



An
Bord
Pleanála

Inspector's Report ABP-310225-21

Development	Retention of structure used as an artist's studio on the curtilage of a house
Location	76 Crumlin Road, Dublin 12
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	1018/21
Applicant	Michael Lyons
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party
Appellant	Alan Boyle
Observers	None
Date of Site Inspection	30 th July 2021
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

- 1.1. The site lies on the Crumlin Road, a main arterial route, c4km south-west of the centre of Dublin. It has a stated area of 136m². It consists of the curtilage of a two storey terraced house. The terrace is served by a laneway to the rear. There is a structure at the back of the site abutting that lane. It has a pitched metal roof and a pedestrian door onto the lane. It adjoins a line of garages behind the houses on Crumlin Road. Those garages generally have flat roofs and vehicular gates onto the lane. The application form states that the total floor area of the buildings on the site is 130m².

2.0 Proposed Development

- 2.1. It is proposed to retain the structure at the back of the site as it is. The submitted application states that the structure is an artist's studio and that the element for which permission is sought is an extension to that structure of 9m².

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 4 conditions, none of which amended the development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report referred to the enforcement history on the site and the third party observation. Boundary disputes are a civil matter outside the purview of the council. The structure at the back of the site is used as a studio. A bathroom, stove, mezzanine and kitchenette have been installed. The roof is higher than the adjoining garages along the lane. The council is satisfied with the use of the structure and that it can be conditioned to be ancillary to the main house. An adequate amount of private open space remains on the property. The need for EIA and AA can be screened out. However the application refers only to the extension of

structure. Further information should be sought about the status of the structure prior to extension. The subsequent report was satisfied with the applicant's response that the internal measurements of the structure before extension show that it had a floor area of 25m² and so its erection would have been exempt development. A grant of permission was recommended.

3.2.2. Other Technical Reports

The Drainage Division stated that it had no objection to the proposed development subject to standard conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The appellant submitted an observation that objected to the proposed development on grounds similar to those raised in the subsequent appeal.

4.0 Planning History

None

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2016-2022 applies. The site is zoned residential under objective Z1.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

- The development encroaches on the appellant's property at No 74 Crumlin Road. In particular the gutter and flashing overhangs the property boundary. The absence of a downpipe at the gutter at the back of the development adjacent to the appellant's property is causing water to flow down his wall and damage it. Photographs are submitted to illustrate these points.
- The development includes windows facing the appellant's house injuring the privacy in his bedroom. The height of the roof results in overbearing and overshadowing of his garden. The development therefore seriously injures his residential amenity. A stove has been installed with a chimney whose emissions damage air quality at the appellant's property. The previous structure on the site did not have those windows, a stove or the higher pitched roof that caused these problems.
- The development does not have adequate drainage.
- The dimensions of the development are not accurately shown on the submitted drawings. It is occupied as a separate dwelling.

6.2. Planning Authority Response

The planning authority did not respond to the appeal.

6.3. Applicant's Response

The applicant did not respond to the appeal.

7.0 Assessment

- 7.1. The building at the back of the site is substantially smaller than the main house. It was in use as studio for painting pictures at the time of inspection. A bathroom and kitchen facilities and a stove have been installed there, but there was nothing to indicate that it was being used or occupied other than in a manner that was ancillary

to the residential occupation of the house on the site. The situation observed on the site corresponded to that described in the drawings and other particulars submitted with the planning application. The scale and use of the structure are therefore ancillary to the residential occupation of the house on the site. Its retention in its current state would not involve a material change in use and would be in keeping with the residential zoning of the area.

- 7.2. The planning system cannot resolve disputes regarding property boundaries, as noted by the council's planner. Neither could a decision on a planning application or appeal ensure that drainage or heating features are properly installed or maintained. There is nothing particularly sensitive about the area in which the site is located nor is there anything in the nature and scale of the development that would support a conclusion that it could not be properly drained or that the stove there could not be run without causing a nuisance to adjoining properties, provided reasonable care to an ordinary standard was exercised by the occupier of the site. At the time of inspection the gutters and downpipe on the back of the structure were properly diverting rainwater runoff to the municipal drains. These issues would not justify refusing permission for the development, therefore.
- 7.3. The provision of windows on the structure facing towards the back of the terrace of houses departs from the established layout along the Crumlin Road with front and rear building lines. This would introduce views between habitable rooms at a distance of c10m, albeit at different heights. The pitched roof over the structure at the back of the site would also cast a greater shadow over the back of the appellant's garden than the flat roof garages that are the prevailing built form there. So the development would lead to some additional overlooking and overshadowing of the appellant's property. However the extent of such effects would be very limited, and it is not considered that any injury to residential amenity would be serious.
- 7.4. The development is not of a class set out in schedule 5 to the planning regulations, so an environmental impact assessment is not required. The scale, nature and location of the site are such that no appropriate assessment issues arise and the development is not likely to have any significant effect on any Natura 2000 site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the established pattern of development in the area and its zoning for residential use under objective Z1 of the Dublin City Development Plan 2016-2022, and to the nature and scale of the development to be retained, which would be ancillary to the established residential use of the site, it is considered that, subject to compliance with the conditions set out below, the development would not injure the residential amenities of property in the vicinity of the site and would be in keeping with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development to be retained 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 condition.

Reason: In the interest of clarity.

2. Water supply and 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

Stephen J. O'Sullivan

Planning Inspector

31st July 2021