



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309774-21

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<b>Development</b>	Retention of single storey pitched roof garden room located to the rear of the site.
<b>Location</b>	20, Mellowes Road, Finglas, Dublin 11
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	WEB1972/20
<b>Applicant(s)</b>	Bart O' Farrell
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Refuse Retention
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Bart O'Farrell
<b>Observer(s)</b>	none
<b>Date of Site Inspection</b>	29 <sup>th</sup> May, 2021
<b>Inspector</b>	Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of Mellows Road, to the west of the Youth Centre and Garda Station. The site is currently occupied by a two storey end of terraced house that has a stated floor area of 80.1 sq. metres.
- 1.2. The site is long and has a garden of c.26 metres in length beyond the rear elevation of the main house. To the rear of the site, a single timber frame storey chalet building has been constructed which is described in the public notices as a 'garden room structure'. This structure is raised above the existing ground level by c.750mm and has a pitched roof with an overall height of c.3.87 metres above the ground level in rear part of the garden that has been raised to approximately the same level as the floor of the garden room. At the eastern and western site boundaries where the structure adjoins the boundaries with properties on either side, the structure is c.3.0 metres in height to eaves level above this raised ground level.
- 1.3. As per Section C-C and D-D submitted with the application, the side boundary walls in the area of the structure are c.2.3-2.4 metres in height. In reality, this height is above the original garden level in this location and the height of the side boundary wall range in height, increasing in steps on the west side from c.1.6 metres above the existing raised ground level in a position close to the southern end of the garden structure and increasing to c.1.8 metres plus close to the rear boundary. The rear boundary is characterised by a wall that is in excess of two metres in height above the raised ground level. On the eastern boundary in the vicinity of the garden structure there is a fence that reduces in height from c.1.75 metres above ground level at the rear of the structure to c.1.55 – 1.6 metres towards the front.
- 1.4. The structure to the rear of the site has a stated floor area of 54.6 sq. metres and internally it is stated to accommodate a gym room, WC, study, and store. At the time of inspection, the main room was laid out as a sitting room / music room with television and couch. The accommodation was also observed to have a functioning kitchen and a bathroom with toilet and shower. The rooms to the rear were observed to be used for storage and there was not any clear indication that either of these rooms was being used as a bedroom. The layout of the structure would however lend itself to use as an independent residential unit.

- 1.5. There is a decking area of c.8.5 sq. metres on the south facing side of the structure facing the main house, and access to the structure and the deck area is via steps from the garden. The rear elevation of the main house is separated from the main part of the garden structure on the site by c.16 metres and by c.12.5 metres from the deck access steps.
- 1.6. The original house on the site has been extended to the side (west) with the addition of a bathroom and utility room which extends out to the western site boundary and blocks access to the rear garden via the side of the house. The only access to the rear garden is through the house via the original front door.
- 1.7. The stated area of the site is 328 sq. metres.

## **2.0 Proposed Development**

- 2.1. The development for which retention permission is sought is the garden room structure that has been constructed at the northern end of the back garden. As detailed above, this structure has a stated floor area of c.54 sq. metres. The stated use of the structure is for activities incidental to the use of the main house and it is not proposed to be used as habitable accommodation.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority issued a Notification of Decision to refuse Permission for one reason that can be summarised as follows:

1. That the scale and extent of the garden room structure and its proximity to site boundaries is such as to cause serious injury to the residential amenities of adjoining properties due to overbearing visual impact, visual impact, and loss of amenity. Permitting the retention of this structure would in itself and by the precedent it would establish seriously injure the amenities of property in the vicinity.

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

#### **3.2.1. Planning Reports**

The report of the Planning Officer notes the location of the site, the relevant development plan policy, and the zoning of the site. Stated that there is no objection in principle to the type of development proposed (garden room), however the scale of the building is considered to be excessive and located excessively close to the site boundaries. Stated that the area of open space proposed to be retained is sufficient for the existing development on the site but that the scale of the structure would have a significant negative impact on the residential amenity of surrounding properties and set an undesirable precedent for other similar developments. Refusal of permission consistent with the notification of decision which issued is recommended.

#### **3.2.2. Other Technical Reports**

Drainage Division – No objection subject to conditions.

### **3.3. Prescribed Bodies**

Irish Water – No report received.

### **3.4. Third Party Observations**

None received.

## **4.0 Planning History**

No planning history referenced in the report of the planning officer.

## 5.0 Policy Context

### 5.1. Development Plan

The appeal site is located on a site that is zoned Objective Z1 under the provisions of the Dublin City Development Plan, 2016-2022 with the stated objective '*to protect, provide and improve residential amenities*'.

There is no specific policy contained in the plan relating to the form of development proposed, namely garden rooms or 'shomera' type developments.

Section 16.2.2.3 of the Plan relating to ***Alterations and Extension (General)*** includes that:

*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. In particular, alterations and extensions should:*

*Retain a significant proportion of the garden space, yard, or other enclosure*

Section 16.10.12 of the Plan relating to ***Extensions and Alterations to Dwellings*** and states that:

*The design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar finishes and windows. Extensions should be subordinate in terms of scale to the main unit. 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.*

**Appendix 17 of the Plan** also relates to residential extensions. The following provisions of this guide are noted:

#### *17.2 General Principles*

*New extensions, whether they are single or two-storey, have an effect on their immediate environment and accordingly the following general principles should be addressed in all proposals for extension. Proposals should:*

- *Not have an adverse impact on the scale and character of the dwelling.*
- *Have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.*
- *Achieve a high quality of design.*

#### *17.3 Residential Amenity Issues*

*It is important to make sure that any extension does not unacceptably affect the amenities of neighbouring properties. This includes privacy, outlook, daylight, and sunlight. It is advisable to discuss your proposal with your neighbours prior to submitting a planning application.*

#### *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**

The site is not located within or close to any European site.

### 5.3. EIA Screening

Having regard to the nature and scale of the development there is no real likelihood of significant effects on the environment arising. 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 following is a summary of the main issues raised in the first party grounds of appeal:

- That the structure would not set an undesirable precedent and does not have an overbearing visual impact on neighbours,
- That prior to the erection of the structure the neighbours were consulted and none of them had any objections.
- Given the size of the gardens on Mellows Road, no issues of loss of sunlight or privacy for neighbouring properties arise,
- Regarding the precedent issue, and the comment regarding 'overscaled garden room structures' it should be noted that the majority of the properties in the area already have garden room structures on them and so no precedent issues arise.
- That the structure is a necessity to store items that had been in long term storage.
- The structure is currently primarily being used for storage as the Covid 19 restrictions mean that it cannot be used as an amenity.
- The appeal is accompanied by a signed statement from six of the closest neighbours stating that they do not consider that the building for which retention is sought has any visual impact or loss of privacy for them.

## 6.2. Planning Authority Response

There is no record of a response to the grounds of appeal being received from the Planning Authority.

## 7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development,
- Design, Scale and Visual Impact
- Impact on Amenity,
- Other Issues
- Appropriate Assessment

### 7.2. Principle of Development,

7.2.1. The appeal site is located on a site that is zoned Objective Z1 under the provisions of the Dublin City Development Plan, 2016-2022 with the stated objective '*to protect, provide and improve residential amenities*'. An extension to an existing house or a garden room is therefore considered to be acceptable in principle and consistent with the residential zoning of the site subject to it not having an unacceptable impact on residential amenities.

7.2.2. The scale of the original garden to No. 20 Mellowes Road is significant with a depth from the rear elevation of the main house to the back wall of the site measuring in excess of 25 metres. The site is therefore considered to be such that it could successfully accommodate some additional shed or garden structure while retaining an adequate level of private amenity space. The structure as constructed on site is such that there is a separation of c.12.5 metres between the rear elevation of the main house and the steps accessing the garden structure and such that c.85 sq. metres of private amenity space is proposed to be retained. This is considered to be acceptable.



7.2.3. I note the fact that the appeal is accompanied by a signed statement from surrounding property owners stating that they do not consider that the proposed development would have a negative impact on visual amenity or privacy and I also note the fact that there were no third party observations submitted to the planning authority objecting to the application. From my inspection of the site, I note that there are a significant number and variety of structures constructed in the rear gardens of houses adjacent to the appeal site and these developments include a shed or garden room structure constructed in the rear garden of the house two doors to the west (No.24) and which could be considered to act as some form of precedent for the development the subject of this appeal. The assessment of the application will have some regard to these factors, however the primary basis of the assessment has to be on the basis of the proper planning and sustainable development of the area and compliance with the provisions of the development plan.

### **7.3. Design, Scale and Visual Impact**

7.3.1. The scale of the structure as constructed on site is significant with a floor area of 54.6 sq. metres. The structure extends for approximately 9.2 metres in length and, at c.6.1 metres in width, takes up most of the width of the site. The design and materials are relatively standard for the form of structure and there is a significant decking / balcony area at the southern end that is enclosed behind a balustrade and is sheltered by an overhanging section of the roof. In principle, it is my opinion that the form of structure is such that it could be acceptable in a residential area subject to adequate set back from site boundaries and sufficient space to accommodate it without having an overbearing visual impact on surrounding properties.

7.3.2. While the garden area to the rear of No.20 Mellows Road was of a significant scale prior to the installation of the structure for which retention is now sought and could therefore accommodate some significant scale of garden building, there are in my opinion a number of issues that give rise to concerns regarding its visual impact and impact on the visual amenities of surrounding properties. First, the structure has been installed such that it is at a significantly higher level than what would have been the original ground level in this part of the garden. From the submitted drawings, it is shown that the floor level of the structure is c.750mm above the original ground level

and the level of the rest of the garden and of surrounding gardens. From my inspection of the site, this rise in ground levels indicated on the drawings accurately reflects the position on the ground. The effect of this increased ground level is to make the structure project above the boundary walls / fences to a significantly greater extent than would otherwise be the case and therefore to be significantly more visually prominent from surrounding properties.

7.3.3. The second issue that is worth noting regarding visual impact, is the fact that the section drawings submitted do not in my opinion give a very accurate representation of the scale of the structure relative to the existing site boundaries. Specifically, Sections C-C and D-D submitted with the application show the side boundary walls as extending up to be within c.500mm of the eaves height of the structure. This may be accurate towards the rear of the site, however the height of the walls further towards the southern end of the structure are such that more of the side elevation would be visible from neighbouring properties. In addition, due to the raised ground level and floor level of the garden structure and the reduced height of the boundary walls, the south facing gable end and balcony / decking area at this end of the structure are such that they are very visually prominent when viewed the immediately adjoining properties to the east and west of the site.

7.3.4. Finally, the structure is located in very close proximity to site boundaries with only a c.400mm separation on the western side of and c.600mm on the eastern side. Taken together, it is my opinion that the scale of the structure in terms of floor area, height and proximity to site boundaries, and the raised ground level and associated floor level of the structure and the reducing height of the boundary walls / fence is such that the structure comprises an overly visually prominent and obtrusive feature in this location which has a significant negative impact on the visual amenities of the area and particular on existing and future occupants of the adjoining residential properties at No.18 to the east and No.22 to the west and such that it seriously injures the amenities of adjoining properties.

#### **7.4. Impact on Residential Amenity,**

- 7.4.1. The issues referenced above regarding the height of the structure above the original ground level and the scale relative to the existing boundary structures also in my opinion have significant implications for the residential amenity of surrounding properties. In particular, the terrace or deck area located at the southern area of the structure is located such that it results in very significant issues of overlooking in a southerly direction towards the rear elevations of the adjoining houses at Nos. 18 and 22. While the degree of overlooking of internal accommodation is limited, views from this deck / terrace area across the adjoining properties are in my opinion such that they have a significant negative impact on residential amenity due to overlooking and loss of privacy.
- 7.4.2. The structure as constructed has windows in the south facing elevation facing the garden and also in the side elevations facing the adjoining properties. In the case of the south facing windows, the view is primarily towards the existing house. Views over the adjoining rear gardens are however also available and while the actual overlooking from these windows may not be significant there would in my opinion be a perceived sense of overlooking for adjoining properties. The windows in the side elevation are located such that they are approximately 1.1 metres above ground level and not the c.1.6 metres indicated in Side Elevation / Section Drg. 'I-I'. Notwithstanding the height of the boundary walls and the storage use of the structure, some degree of overlooking from these windows would therefore be feasible. The primary impact in terms of overlooking for adjoining properties is likely to be perceived rather than actual.
- 7.4.3. With regard to daylight and sunlight, the location and scale of the structure is such that it does not impact on daylight or sunlight to any surrounding habitable accommodation. No daylight or sunlight analysis is presented with the application, however I consider that the pitched roof design of the structure and its height above the site boundaries is such that its impact on sunlight to the rear gardens of the adjoining properties would be slightly negative but not excessively so or such that on its own it would be the basis for refusal of permission. The orientation of the structure relative to the adjoining sites is such that shadowing impacts would be restricted to the early morning and later afternoon / early evening periods and the

scale of the adjoining gardens is such that the loss of amenity arising would not be excessive.

- 7.4.4. In terms of compliance with development plan policy, there is no specific policy contained in the Dublin City Development Plan, 2016-2022 regarding the specific form of development that is the subject of this appeal. The development for which retention is sought can be considered to constitute an extension to the existing dwelling and the general principles set out at Section 16.10.12 of the Plan relating to Extensions and Alterations to Dwellings and Appendix 17 of the Plan relating to extensions requires are therefore in my opinion applicable. These plan provisions require, inter alia, that development does not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight, and does not have an adverse impact on the scale and character of the dwelling. As set out above, in the case of the development the subject of appeal it has an unacceptable negative impact on residential amenity due to overlooking of and loss of privacy for adjoining properties and is of a scale and location on the site such that it is excessively visually prominent and has an overbearing visual impact.
- 7.4.5. For these reasons, it is my opinion that the development as constructed is inconsistent with the provisions of the development plan and is contrary to the Objective Z1 zoning objective of the site which seeks to protect, provide, and improve residential amenity.

## 7.5. **Other Issues**

- 7.5.1. The structure to the rear of the site has a stated floor area of 54.6 sq. metres and internally it is stated to accommodate a gym room, WC, study, and store. At the time of inspection, the main room was laid out as a sitting room / music room with television and couch and gave the appearance of someone having spent significant periods of time in the structure. The accommodation was also observed to have a functioning kitchen and a bathroom with toilet and shower. The rooms to the rear were observed to be used for storage and there was not any clear indication that either of these rooms was being used as a bedroom. While the stated purpose of the structure is for storage and as accommodation ancillary to the main house on the

site, the layout of the structure would lend itself to use as an independent residential unit.

- 7.5.2. With regard to drainage and site services, no response is on the file from Irish Water however the proposal does not involve a new connection to the public water supply or foul drainage network and in the event that permission for retention was granted it is considered that this issue could be adequately addressed by way of condition.

## **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations:

## 9.0 Reasons and Considerations

The appeal site is located on lands zoned Objective Z1 under the provisions of the Dublin City Development Plan, 2016-2022 where the stated objective is '*to protect, provide for and improve residential amenity*'. Having regard to the scale of the garden room structure, its proximity to site boundaries and the elevated position in which it has been installed relative to the ground level on the rest of the site and on adjoining sites, it is considered that the structure as erected has a significant negative impact on residential amenities of surrounding properties due to overlooking, loss of privacy and visual intrusion. The retention of the structure as proposed would therefore seriously injure the amenities and depreciate the value of property in the vicinity, would be contrary to the Objective Z1 residential zoning objective for the site and would be contrary to the proper planning and sustainable development of the site. .

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Stephen Kay  
Planning Inspector

31<sup>st</sup> May, 2021