



An  
Bord  
Pleanála

## Inspector's Report ABP-308731-20

<b>Development</b>	Construction of a single storey detached Garden Room and all associated site works.
<b>Location</b>	252 Foxrock Close, Deansgrange, Dublin 18.
<b>Planning Authority</b>	Dún Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D20B/0273
<b>Applicant(s)</b>	John Murray & Annette Kent
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	Angie Long
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	10 <sup>th</sup> February, 2021
<b>Inspector</b>	Robert Speer

## **1.0 Site Location and Description**

- 1.1. The proposed development site is located at No. 252 Foxrock Close, Deansgrange, Dublin 18, where it occupies a corner plot at the end of a small cul-de-sac of mature housing predominantly characterised by traditional, two-storey, semi-detached dwellings interspersed with more recent conventional housing construction arising from the subdivision of side / rear garden areas. It has a stated site area of 0.054 hectares, is broadly rectangular in shape, and is occupied by a two-storey, semi-detached property which has been extended to the side and rear through the construction of a new contemporary addition, with a large side garden area and off-street parking. It is bounded by Deansgrange Cemetery to the northwest and by established housing development along the remainder of the site perimeter. The adjacent lands to the immediate south / southeast are occupied by a single storey dwelling house known as 'Rose Cottage' with the accessway / right-of-way serving same passing directly alongside the shared site boundary which is in turn defined by a variety of timber panel / trellis-type fencing (with a metal post and rail fence also in place along the inside of the application site boundary).

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the construction of a freestanding, single storey ('OMCO') 'garden room' in the side / rear garden area of the existing semi-detached property occupied by No. 252 Foxrock Close. It is generally based on a simple rectangular plan with a mono-pitched roof construction and has a stated floor area of 18m<sup>2</sup> with an overall height of 2.784m. External finishes include 'shiplap' dark grey board cladding (with the exception of the rear elevation which is to be fitted with 'Eco-board') and an EPDM roof covering. Surface water runoff from the structure will be drained to an existing on-site soakaway.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. On 29<sup>th</sup> October, 2020 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 5 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars.

Condition No. 2 – Requires the proposed garden room to be used solely for purposes incidental to the enjoyment of the dwelling house and states that it is not to be used for human habitation or for the carrying out of any trade or business.

Condition No. 3 - Refers to the surface water drainage arrangements.

Condition No. 4 - Requires the applicant to prevent any mud, dirt, debris or building material from being carried onto or placed on the public road or adjoining property as a result of the construction works and to repair any damage to the public road arising from the carrying out of those works.

Condition No. 5 – Refers to the hours of construction.

#### 3.2. Planning Authority Reports

3.2.1. *Planning Reports:*

Details the site context, planning history, and the applicable policy considerations, before stating that the overall principle of the proposed development is acceptable and that it will not seriously injure the residential or visual amenities of the area or of property in the vicinity. The report thus concludes by recommending a grant of permission, subject to conditions.

3.2.2. *Other Technical Reports:*

*Drainage Planning, Municipal Services Dept.:* No objection, subject to conditions.

#### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

- 3.4.1. A single submission was received from the appellant, however, in the interests of conciseness, and in order to avoid unnecessary repetition, I would advise the Board that the principle grounds of objection / areas of concern raised therein can be derived from my summation of the grounds of appeal.

## 4.0 Planning History

### 4.1. On Site:

PA Ref. No. D14B/0179. Was granted on 21<sup>st</sup> August, 2014 permitting John Murray & Annette Kent permission for a two-storey extension to the side and rear of the existing semi-detached dwelling, elevational alterations and all associated site works.

## 5.0 Policy and Context

### 5.1. Development Plan

#### 5.1.1. ***Dún Laoghaire Rathdown County Development Plan, 2016-2022:***

##### *Land Use Zoning:*

The proposed development site is located in an area zoned as 'A' with the stated land use zoning objective '*to protect and / or improve residential amenity*'.

##### *Other Relevant Sections / Policies:*

##### *Chapter 8: Principles of Development*

##### *Section 8.2: Development Management*

##### *Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas: (iv) Detached Habitable Room:*

This can provide useful ancillary accommodation such as a playroom, gym or study for the main residence. It should be modest in floor area and scale, relative to the main house and remaining rear garden area. The applicant will be required to demonstrate that neither the design nor the use of the proposed structure will detract from the residential amenity of adjoining property or the main house.

Any such structure shall not be to provide residential accommodation for a family member / granny flat.

**5.1.2. Deansgrange Local Area Plan, 2010-2020:**

*Chapter 3: Movement and Accessibility:*

*Objective T9:* It is an objective of the Council, in conjunction with the local community, to assess the extent of QBC related all day parking on residential streets in the area and where necessary examine the potential for implementing measures aimed at alleviating any adverse impacts by the introduction of the Council's paid parking strategy.

*Chapter 7: Residential:*

*Section 7.4.1: Infill Residential Development:*

In addition to County Development Plan criteria, there is a need for additional development control measures to protect the amenities of both Foxrock Grove and Foxrock Close. These residential cul-de-sac streets have come under significant development pressure over the past two decades for infill residential development in the side and rear garden areas of the original dwellings. This has resulted in a substantial increase in demand for on-street parking to the extent that there is now a concern that any further increase in demand for on-street parking provision, would result in serious congestion and detract from the amenities of the existing dwellings. To address this, the following is an objective of the Council:

*Objective R1:* It is an objective of the Council to require the following:

That any future infill residential developments within both Foxrock Grove and Foxrock Close will have to provide adequate off-street parking provision within the curtilage of the site to cater for the proposed development. Car parking spaces to be provided as follows: 1 space for a 1-2 bedroom unit, 2 spaces for 3 bedroom units or larger.

That any future infill residential developments within both Foxrock Grove and Foxrock Close shall not result in the

displacement of any existing off-street parking provision for existing dwellings.

## **5.2. Natural Heritage Designations**

5.2.1. The following natural heritage designations are in the general vicinity of the proposed development site:

- The South Dublin Bay Proposed Natural Heritage Area (Site Code: 000210), approximately 2km north-northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 2km north-northeast of the site.
- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 2km north-northeast of the site.
- The Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code: 001206), approximately 3.0km northeast of the site.

## **5.3. EIA Screening**

5.3.1. Having regard to the minor nature and scale of the development proposed, the site location outside of any protected site, the nature of the receiving environment in an existing built-up area, the intervening pattern of development, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The appellant was not consulted or afforded the opportunity to review or discuss the proposed plans in advance of the lodgement of the planning application.

- When taken in conjunction with the existing concrete shed on site, the proposed garden room will form a second independent structure of a substantial size within the garden area and will have a cumulative negative impact on the residential and visual amenity of the appellant's neighbouring property.
- The proposed shed will be visually dominant and will protrude significantly over the screen fencing along the shared site boundary. It will be visually incongruous and seriously injurious to the residential amenity of the appellant's dwelling house.
- The submitted plans and particulars include the following inaccuracies / deficiencies:
  - The floor area (18m<sup>2</sup>) of the proposed shed does not correspond with the dimensions shown on the submitted plans.
  - No details have been provided of the existing boundary fence and hedgerow between the proposed development and the neighbouring property known as 'Rose Cottage'. Furthermore, the existing fence is generally c. 1.5m in height and not 2.4m high as has been stated in the planning report prepared by the Local Authority.
  - Inadequate details have been provided of the finished floor / ground levels of the proposed development relative to the site boundary and the adjacent property (i.e. 'Rose Cottage'). In this regard, it should be noted that there is a noticeable fall in ground levels from the roadway towards Rose Cottage which would increase the impact of the overall height of the proposed garden room.
- No use for the proposed garden room has been detailed and there are serious concerns that it may be used for commercial purposes which could potentially give rise to increased traffic and the obstruction of private entrances at the end of the cul-de-sac where there is already restricted vehicular access and parking available.

- Any use of the proposed garden room should be ancillary to the residential use and enjoyment of the main dwelling house and should not comprise a separate or independent commercial use.
- There are concerns that surface water runoff from the proposed development will drain towards the appellant's property resulting in the flooding of same.
- Inadequate information has been provided as regards the surface water drainage arrangements and it is considered that the conditions imposed by the Planning Authority are insufficient to prevent surface water flooding of the appellant's property given its proximity to the site boundary and the direction of runoff. This issue could be ameliorated were the shed to be relocated to the northern site boundary with drainage to a soakaway in the vicinity of that boundary.
- The proposed garden room will be within 600mm of the shared site boundary and c. 8m from the main living room window of the appellant's dwelling house whilst the height of the construction will extend approximately 1.4m over the boundary fence. In this regard, it is considered that the proposed development will be visually incongruous when viewed from the appellant's dwelling house and on the approach to same. Furthermore, any activity or use of the shed will be immediately impactful on the appellant's property / dwelling house. In addition, the proximity of the structure to the boundary fence leaves inadequate space for any landscaping or screening of the development. Such impacts could be avoided if the shed were to be relocated to a position alongside the northern site boundary with suitable screen fencing / hedging provided within the confines of the application site.
- There is a need for appropriate mitigation to be included by way of condition in the event of a grant of permission to ensure that the following issues are addressed in order to preserve the residential amenity of the appellant's property:
  - The relocation of the proposed garden room to the northern site boundary and its reorientation to face towards the graveyard.
  - That the use of the proposed shed is ancillary to the enjoyment of the main dwelling house.

- That screen planting is provided along the boundary shared with 'Rose Cottage' to ameliorate the visual impact of the development.
- The decision to grant permission does not reflect the intent of the applicable land use objective which aims '*to protect and improve residential amenity*' given that the proposal will have an adverse impact on the amenity of the appellant's dwelling house and garden area.
- Inadequate consideration has been given to the fact that the appellant's dwelling house is a bungalow and that its front garden / patio area serves as its principle private amenity space given its secluded location set back from the public road. Furthermore, no comment has been made on the height of the proposed shed relative to the bargeboard of the appellant's cottage and its associated visual dominance. In this respect, it is submitted that the design and siting of the proposed development will be visually obtrusive when viewed from the appellant's property.
- 'Rose Cottage' is located at a lower elevation than the applicant's garden area and in this context the proposed shed will protrude c. 1.4 / 1.5m above the existing fence. This will give rise to significant visual intrusion and a general loss of amenity to the appellant's property.
- The siting of the proposed shed relative to the appellant's cottage will have a detrimental impact on the residential amenity of the latter by reason of overshadowing / loss of daylight and / or sunlight, increased noise, and general disturbance.
- The proposed shed is positioned over an existing surface water drain and no provision has been made to revise this arrangement despite the inclusion of Condition No. 3 in the decision to grant permission. Furthermore, the aforementioned condition would seem to allow the soakaway to be located proximate to the site boundary and thus could potentially result in surface water runoff draining into the appellant's property. In addition, no provision has been made for any attenuation of surface water runoff on site. These concerns could be avoided if the proposed shed were to be relocated to a position alongside the northern site boundary.

- There is ample space within the site to relocate the proposed shed whilst maintaining a setback of more than 10m from the applicant's own dwelling house. Such a revision would also allow the shed to be screened from view by way of appropriate landscaping.
- Having regard to the location of the proposed shed relative to the neighbouring property boundary, the length of the shed alongside that boundary, the height of the shed above the boundary fence, and in the absence of any plan for surface water attenuation, it is considered that the proposed development would detract from the visual and residential amenity of the neighbouring property contrary to the applicable land use zoning objective.
- In the event the Board is minded grant permission, conditions should be imposed to address the following:
  - The relocation of the proposed shed to a position alongside the northern site boundary and its reorientation to face towards the graveyard.
  - The provision of landscaping / planting alongside the shared boundary in order to mitigate the visual impact.

## 6.2. Applicant Response

- The applicants maintain cordial relations with their neighbours and it is understood that dialogue had been ongoing throughout the planning process while the site notice was in place. No concerns with respect to the proposed garden room were raised at that time by the appellant.
- The existing shed on site falls within the exempted development provisions of the Planning and Development Regulations, 2001, as amended, and is used for the storage of garden tools and other equipment normally associated with a household.
- The view of the existing shed (Photo 1) shown in the grounds of appeal has been taken from an elevated position to the rear of 'Rose Cottage' and is not a fair representation of the impact given that the existing hedging / fencing

obscures this view at ground level. Similarly, the second image (Photo 2) is from a shared right of way between No. 168 Foxrock Close and 'Rose Cottage' to the rear of same.

- With regard to the alleged inaccuracy / inadequacy of the submitted plans, the dimensions referenced are the external footprint measurements and do not relate to the internal floor area. For the purposes of clarity, the Board is referred to the accompanying reference plan which shows that the internal dimensions of the proposed garden room equate to a floor area of 17.92m<sup>2</sup> (which has been rounded to 18m<sup>2</sup>).
- It is understood that pre-existing hedgerows were removed by the neighbouring property owner in October, 2020 and replaced with fencing of varying heights along the shared site boundary.
- The proposed garden room will not be located adjacent to 'Rose Cottage', although it will be positioned in line with the existing right of way between No. 168 Foxrock Close to the front and 'Rose Cottage' to the rear.
- The proposed development will provide additional space primarily for use as a home office although it will also be used for occasional family use. It will not be used as a commercial unit and its use will be ancillary to the main dwelling in accordance with Condition No. 2 of the notification of the decision to grant permission.
- A single rainwater outlet will serve the proposed garden room (as indicated on Drg. No. PLA002 & Garden Room GA). This will connect to the existing soakaway as designed in accordance with the conditions attached to the previous grant of permission issued on site under PA Ref. No. D14B/0179.
- The prefabricated construction will be placed on ground-screws and will not interfere with the depth of existing drainage.
- The proposed garden room will be situated alongside the right of way to the neighbouring property and in this respect it is reiterated that the adjacent boundary treatment has been diminished on the neighbour's side through the removal of the pre-existing hedging and the erection of fencing of varying heights. The proposed development at a height of 2,677mm to this side would

measure approximately 1,117mm above the existing fencing along the right of way and 677mm above the fence at Rose Cottage, albeit not in the same vicinity. The location of the proposed garden room is presently occupied by a child's swing and a climbing frame which is 2,650mm in height and has been in position for over 5 No. years.

- The suggested relocation of the garden room is not accepted as the proposal will not impede use of the right of way nor will the structure appear imposing given its height of 2,677mm to this side.
- The request to provide new boundary treatment is not credible given that all the pre-existing hedgerow was removed by the adjacent property owner.
- There are clear inaccuracies within the grounds of appeal as regards the perceived location of the garden room relative to 'Rose Cottage' and it is considered that the information provided serves to clarify the position.
- The proposed garden room will be located to the north of Rose Cottage in alignment with the shared right of way. It will also be situated behind existing 2.4m high screening which comprises a planted pergola structure that signals the entrance to the appellant's property as illustrated in the accompanying images.

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

- States that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

### **6.4. Observations**

None.

### **6.5. Further Responses**

None.

## 7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Impact on residential amenity
- Other issues
- Appropriate assessment

These are assessed as follows:

### 7.2. Impact on Residential Amenity:

- 7.2.1. Concerns have been raised in the grounds of appeal that the proposed 'garden room' will have a detrimental impact on the visual and residential amenity of the neighbouring dwelling house ('Rose Cottage') to the immediate south / southeast by reason of the overall scale, height, massing, and proximity of the new construction. In this respect, it has been submitted that the proposal will be visually overbearing / incongruous when viewed from within the appellant's property as it will protrude over the existing fence along the shared site boundary with the impact exacerbated by the difference in ground levels between the two sites. Reference has also been made to the inability to satisfactorily mitigate the potential visual impact given the close proximity of the proposed structure to the site boundary which serves to militate against the provision of any effective landscaping or screening.
- 7.2.2. In addition to the foregoing, it has been asserted that the proposed development will overshadow the neighbouring property whilst the increased noise and general disturbance attributable to use of the 'garden room' will detract from the enjoyment of the appellant's front garden / patio area (which serves as the principle private amenity space for her house given its secluded location set back from the public road). Accordingly, as an alternative to the subject proposal, it has been suggested that the proposed development should be relocated to a position alongside the northern site boundary with the construction orientated to face towards the adjacent cemetery and screen planting provided along the boundary shared with 'Rose Cottage' in order to ameliorate the visual impact.

- 7.2.3. Whilst I would acknowledge the appellant's concerns, having regard to the site context, including its location within a built-up urban area bounded by existing housing, the surrounding pattern of development, and the nature, scale and design of the development proposed, I am satisfied that the subject proposal will not give rise to any significant impact on the residential amenity of neighbouring properties, by way of overlooking, overshadowing, or an unduly visually prominent or overbearing appearance / influence. In this regard, I would draw the Board's attention in particular to the separation between the appellant's dwelling house and the siting of the proposed 'garden room' alongside the neighbouring access / driveway, the modest scale of the construction proposed (particularly in the context of comparable structures permissible as exempted development pursuant to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended), the marginal change in levels between the respective properties, and the level of screening provided by the existing fencing along the intervening site boundary. Furthermore, in light of the intended use of the proposed 'garden room' primarily as a home office and for purposes ancillary to the main dwelling, I am unconvinced that it will give rise to any additional noise or disturbance beyond that which would normally be associated with a residential property (noting that the area in question is already used for child's play and is occupied by play equipment as would be typical of a family home).
- 7.2.4. With respect to the suggestion that the proposed 'garden room' could be used for commercial purposes, in my opinion, any such concerns can be satisfactorily addressed by way of condition in the event of a grant of permission by requiring the development to be used solely for purposes incidental to the enjoyment of the dwelling house as such and by prohibiting its use for human habitation or for any business or commercial purpose.
- 7.2.5. Finally, in relation to the surface water drainage arrangements, it is proposed to divert runoff from the new construction to an existing on-site soakaway which has seemingly been designed in accordance with the conditions attached to the previous grant of permission issued on site under PA Ref. No. D14B/0179. It has also been indicated that the prefabricated construction of the development will be placed atop ground-screws and thus will not interfere with the depth of existing drainage. Accordingly, in light of the foregoing, which would appear to satisfy the requirements

of the Drainage Planning Division of the Municipal Services Dept. of the Local Authority, and noting the relatively minor scale of the works proposed, I am satisfied that any outstanding issues with regard to surface water drainage can be satisfactorily addressed by way of condition in the event of a grant of permission.

### **7.3. Other Issues:**

#### **7.3.1. *Lack of Consultation:***

Notwithstanding the assertion by the appellant that she was not consulted with respect to the proposed development in advance of the planning application and the subsequent response by the applicants that there had been dialogue with their neighbours during the planning process and that no concerns had been raised by the appellant at that time, there is no statutory requirement for either applicants or prospective applicants to inform, or to engage in consultation with, neighbouring landowners as regards their development proposals. Instead, the planning process affords third parties the opportunity to make written observations on individual planning applications and to appeal the decision of the Planning Authority. The merits or otherwise of this approach are not pertinent to the determination of this appeal.

#### **7.3.2. *The Accuracy / Adequacy of the Submitted Drawings***

With regard to the accuracy and adequacy of the submitted plans and particulars, given the limited nature of the works proposed, it would appear that the Planning Authority was satisfied that the application accorded with the requirements of the Regulations. In this regard, I do not intend to comment further other than to state that I am satisfied that there is sufficient information available to permit a fair and reasoned assessment of the proposal under consideration.

### **7.4. Appropriate Assessment:**

- 7.4.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## 8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dún Laoghaire Rathdown County Development Plan, 2016-2022, and to the nature, scale, form and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of property in the vicinity, and 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. Water supply and drainage arrangements, including the 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.

4. All service cables associated with the proposed development, (such as electrical, telecommunications and communal television), shall be located underground.

**Reason:** In the interests of visual and residential amenity.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the garden room shall be used solely for purposes incidental to the enjoyment of the dwelling house as such and shall not be used for human habitation or for any business or commercial purpose, unless otherwise authorised by a prior grant of planning permission.

**Reason:** To protect the amenities of property in the vicinity and in the interest of clarity.

6. 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.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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Robert Speer  
Planning Inspector

11<sup>th</sup> February, 2021