Visual Amenity

- 7.4.1. Concerns raised with regard to the height of the proposed scheme and its visual impact are noted.
- 7.4.2. As mentioned above there was a previous refusal by DCC for a similar development (Reg Ref 2869/18 refers). The applicant has provided a useful summary of the revisions in the current scheme as follows:
- Reduction in the overall height by 1.4m at the ridge and 2.3m at the eaves
  - Mezzanine level omitted entirely
  - Rooflights to adjacent proposed to the north and east omitted entirely
  - Reduction in floor area by 11sqm – bedroom omitted
  - Garden room moved 2m from wall of rail line as agreed with Irish Rail

- 7.4.3. In response to a request for further information the current scheme was also amended further as follows:
- Carport element omitted reducing the mass of the roof by 55% from 105m<sup>3</sup> to 48m<sup>3</sup>. The structure has been reduced to measure 7.25m long x 6.2m wide with a height of 4.5m
  - Ridge height reduced by 580mm and is now the same height as the train line wall.
  - The revised internal height is 3.6m.
- 7.4.4. This reduction in size effectively moves the structure 5m away from the boundary with No 34 Shelbourne.
- 7.4.5. Overall I agree with the Case Planner that the scheme has been amended to a reasonable scale for a garden room at this location without causing significant adverse visual dominance impacts for adjacent properties. Taken together with the nature, location and scale of the scheme as amended I am satisfied that no undue visual impact will arise because of this proposal.

## **7.5. Residential Amenity**

- 7.5.1. I note the concerns raised that the height, scale and position of the scheme will create an overbearing impact to the detriment of adjoining residential amenity.
- 7.5.2. Having regard to the amended plans together with the location of the proposed development I do not consider that the scheme would if permitted, form an unduly overbearing or dominant element when viewed from the adjoining properties along Shelbourne Road or surrounding areas.
- 7.5.3. Furthermore I am satisfied that the design, scale, form and positioning of the structure as amended strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings, that it will not result in any significant over shadowing of adjoining properties or any unreasonable loss of natural light or overlooking to neighbouring residential properties.
- 7.5.4. Overall, I am satisfied that the amended plans will not adversely affect amenities enjoyed by the occupants of adjoining houses.

## 7.6. Security

- 7.6.1. I note the concerns raised with regard to risk of trespass to the site from the train line by means of the proposed structure.
- 7.6.2. As documented and observed on day of site inspection the existing structure is a combination of metal and plastic adjoining the railway wall and in line with a disused signal platform that is overgrown with planting.
- 7.6.3. The amended proposal is in excess of 2m distance from the railway line with a pitched roof and gable facing the railway line. I agree with the applicant that the existing structure offers a greater security risk.
- 7.6.4. Given the location and design of the proposed scheme, as amended I consider the proposal to be an improvement in terms of prohibiting unauthorised access to the site.

## 7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development comprising a garden room to the rear of an existing house and its 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.

## 7.8. Other Issues

- 7.8.1. **Development Contributions** – I refer to the Dublin City Council Development Contribution Scheme 2020-2023. Section 12 outlines circumstances where no contribution or a reduced contribution apply. There is no stated reference to a garden room or similar in the scheme and therefore is not subject to an exemption or reduction. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.
- 7.8.2. **Conditions** – I note the specific conditions attached by DCC in relation to the protection of trees on site (Condition No 4). I consider this conditions to be reasonable and integral to the proper planning and sustainable development of the scheme and

recommend that should the Board be minded to grant permission that similar conditions be attached. Condition No 3 below refers.

## 8.0 Recommendation

8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **GRANTED** for the following reasons and considerations.

## 9.0 Reasons and Considerations

9.1. Having regard to the residential zoning of the site in the Dublin City Development Plan 2016 – 2022, the pattern of development in the area and the layout and design of the scheme (as amended), it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. 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 on the 17 <sup>th</sup> April 2020 as amended by further plans and particulars submitted on the 20 <sup>th</sup> July 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. <b>Reason:</b> In the interest of clarity
2.	The garden room shall not be used for human habitation or for any use other than as a use incidental to the enjoyment of the dwelling house, unless

	<p>authorised by a prior grant of Planning Permission. The garden room shall not be sold, rented or leased independently of the house.</p> <p><b>Reason:</b> In the interests of residential amenity.</p>
3.	<p>Trees to be retained on the site shall be adequately protected during the period of construction as per BS 5837, such measures to include a protection fence beyond the branch spread, with no construction work or storage carried out within the protective barrier. The tree protection measures shall have regard to the Guidelines for Open space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division of Dublin City Council.</p> <p><b>Reason:</b> In the interests of amenity, ecology and sustainable development</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>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</p>

	<p>Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the 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.</p> <p><b>Reason:</b> 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</p>
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**Mary Crowley**

**Senior Planning Inspector**

**24<sup>th</sup> November 2020**