



An
Bord
Pleanála

Inspector's Report ABP-309438-21

Development	Retention of single storey rear extension to two storey terraced house as constructed, retention of detached single storey shed located to the rear of terraced house.
Location	44, Goldenbridge Avenue, Inchicore, Dublin 8, D08 E6F2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3875/20
Applicants	Alison Gibson and Thomas McCrory
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant	Charlie Delaney
Observer(s)	None
Date of Site Inspection	02 nd June 2021
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site is located at no.44 Goldenbridge Avenue in the inner suburban area of Kilmainham, approximately 4 kilometres from Dublin City Centre. The Grand Canal is located approximately 130 metres south of the site. The subject site comprises a two-storey mid terrace dwelling house, located on the southern side of Goldenbridge Avenue, with a south facing garden to the rear. The subject dwelling is the fourth house in, on a block of 11 no. dwelling houses.
- 1.2. The houses date from the inter war period and were designed and constructed in the early 1930s. They are typical of the garden city type suburban layout characteristic of early 20th century suburban residential planning.
- 1.3. The site is located on a narrow plot width of just under 5 metre, with an overall depth of circa. 26 metres. A single storey extension of 8.08 metres extends to the rear of the dwelling house and spans the width of the site, with a patio provided to the rear/south of this and a small garden shed located along the rear/southern boundary. The dwelling accommodates a cobble lock driveway with off-street car parking. Both of the adjoining houses at numbers 43 and 45 Goldenbridge Avenue have single storey extensions to the rear extending approx. 4 metres from the rear walls of their respective dwelling houses. Extensions to the rear of these house are characteristic of the area.

2.0 Proposed Development

- 2.1. The development comprises the following:
 - Retention of existing single storey rear extension 31sq.m in area and 3.145m in height; and
 - Retention of existing detached single storey shed 6sq.m in area and 2.57m in height.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued notification to grant planning permission for the retention of the development subject to 4 conditions. Condition no. 2 related to development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (February 2021) reflects the decision of the Planning Authority. The Planning Officer notes the following in their report:

- A previous application on site was refused permission due to concerns regarding the length of the extension at 8 metres, which was considered excessive given the size of the existing house.
- The previous application on site was therefore considered contrary to Section 16.10.12 of the Development Plan – not subordinate.
- The resultant provision of 21sq.m of private open space was considered below the development plan standard of 10sq.m per bedspace and the 25sq.m allowed under the Planning and Development Regulations 2001 (as amended) for exempt development.
- The supporting statement received with the application outlines that the dwelling house now only accommodated 2 no. bedrooms. The statement also highlights that there are numerous developments in the area that reduce rear garden spaces to less than 25sq.m and the extension does not adversely impact on the amenities of adjoining properties.
- Although it is acknowledged that the depth of the extension is significant relative to the dwelling, it is not considered that this has resulted in adverse impacts on the amenity of adjoining residents.

- The single storey development is wholly contained to the rear of the property and has no impact on the scale and character of the existing dwelling or terrace.
- Contrary to the applicants' assertions those developments in the area that have permission have the required amenity space provisions. It would appear from a history search that those with reduced private amenity space do not appear to have the benefit of planning permission.
- Having regard to the information provided by the applicant which the area planner believes has addressed the reasons for refusing the previous application under ref. 3174/20, the area planner considered that the private amenity open space provision in this instance is adequate for the two bedroom dwelling and will not adversely impact on the amenity of the existing occupants.

3.2.2. Other Technical Reports

- Drainage Division – DCC Report dated 13/01/21 – no objection subject to conditions.

The Board should note that one of these conditions relates to surface water and compliance with all conditions listed under previous grant of permission Ref. no. 3174/20. This reference appears to be made in error as this previous application was refused on site, as detailed under Section 4.1 below.

3.3. Prescribed Bodies

- Irish Water – no response received.

3.4. Third Party Observations

3.4.1. One third party submission was received on the submitted application. Issues raised relating to the development for which retention is sought include the following:

- Applicants were aware that the development required planning permission yet proceeded without.
- Issues in relation to construction noise and dust.

- The application is an abuse of the system and the development is totally oversized.
- The application should be refused given the size and impact on the surrounding area.
- Query the legitimate use of the rear garden shed.
- The site notice was not correctly placed.
- This is the second appeal by the applicants, as their first appeal was late.

4.0 Planning History

4.1. On subject appeal site:

- P.A. Ref. 3174/20 DCC (2020) – Permission **refused** for retention of existing single storey rear extension to existing two storey terraced house as constructed, retention of existing detached single storey shed located to the rear of existing terraced house and all associated site works. Refusal reason stated:

Having regard to the pattern of development in the area, the scale of the development to be retained and the provision of private open space, it is considered that the development would be contrary to Section 16.10.12 of the Dublin City Development Plan, 2016-2022 with respect to residential extensions. The proposed development would, therefore, by itself and by reason of the undesirable precedent it would set for similar substandard development in the area, be contrary to the proper planning and sustainable development of the area.

The subsequent appeal lodged under ABP Ref. 308719 was deemed invalid – late under Section 127(1)(g) of the P&D Act 2000 (as amended). ABP Ref. 308599 – Invalid.

- P.A. Ref. E0347/20 – Enforcement Division of DCC issued a warning letter in May 2020 for unauthorised building works.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative Development Plan is the Dublin City Development Plan 2016-2022. Land use zoning objective Z1 '*to protect, provide and improve residential amenities*'.

5.1.2. Chapter 16 – Development Standards

- **Section 16.2.1 – Design Principles**
- **Section 16.2.2.3 Alterations and Extensions** states '*Dublin City Council will seek to ensure that alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context and the amenity of adjoining occupiers*'.

This section further states '*In particular, alterations and extensions should:*

- *Respect any existing uniformity of the street, together with significant patterns, rhythms or groupings of buildings.*
- *Not result in the loss of, obscure, or otherwise detract from, architectural features which contribute to the quality of the existing building.*
- *Be clearly subordinate to the existing building in scale and design.*

- **Section 16.10.2 Residential Quality Standards – Houses**

Private open space - A minimum standard of 10 sq.m of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70 sq.m of rear garden area is considered sufficient for houses in the city. In relation to proposals for house(s) within the inner city, a standard of 5 – 8 sq.m of private open space per bedspace will normally be applied.

- **Section 16.10.12 Extensions and Alterations to Dwellings**

Applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:

- Not have an adverse impact on the scale and character of the dwelling.

- Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

5.1.3. **Appendix 17 of Volume 2**

- **Section 17.2 General Principles** - Have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.
- **Section 17.5 Relationship between Dwellings and Extensions**
- **Section 17.8 Subordinate Approach** - The subordinate approach means that the extension plays more of a 'supporting role' to the original dwelling. In general, the extension should be no larger or higher than the existing.

5.2. **Natural Heritage Designations**

5.2.1. None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. A third-party appeal was received from Charlie Delaney, whose mother resides at no.43 Goldenbridge Avenue. The grounds of appeal can be summarised as follows:
- No amendments have been made on the current application in response to the previous refusal on the same site (P.A. ref. 3174/20).
 - The applicants were fully aware of the requirement for planning on site.
 - The resident at no. 43 was forced to move out of her home due to noise and disturbance from building works.
 - There has been a total abuse of the process and the development in place is oversized and substandard.
 - A corrugated fence was also erected on the remaining dividing wall which affects light to adjoining properties. The appellant suspects this was done due to him informing DCC Enforcement on the questionable construction.

- The previous refusal reason still stands and the development should be refused given its size and impact on the surrounding area.
- In addition, the shed is to be used as a utility or in fact occupancy as a shed would usually have garden equipment in it, however this property has no garden to speak of.

6.2. **Applicant Response**

The applicant's response to the grounds of appeal can be summarised as follows:

- The arguments made by the objector to a certain extent are not planning matters and mostly seem to relate to a personal issue with the owners of the appeal property.
- Upon analysis of scale and pattern of development in the area, many houses appear to have similar arrangements and this argument was respectfully put to DCC on a second application.
- In response to the previous reason for refusal the applicants state that the extension was constructed in good faith, believing it was within the scope of exempted development. It subsequently transpired that they are short 4 sq.m of private open space to fully comply with the exemptions listed in the regulations.
- The development is for a single storey extension that does not result in any loss of residential amenity on adjoining houses.
- A 10sq.m extension previously existed on the site which has now been demolished. The extension is effectively only an additional 20sq.m onto the original house.
- The house which was originally a 3-bedroom house is now a 2-bedroom house.
- Map 1A attached to the appeal shows 25 properties within 120m radius of the site that have rear extensions and rear gardens of less than 25sq.m.
- In relation to the application of the standard 10sq.m per bedspace, this standard applied to new houses and not extensions to houses.

- The development gives the applicants a now modest sized house with high residential amenity quality.
- The development is consistent with the scale and pattern of development in the area and does not set a precedent due to the existing development in the area.

6.3. **Planning Authority Response**

- None.

6.4. **Observations**

- None.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Residential Amenity
- Private Open Space
- Appropriate Assessment

Residential Amenity

7.1.1. The third party appeal submitted states that the extension as constructed is oversized and substandard and given its length and width has an impact on the residential amenities of adjoining properties. I note that a previous 10 sq.m extension existed on site, which was demolished to make way for the now 31sq.m extension. I also note that two existing single storey extensions exist to the rear of both adjoining properties at no. 43 and no.45 Goldenbridge and that several of the properties along same terrace have two storey rear extensions also, including no.46 and no.47. In addition, several of these dwellings, including no.43 to the immediate east of the

subject site, also have existing garden sheds located along their rear (southern) boundaries.

- 7.1.2. The planning authority in their deliberations on the matter noted the previous refusal for the development on the site. I have also considered these matters in this appeal and note the applicant's submission. The site is quite restricted in size and as a result the opportunity to expand the dwelling house is also restricted. In my opinion I would not consider the single storey extension of 3.145m metres in height and 31sq.m in area inappropriate and consider that the applicants have sought to make the best use of the restricted site to improve their residential amenity. While I take on board the 3rd party appellants comments with regard to the length of the extension, and note that at 8.08 metres it is longer than any of those on adjoining sites, given its limited height and the southern facing aspect of the rear gardens along the terrace, I do not believe this would cause any significant impact on the amenities of the adjoining properties. In addition, the extension is located solely to the rear of the existing dwelling and will not be visible from the front of the terrace or any public areas and therefore shall not impact on the overall character of the area. Therefore, in conclusion and in line with Section 16.10.12 of the development plan I believe that the extension, for which retention is sought, will not have an adverse impact on the scale and character of the dwelling and will not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy or access to daylight and sunlight.
- 7.1.3. In addition, I note the appeal raises concerns regarding the use of the proposed rear garden shed, querying why such a shed is required for such a small garden space. On site inspection I noted the shed was used for general storage of garden furniture, tools and other household items. In my opinion this shed at 6sq.m is unsuitable for habitation as the appeal suggests, in any event if the Board are minded to grant permission for the retention of this structure, the use of the shed can be addressed by way of condition, thus ensuring an appropriate use that will not have an impact on neighbouring properties.
- 7.1.4. I also note that issues have been raised in the appeal in relation to construction work and the placing of corrugated iron fencing on the remaining dividing wall. I noted on site visit that there was an additional fenced structure (not corrugated) placed on top of the dividing wall between the subject site and no.43 to the east. This additional

screening is in the form of 4 planks which rise above the existing rendered boundary wall, to a height of c.2.5m, stopping just below the flat roof level of the existing rear boundary shed. The height of these planks fall below the parapet height of the adjoining shed to the east at no.43. In my opinion the issue of the boundary wall as raised by the appellant is a civil matter to be resolved between the parties, having regard to the provisions of Section 34 (13) of the Planning and Development Act 2000 (as amended).

7.2. Private Open Space

- 7.2.1. Section 16.10.2 of the development plan outlines the private open space standards that are usually required for houses. This section states that a minimum standard of 10 sq.m of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. The applicant states that the subject dwelling house has two number bedrooms, reduced from a previous three bedrooms. This is reflected on the submitted floor plans which show two bedrooms at first floor level. 21sq.m of private open space is provided on site, which is marginally below the 25sq.m which would be required under the Planning and Development Regulations 2001 (as amended) for exempted development. The appellants' response to the appeal highlights that there are numerous developments in the area (as illustrated on submitted Map no. AG/PLN-01) that reduce rear garden spaces to less than the 25sq.m required under the exemptions. However, I note as per the planning officers report, that it would appear from a history search that those with reduced private amenity space do not appear to have the benefit of planning permission. While I note that the 21sq.m provision under the current appeal is below the standards listed under Section 16.10.2 of the development plan, given that the overall bedrooms in the dwelling have now been reduced to two, I consider the available open space satisfactory.
- 7.2.2. Having considered the appeal and the applicants' response, and taking into account the orientation of the private open space in a south facing garden, and the design of the rear ground floor extension with sliding glazed doors on the southern elevation, in my opinion an acceptable standard of residential amenity for the occupants has been provided and I would not consider the 21sq.m provision of private open space provides a sufficient reason to refuse the development.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the development for which retention is sought would 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. I recommend that retention planning permission should be granted, subject to conditions as set out below.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the development, it is considered that subject to compliance with the conditions set out below, the development would not seriously injure the amenities of the residential property in the vicinity or the established character of the area. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The development shall be retained 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. The garden shed shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses or for any use other than as a use

incidental to the enjoyment of the dwelling house as such, unless authorised by a prior grant of Planning Permission.

Reason: In the interests of residential amenity.

3. 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.

4. 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.

Máire Daly

Planning Inspector

02nd June 2021