



An
Bord
Pleanála

Inspector's Report ABP-308520-20

Development	Retention of a single-storey outbuilding for ancillary family accommodation to rear of a house
Location	142 Ratoath Estate, Cabra, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB1535/20
Applicant(s)	Stephen Treacy
Type of Application	Permission & Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Stephen Treacy
Observer(s)	None
Date of Site Inspection	2 nd February 2021
Inspector	Colm McLoughlin

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1.0 Site Location and Description

1.1. The appeal site is located in the Cabra area of Dublin, approximately 4km northwest of the city centre and 400m from Broombridge Luas and rail stop. It has a stated area of 424sq.m with frontage onto Ventry Park and a gated rear service laneway. It contains a two-storey end-of terrace house with single-storey side extension and a hardstanding area to the front for off-street car parking. To the rear of the house is a garden area with ground levels dropping by approximately by 1m towards flat roof outbuildings abutting the rear boundaries and with doorways opening onto the rear laneway. The northern and lower outbuilding with windows and doors onto the garden space is the subject of this appeal and is stated to comprise a three-bedroom residential unit. The surrounding Cabra area is characterised by rows of terraced and semi-detached dwellings of similar styles in a uniform and symmetrical layout fronting onto tree-lined streets. Ground levels on site drop by 2.65m from the ground-floor level of the host house to the rear laneway approximately 28m to the west of the house.

2.0 Proposed Development

2.1.1. The development proposed for retention comprises the following:

- single-storey outbuilding with a stated gross floor area (GFA) of 79sq.m.

2.1.2. The proposed development comprises the following:

- change of use of an outbuilding with three-bedrooms to an ancillary family accommodation unit with two bedrooms, internal alterations and the installation of windows.

2.1.3. The planning application was accompanied by a cover letter setting out the planning context and rationale for the proposed development and the development proposed to be retained.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to refuse to grant retention permission for the following reason:

- Having regard to the detached, non-integrated nature of the ancillary accommodation structure, the proposed development does not comply with the provisions of Section 16.10.14 'Ancillary Family Accommodation' of the Dublin City Development Plan 2016-2022 which requires that 'The proposed accommodation is not a separate detached dwelling unit, and direct access is provided to the rest of the house and that the accommodation [be] integral with the original family house [and] shall remain as such when no longer occupied by a member of the family'. The proposed development would, therefore, be contrary to the provisions of the Dublin City Development Plan, be out of character with the pattern of development in the area, would seriously injure the amenities of properties in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (September 2020) reflects the decision of the planning authority and can be summarised as follows:

- the applicant has not made a sufficiently strong case to support the application proposals;
- direct access to the host house must be provided in order to comply with the provisions of the Dublin City Development Plan 2016-2022 regarding ancillary family accommodation;
- the two cases referenced in the applicant's cover letter asserted to provide precedent for the proposed development, involved ancillary family accommodation structures with direct attached access to their respective host houses in contrast to the subject detached proposals;

- the additional windows would not be acceptable given that they are linked to the retention proposals for the outbuilding.

3.2.2. Other Technical Reports

- Roads, Streets & Traffic Department – no objection subject to conditions.
- Engineering Department (Drainage Division) - no objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland – no response;
- Irish Rail – no response;
- Irish Water – no response;
- National Transport Authority – no response.

3.4. Third-Party Observations

3.4.1. None received.

4.0 Planning History

4.1. Appeal Site

4.1.1. The following planning application relates to the appeal site:

- Dublin City Council (DCC) Ref. 5845/07 – permission granted by the planning authority (December 2016) for a two-storey office / storage building at the rear garden with access onto the laneway. Condition no.2 of the permission stated that the permitted shed should not be used for human habitation and that it could be used for uses incidental to the enjoyment of the host house.

4.1.2. The appellant has stated that there is an enforcement case (DCC Ref. E0781/19) relating to the appeal site.

4.2. Surrounding Sites

- 4.2.1. Reflective of the surrounding established residential context, there have been numerous applications and appeals for domestic extensions and alterations to properties in the immediate area, none of which are of particular relevance to the subject appeal.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z1 – Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect, provide and improve residential amenities'. Residential use is a permissible use in this area. The site is located approximately 1.9km outside the 'inner city' zone, as illustrated within Map K of the Development Plan.
- 5.1.2. Relevant planning policies for the proposed development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Section 16.10.14 of the Plan is particularly relevant to this appeal, as this addresses 'ancillary family accommodation' and outlines that an extension to a family dwelling to accommodate a family member must comply with the following:
- a valid case is made with regard to 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.
- 5.1.3. Matters to be considered in assessing proposals for extensions and alterations to dwellings are outlined under Section 16.10.12 of the Plan, while Section 16.10.13 addresses the subdivision of dwellings.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows:

- the subject 'granny-flat' proposals provide for an extension of the family living space serving this existing residential property;
- it is not proposed to sub-divide the property or provide a standalone house. The access onto the laneway would remain, but would not be the primary access;
- proposals are appropriate relative to the Z1-zoning objectives for the area and also under the reasonable understanding of the criteria set out within section 16.10.14 of the Development Plan addressing ancillary family accommodation;
- while being above the floor area requirements, proposals converting this part of the house would normally be considered exempt under the terms of Class 1 of Part 1 to Schedule 2 of the Planning and Development Regulations 2001-2020, subject to not imposing on residential amenity, which they do not impose on;
- proposals would accord with the terms set out in section 16.10.12 of the Development Plan relating to 'extensions and alterations to dwellings';
- the site and the entire area of Dublin is within a designated rent pressure zone, where it is Government policy to support the provision of affordable housing and the National Planning Framework policy objectives (NPO11 and NPO13) support the development of this type of urban brownfield site. As these policies supersede the preparation of the Dublin City Development Plan 2016-2022 they are of particular relevance in the assessment of the appeal;
- proposals would see the quality of the existing residential accommodation in the outbuilding being improved;

- there is limited capacity to extend the host house and there would be sufficient private amenity space for the host house, as well as the ancillary family accommodation;
- the appellant is happy for a condition to be attached tying the ancillary family accommodation to the host house;
- other planning authority Development Plans, such as the Wicklow County Development Plan 2016-2022, allow for the conversion of detached outbuildings for use as independent-living units in exceptional circumstances, where the structures are in very close proximity to the host house;
- precedent permissions for the subject proposals are provided by DCC planning register references WEB1179/19 (Coolock) and WEB1243/19 (Drimnagh), as well as Wicklow County Council register reference 15/140, which included a condition tying the permitted 'granny flat' to the host house;
- strict literal determination of the appropriateness of the development against Development Plan clauses, fails to appreciate the broader societal benefits in permitting this development and the need for same in the context of the existing poor provision of affordable housing supply within the city.

6.2. Planning Authority Response

- 6.2.1. The response from the planning authority to the grounds of appeal states that they will rely on the Planning Officer's report for the application in justifying their decision.

6.3. Observations

- 6.3.1. None received.

7.0 Assessment

7.1. Introduction

- 7.1.1. The development would not involve an extension of the existing outbuilding on site. Given the nature, scale and layout of the development, potential impacts on the residential amenities of neighbouring properties arising from excessive overlooking,

overbearing impacts or overshadowing, would not arise. Consequently, I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Zoning;
- Design;
- Layout & Planning Provisions.

7.2. Zoning

7.2.1. The subject development generally proposes the retention of an existing single-storey rear outbuilding for use as an ancillary family accommodation unit, alongside modifications to the internal layout of the outbuilding to provide for two bedrooms and the installation of windows. Permission dating from February 2008 allowed for the existing adjoining two-storey outbuilding on the appeal site to be used for ancillary office and storage space (DCC ref. 5845/07). This 2008 permission indicated that the subject outbuilding was in use as a shed at that time, and in the interim it has subsequently been converted to a three-bedroom residential unit, which the appellant states serves as an extension of the family accommodation on this site.

7.2.2. Under the provisions of the Dublin City Development Plan 2016-2022, the principle of residential development, including ancillary family accommodation, on the subject lands zoned 'Z1 – Sustainable Residential Neighbourhoods' is acceptable, subject to planning and environmental considerations, as addressed below.

7.3. Design

7.3.1. The revisions to the residential accommodation would result in a two-bedroom unit with en-suite bathrooms and an amalgamated kitchen and dining area with a bathroom off this, in total measuring 79sq.m. A reasonable quantum of the rear garden (79sq.) would be sectioned off via planting to provide separate amenity space for the ancillary family accommodation and the host house. The Roads, Streets & Traffic Division of the planning authority has advised that given the proximity of the site to public transport services and the proposed use of the

outbuilding for ancillary family accommodation, the absence of car parking specifically designated for this accommodation would be satisfactory. I am satisfied that the accommodation and private amenity area is of sufficient quality and area to provide a suitable level of amenity for future family occupants. Furthermore, I am satisfied that those aspects of the proposed development for retention relating to the additional windows to the outbuilding would have limited impact on the appearance of the structure and would not be highly visible from the immediate surrounds, which is not assigned any conservation status. Consequently, the proposed development would not have a substantive impact on the visual amenities of the area.

7.4. Layout & Planning Provisions

- 7.4.1. Section 16.10.14 of the Development Plan provides specific guidance for ancillary family accommodation where an extension to an existing house 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 accommodation should also be capable of being re-integrated into the host house when no longer needed as ancillary family accommodation. The cover letter accompanying the planning application and the grounds of appeal state that the accommodation would provide additional living accommodation for the immediate family of the appellant with an inference in the cover letter to being for the appellant's daughter.
- 7.4.2. The unit is a stated 19.7m from the host house and would have access from both the rear garden area and from the rear laneway. As such, the ancillary family accommodation would not be proximate and would be disconnected from the host house. While potentially being accessible from the front of the host house, separate independent access from the rear laneway would also be available to the ancillary family accommodation. The appellant asserts that the Development Plan provides some scope for detached structures to be used for ancillary family accommodation, however, I am satisfied that the Development Plan is explicit in requiring the accommodation to have direct connectivity with the remainder of the host house and in requiring the accommodation to be re-integrated into the host house when the respective family members no longer require it.

- 7.4.3. The appellant's rationale for requiring the accommodation to serve their daughter or another immediate family member, appears to be largely based on their assertion that at present there is a poor supply of affordable housing in the area and that based on the strategic objectives for housing delivery contained in the National Planning Framework, there is scope and a need to permit this type of development. Dublin City Development Plan 2016-2022 includes a suite of policies aimed at the delivery of housing, including affordable housing, and the particular provisions with respect to development comprising ancillary family accommodation are clearly set out with precise requirements. Asides from the identifying a general housing need, the specific individuals needs for allowing an immediate member of the appellant's family to occupy the subject accommodation has not been sufficiently presented in the application and appeal, and as such a valid case to permit the accommodation has not been provided. While the appellant has not outlined the temporary period for which the accommodation would be required, I am satisfied that a condition could be attached to address same in the event of a permission being granted.
- 7.4.4. Consequently, the proposed use of a detached separate building as ancillary family accommodation for which a valid rationale specific to this case has not been provided would not comply with the provisions for this type of development, as set out under section 16.10.14 of the Development Plan. Furthermore, the development would also fail to comply with the Development Plan requirements, as it would not have direct internal connectivity to the remainder of the host house, it would have no scope to be re-integrated as accommodation in the host house and as there would be potential for the accommodation to be served by an independent access off the rear laneway.
- 7.4.5. While it is well recognised that affordable housing delivery is a significant matter to be addressed via the planning and development system, in failing to comply with the required Development Plan provisions, the subject proposals of a haphazard backland nature would not provide for a co-ordinated and rationale means in delivering additional housing. Furthermore, I recognise that the appellant has referred to various other reasons to circumvent the provisions of the Development Plan, including reference to three asserted planning precedent cases in Dublin and Wicklow, and the exempted development provisions contained within the Planning and Development Regulations 2001-2020. Notwithstanding this, I fail to see how

these asserted reasons can reasonably be considered to provide justification or exceptional circumstances for the subject proposals to overcome the clear and unambiguous Development Plan provisions in this case.

- 7.4.6. In conclusion, I consider that a valid case has not been set out for the ancillary family accommodation and the layout of the proposed ancillary family accommodation, disconnected from the host house and with separate access from the rear laneway, would fail to comply with the requirements for ancillary family accommodation set out under section 16.10.14 of the Development Plan. To allow for same would set an undesirable precedent for further such developments in the area and permission and retention permission for the development should be refused in these circumstances.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development, including the development to be retained, the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is 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.

9.0 Recommendation

- 9.1. I recommend that planning permission and retention permission should be refused to be granted for the development, for the reasons and considerations set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature and layout of the proposed development and the development proposed for retention, and to the provisions of the Dublin City Development Plan 2016-2022, it is considered that, the proposed development and the development proposed to be retained would constitute a haphazard form of development and would fail to comply with the provisions of section 16.10.14 of the Dublin City Development Plan 2016-2022 relating to ancillary family accommodation, as a valid case has not been set out for the ancillary family accommodation to

accommodate immediate family members from the host house, as the layout of the proposed ancillary family accommodation would not have direct connectivity to the remainder of the host house, as it would not have scope to be re-integrated as accommodation in the host house and as there would be potential for the accommodation to be served by an independent access off the rear lane. The proposed development and the development proposed to be retained would set an undesirable precedent for further such developments in the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

2nd February 2021