



An
Bord
Pleanála

Inspector's Report ABP 310121-21.

Development	Retention of covered side passage for storage and external garden shed in rear garden.
Location	No 11 Hawthorn Grove, Bird Avenue, Dublin 14.
Planning Authority	Dun Laoghaire Rathdown County Council.
P A. Reg. Ref.	D218/0044.
Applicant	Robert Hensaw.
Type of Application	Permission for Retention.
Decision	Grant Permission for Retention
Type of Appeal	Third Party X Grant of Permission
Appellant	Irene Timoney
Date of Site Inspection	30 th July, 2021.
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The application site is that of a detached dwelling located at the northern end of Hawthorn Grove a cul de sac within a relatively recently constructed residential development on lands at the rear of the Church of the Miraculous Medal on the west side of Bird Avenue in Clonskeagh.
- 1.2. The site is gated off from the remainder of the Hawthorn development and is a front curtilage in use for carparking. a covered over side -space along the side passage inside the northern side boundary. There is a a small rear garden in which a detached metal shed structure with double patio style doors facing northwards has been erected. This rear garden is enclosed on all sides by two metres' high walling. The Maples, a residential development constructed in the 1990s is located to the north and sports fields are located to the south and southwest.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for permission for retention of:
- 2.2. a covered over passageway, (providing for a shed) to the northside of the dwelling, extending over a depth of 6.8 metres along the inside of the northern party boundary with the adjoining properties at The Maples and,
- 2.3. A shed in the rear garden in a metal construction with a height of 2.7 metres extending to 4.3 metres in depth from west to east, and circa 2.5 metres in width with patio doors in the southern, front façade facing towards the boundary with the rear garden of No 10 Hawthorn Grove.
- 2.4. The planning authority has an enforcement file relating to the proposed development having regard to Condition No 18 of the grant of permission under P. A. Reg. Ref. D15A/0191 (PL 245621) details of which are set out in section 4.2. below.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 6th April 2021 the planning authority decided to grant permission for retention subject to conditions.

Under Condition No 3 exempt development entitlements under Classes 1 and 3 of Part 1 of Schedule 2 of the Regulations s are removed.

Under Condition No 4 Subdivision of the property at the site is not permitted.

Under Condition No 5 The rear garden shed is confined for use for purposes incidental t the enjoyment of the dwelling house and not for habitation, trade or business.

3.2. Planning Authority Reports

The planning officer in his report considered that the proposed development was acceptable and that private open space remaining at the rear garden to serve the dwelling would be sufficient for a three to four bed house, notwithstanding the then concurrent application for the attic conversion (P. A. Reg. Ref. D20A/0492 refers)

3.3. Third Party Observations

A submission was lodged by the appellant party occupant of the adjoining property in which objection to the retention of the proposed sheds on grounds of adverse impact on the residential amenities of her property.

4.0 Planning History

4.1. According to the planning officer report the site has the following planning history

4.2. **P. A. Reg. Ref. D15A/0191 (PL 245621)** This is the parent grant of permission, further to appeal, for the residential development at Hawthorn, comprising fifty-four units Under Condition No 3, omission of the proposed houses on Plot Nos 9 and 10 (which adjoin the application site) and substitution of a detached house (similar to

House Type A1) along with continuation of the access road road and footpath to the northern boundary of the estate is required.

Under Condition 18 exempt development entitlements described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them are omitted, in the absence of a prior grant of planning permission.

P. A. Reg. Ref. D17A/0189 Permission was granted for omission of the permitted houses for Plots 9 and 10 and for construction of part single, part three store detached house in the north-east corner of the site, in accordance with Condition No 3 of the prior grant of permission under P. A. Reg. Ref. D15A/0191 (PL 245621)

P. A. Reg. Ref. D170233 A/0191 (PL 249290) Permission was granted following appeal for amendment to the road layout at the northeast corner Hawthorn Grove in accordance with Condition No 3 of the grant of permission under P. A. Reg. Ref. D15A/0191 (PL 245621)

P. A. Reg. Ref. D20A/0492: Permission was granted for an attic conversion and dormers to the rear and side and rooflights following appeal, upholding the planning authority's decision

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dun Laoghaire Rathdown County Development Plan, 2016-2022 according to which the site is within an area subject to the zoning objective: - A: *"to protect and or improve residential amenity"*.
- 5.1.2. Development management standards are in chapter 8 with Refuse and storage and services in Section 8.2.3.2 (v) and private open space in section 8.2.8.3.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by William Doran on behalf of the appellant, Irene Timoney of the adjoining property at No 10 Hawthorn Grove on 23rd April, 2021 according to which: -

- Two sheds were erected at the adjoining property: one shed in the side passage and the other shed in the rear garden. According to the submission, the shed in the side passage has a floor area of 13,485 square metres ranging from 1.87 m to 2.105 metres in width and 6.785 metres in dept and the shed in the rear garden has a floor area of 11,266 square metres which is 2.62 metres in width and 4.3 metres in depth.
- The sheds come within the description under Schedule 2, Class 3 of the Planning and Development Regulations, 2001 (The Regulations) whereas Condition No 18 of the grants of permission under Reg. Ref. D 15A/0191 refers to Classes 1 or 3 of Part 1 of Schedule 2 of the Regulations.
- There is no evidence of an application for permission for the two sheds. This current proposal is for the two sheds are excluded from the grant permission on grounds of overdevelopment.
- Use of the shed at the rear as a workshop, gym or office negatively impacts on the amenities of the appellant party's property through noise and it is visually obtrusive. Its use should be restricted to storage purpose.
- A condition was attached to a grant of permission (following appeal) in which noise level are limited to Leq 1h value of 55dB(A) between 0800 and 2200 hrs and Leq, 15 min value of 45 dB(A) at other times with increase in noise level not being permitted to be more than 10 dB(A) above background levels at site boundaries. However, in the Board's decision following appeal, sheds were de exempted by condition under the prior grant of permission.
- It is requested the permission be refused for both sheds or failing that, permission be, refused for the shed in the rear garden and, failing that, and the sheds are permitted, a condition for control of noise be attached.

6.2. Applicant Response

There is no submission on file from the applicant.

6.3. Planning Authority Response

There is no submission on file from the planning authority.

7.0 Assessment

- 7.1. It is considered that the shed and side passage are amount to a considerable amount of storage space, at circa twenty-two square metres in floor area, for use in association with the residential use of a dwelling unit. The shed in the rear garden is relatively unsightly but it is not within view from the public realm and is screened off from the adjoining property by the two metres' high wall on the party boundary. The top is visible from the rear garden whereas it would be visible in entirety if viewed through upper floor windows in the adjoining dwelling 22 square metres in floor area. The remaining private open space in the rear garden is somewhat restricted in configuration although it is sufficient in quantum having regard to development standards for private open space provided for in section 8.2.8.3. of the CDP.
- 7.2. It is agreed with the appellant, that the shed structure in the rear garden, if used for other than storage purposes is likely to result in serious injury the residential amenities of her property, particularly with regard to use of machinery or other activity at an excessive intensity which is not commensurate with incidental use ancillary to the residential use of the dwelling.
- 7.3. Although the development proposed for retention is somewhat considerable, it is considered that permission for retention can be granted for a period of limited duration in that it is reasonable for there to be an opportunity for further planning review. It is also recommended that requirements of condition Nos 3, 4 and 5 which were attached to the planning authority decision should be included by condition if permission is granted.

7.4. Environmental Impact Assessment Screening.

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

7.5. Appropriate Assessment.

Having regard to the scale and nature of the proposed development and to the serviced inner suburban location, 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. It is recommended that the planning authority decision be upheld and that permission be granted based on the following reasons and considerations and subject to the conditions that follow.

9.0 Reasons and Considerations

Having regard to the Dun Laoghaire Rathdown County Development Plan, 2016-2022 according to which the site is in an area subject to the zoning objective: 'A': *To protect provide for and/or improve residential amenities*, to the location of the site of the proposed development at the end of the cul de sac of Hawthorn Grove in the north eastern corner of the residential development, it is considered that, subject to compliance with the conditions set out below, the proposed would not seriously injure the residential amenities of adjoining property, and is in accordance with the proper planning and sustainable development of the area.

10.0 Conditions.

1. The development shall be 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 grant of permission for retention shall expire within three years of the date of this order unless, a prior grant of permission for the continuation of the development has been obtained.

Reason. To allow for an opportunity for further planning review, in the interests of the residential amenities of the area.

3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

Reason: In the interest of residential amenity, having regard to the restricted configuration and size of the site.

4. The use of the two structures subject to the application and the rear private open space shall be confined to use solely incidental to the residential use of the house. The carrying out of a trade or profession or other commercial

activity, operation of machinery which is audible outside the confines of the site boundary and subletting and subdivision are not permitted.

Reason. To ensure that the development is in accordance with the zoning objective for the area and to protect the residential amenities of the area.

Jane Dennehy

Senior Planning Inspector,

1st August, 2021.