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Bord  
Pleanála

## Inspector's Report ABP 309338-20

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<b>Development</b>	Enclosure for cats at ground and first floor level to rear of house.
<b>Location</b>	13 Hammond Street, Dublin 8.
<b>Planning Authority</b>	Dublin City Council
<b>P.A. Reg. Ref.</b>	3682/20
<b>Applicant</b>	Andrew Murray and Klaudia Prasek
<b>Type of Application</b>	Permission for Retention.
<b>Decision</b>	Refuse Permission for Retention.
<b>Type of Appeal</b>	First Party x refusal
<b>Appellant</b>	Andrew Murray and Klaudia Prasek
<b>Observer</b>	Kevin and Kathleen Murray.
<b>Date of Inspection</b>	1 <sup>st</sup> September, 2021.
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

- 1.1. The site of the proposed development is that of a terraced house with a single storey extension into the rear yard midway along the southwest side of Hammond Street in a residential area to the west side of the South Circular Road. The houses, some of which have been extended open directly onto the street and have small, enclosed back yard/private garden spaces. To the southwest at the rear there are terraced and semi-detached houses with deep rear gardens which face onto the northeast side of Clarence Mangan Road.
- 1.2. At No 13 Hammond Street, the application site there is an enclosure constructed in timber with wire meshing has been erected at ground and at first floor level at the rear of the dwelling.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for permission for retention, of the enclosure constructed in timber which is a domestic cat enclosure (a catio) which has a stated floor area of twelve square metres. It is required for outdoor space for three pedigree cats. The 'catio' is stated to be constructed in timber and wire mesh with a net roof. According to the application, the retention of the enclosure is required for a two-year period only because the house which is uninhabitable is undergoing renovation but the works were delayed by the Covid restrictions.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated, 4<sup>th</sup> January, 2021 the planning authority decided to refuse permission for retention based on the following reason.

*Having regard to the pattern of development in the area, the design, scale and use of the development to be retained, it is considered that the development would be overbearing, would appear visually incongruous and would have a negative impact on the character of the dwelling and on adjoining residential*

*amenity. The proposed development would therefore by itself and by reason of the undesirable precedent it would set for similar substandard development in the area devalue property in the vicinity and would be contrary to the proper planning and sustainable development of the area.*

### **3.2. Planning Authority Reports**

- 3.2.1. The planning officer in recommending a refusal of permission for retention his report indicates concerns as adverse impact on the amenities of the adjoining property due to visual incongruity and overbearing effect.

### **3.3. Third Party Observations**

A submission was lodged by the observer party of No 14 Hammond Street the adjoining property on 16th November, 2020 indicating objections on grounds of fire hazard, overlooking, adverse visual impact and intrusive on the residential amenities of the adjoining properties.

## **4.0 Planning History**

There is no record of planning history for the application site.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 (CDP) according to which the site is subject to the zoning objective Z1: *“To protect, provide for and improve residential amenities.”*

Indicative site coverage is 45 to 60 percent. (Section 16.6) Indicative Plot Ratio is 0.5-2.0 (section 16.5)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. An appeal was received from Gerard Spillane on behalf of the applicants on 1<sup>st</sup> February, 2021.

6.1.2. Attached to the appeal are:

An appeal statement prepared by the applicants.

Photographs of the enclosure.

letters of support for the proposed development prepared by the occupants of Nos 12 and 16, Hammond Street a short distance to the north of the application site and Nos 60, 61 and 62 Clarence Mangan Road the rear gardens of which adjoin the rear boundaries of the houses on Hammond Street.

References to published material and commercial literature.

6.1.3. According to the appeal statement:

- The structure is an indoor enclosure in wire mesh timber and net in use as “catio” which is not defined in the Planning Acts. The applicant has three pedigree cats and the catio is a means of providing outdoor enrichment and safety for the cats who live mainly indoors. It is a ‘home built’ temporary structure. The flat roof of the house extension was used (for the upper level of the catio) because the garden, into which an extension has been built is very small. The structure does not cover the entire garden.
- The applicant was unaware that the roof level element is not exempt development whereas the planning authority has advised that the ground level construction could be retained without a requirement for planning permission. Privacy between the properties can only be achieved by adding to the height of the wall. The roof level, which is behind the two-storey extension at No 14 Hammond Street is solely occupied by the cats and the owners do not use the roof where the upper part of the ‘catio’ is located.

#### 6.1.4. According to the appeal grounds:

- Overlooking of the adjoining property the party wall with which is 1.5 metres measured from the application site side, is not attributable to the catio
- Many residents have confirmed their support for the catio. The structure can be improved visually by paint and floral decorations but it is not visible from the public streets.
- There is no evidence that the catio devalues property. The property's value has risen from 320,000 to 350,000 in a valuation in January.
- The applicant is willing to move the catio a little further from the extension at No 14 Hammond Street if required, having regard to section 16 10.12 of the CDP.
- The planning authority is incorrect on assuming that the 'catio' comes into the category of house extensions as it is an enclosure rather than an extension of the floor area of the house.

#### 6.2. **Planning Authority Response**

There is no submission from the planning authority on file.

#### 6.3. **Observations**

A submission was received from Kevin and Kathleen Murray on their own behalf on 9<sup>th</sup> February, 2021. Their property at No 14 Hammond Street adjoins the application site property and is a two-storey terraced house with a single storey rear extension.

According to the submission, the cat enclosure: -

- Has been constructed on the boundary with the wall of the extension being damaged:
- Is a fire hazard,
- Is an eyesore,
- Overlooks and affects enjoyment of the air in the back garden at No 14 Hammond Street. It is also stated that it.

## 7.0 Assessment

- 7.1.1. The structure was inspected from rear yard space of the adjoining property along the party boundary of which there is a wall circa 1.5 metres in height.
- 7.1.2. The dwelling and plot sizes for the terraced houses along Hammond Street are modest in size and several have been extended to the rear with development being compact and outdoor space being very restricted. Given this context, the patio structure at full height at first floor level is excessive in scale, is overbearing, visually intrusive and the adverse impact of the sense of enclosure at the adjoining property is exacerbated. The applicant's suggestion in the appeal that a possible solution would be to raise the height of the party wall height with the adjoining property, (which would require the consent of the adjoining property owner) would also exacerbate sense of enclosure. Bearing this in mind, the planning authority decision to refuse permission for retention is supported
- 7.1.3. There is no objection in principle to an outdoor enclosure for use by a small number of cats cared for as pets at a dwelling associated with residential use. However, the subject proposal is unacceptable at the subject property due to scale and height in view the small and confined nature of the dwellings and rear private open space of the properties along Hammond Street as it seriously injures residential amenities of adjoining property.

## 7.2. Environmental Impact Assessment.

- 7.2.1. Having regard to the nature of the proposed development and its location removed from any sensitive locations or features, there is no real likelihood of significant adverse effects on the environment. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

## 7.3. Appropriate Assessment.

- 7.3.1. Having regard to the scale and nature of the proposed development and to the location removed from any European Sites no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1.1. In view of the foregoing, it is recommended that the planning authority decision to refuse permission for retention be upheld based on the reasons and conditions set out below.

## 9.0 Reasons and Considerations

Having regard to the confined plot size and restricted private open space at the rear of the terraced dwellings at Hammond Street, several of which have been extended to the rear and to the size, height and materials of the cat enclosure, it is considered that the proposed development seriously injures to the residential amenities of adjoining property by reason of visual obtrusiveness and overbearing impact. As a result, the proposed development is contrary to the proper planning and development of the area.

**Jane Dennehy**

Senior Planning Inspector  
2<sup>nd</sup> September, 2021.