



An
Bord
Pleanála

Inspector's Report

ABP-310260-21

Development	Retention: The area to be retained consists of the single storey ground floor extension with flat roof to the rear of the property and associated reduction in private open space
Location	11 Cabra Park, Phibsboro, Dublin 7
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3089/20
Applicant(s)	Thomas McNicholas.
Type of Application	Retention.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Thomas McNicholas.
Observer(s)	Cabra Parks Residents Association
Date of Site Inspection	25 th of June 2021
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The site contains a two-storey mid terrace dwelling located in Cabra Park, Phibsboro, Dublin 7. The dwelling is accessed off the main street through the front garden and to the rear via a narrow laneway to the rear. The dwelling backs directly onto the rear alley with access via a fire escape off the rear extension and a gate to the rear garden.
- 1.2. The dwelling has been extended to the rear and part of this extension is the subject of this retention application. This extension spans the full length of the plot to the rear alley. The dwelling is currently in multiple occupancy and appears to be operating as a commercial activity with staff room, designated areas, sign in sheets etc.

2.0 Proposed Development

- 2.1. The proposed development comprises of the retention of part of a ground floor rear extension (c.11m²).

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for the following reason:

1. Having regard to the location, size and overall architectural design of the rear extension proposed to be retained, the quantity of potentially useable rear garden space (c. 12m²) remaining, the number of existing bedrooms (8 no.) and bedspaces (16 no.) with the existing dwelling, the inaccessible nature of the remaining rear garden coupled with the absence of any functional relationship between the internal living spaces of the dwelling and the rear garden, the proposed development to be retained results in substandard private open space, in terms of quality and quantity, to serve the dwelling on the site and is not considered to offer a satisfactory standard of residential amenity for the occupants of the dwelling. The proposed development would also set an undesirable precedent for further similar developments in the rear gardens in the area. The proposed development would, therefore, seriously

injure the residential amenities of this residential conservation area of the 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. Planning Reports

The report of the area planner reflects the decision to refuse permission following a request for further information. The report is summarised below:

- The extension is acceptable and does not detract from the Z2 land use zoning (residential conservation).
- There is no negative impact on the adjoining residential amenity.
- There are concerns relating to the reduction of private amenity space.
- It is queried if the dwelling is for a family or multiple occupancy.

A further information request was issued relating to concerns regarding the remaining private open space to serve the occupants of the property and additional details on the occupancy. The report of the planner referred to the following:

- The plans submitted indicate there is a significant number of bedspaces.
- The proposal is over the site coverage of 45% (S16.6 of the development plan).
- The conversion of the ground floor to bedrooms does not justify the extension to the dwelling.
- The useability of the rear garden is compromised by the boiler house and direct access into the laneway.
- There is no functional connection from rear of the dwelling and the open space.
- The proposal seriously injures the residential amenity of the occupants.

3.2.2. Other Technical Reports

Engineering Department: No objection to the proposal.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (TII): No objection subject to the inclusion of a Section 49 Supplementary Contribution for the Luas Cross City (St. Stephen's Green to Broombridge Line).

3.4. Third Party Observations

4 no. observations were received from residents of the dwellings in the vicinity of the site and the local resident's association and the issues raised are summarised below:

Z2 zoning and site coverage

- The site coverage of the proposed development at 69.4% exceeds the 45% set out in the development plan.

Co-living

- The dwelling is being used for co-living.
- A representative of the management company stated there were 13 persons living in the dwelling.
- There are guidelines relating to co-living units in the Sustainable residential guidelines and the extension has resulted in more people living in the dwelling with no useable open space.

Open space, refuse and storage

- Section 16.10.2 of the Residential Quality Standards- Apartments and Houses states there should be a minimum of 5-8 m² per bedspace in the inner city.
- The provision of 16.26m² of open space only equates to 1.25m² for each of the 13 residents.
- The storage of refuse areas at the rear for 13 persons leaves very little space useable outside space.

Overcrowding

- It is requested that there is investigation into overcrowding in the house.

Use

- The dwelling is used as a refuge area and there is a disproportionate amount of this use in the vicinity.
- Policy RES 19 states that a proliferation of such uses in any part of the city will be avoided

Character of the area

- The proposal would set an undesirable precedent for similar developments in the area.

4.0 Planning History

E0006

The planner's report refers to an enforcement file relating to an alleged unauthorised extension to the rear of the dwelling.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

The site is located on lands zoned as Z2 *"To protect and/or improve the amenities of residential conservation areas"*.

Site Coverage

- Indicative Site Coverage Z2 zoning: 45%

Extensions to dwellings.

Section 16.2.2.3: Alterations and extensions (general)

- Extensions will be sympathetic to the existing building and adjoining occupiers,
- Alterations and extensions to roof will respect the scale, elevation proportion and architectural form of the building.

Section 16.10.12: Extensions and Alterations to Dwellings

- Development does not have an adverse impact on the scale and character of the area and will not adversely affect amenities enjoyed by occupants of adjacent buildings.

Appendix 17 of the Plan sets out design guidance with regard to residential extensions

- 17.3: Residential amenity: Extensions should not unacceptably affect the amenity of the neighbouring properties.
- 17.4 Privacy: Extensions should not result in any significant loss of privacy to the residents of adjoining properties.
- 17.6 Daylight and Sunlight: Care should be given to the extensions and the impact on the adjoining properties.

Private Open Space

- Section 16.10.2: Residential Quality Standards-Houses
- Private gardens at the side or rear of the house.
- Minimum of 10m² per bedspace.
- Generally, up to 60-70m² of rear garden area is considered sufficient for houses in the city.
- In relation to proposals for houses in the inner-city, a standard of 5-8m² of private open space per bedspace will normally be applied.

Residential Conservation Area

The dwelling is located on lands zoned as Z2, residential conservation, therefore the following policy and guidelines apply.

- **Policy CHC1:** Preservation of the built heritage.
- **Policy CHC4 & CHC5:** Conservation Areas: Development will not harm the features of special interest in the conservation areas or involve harm to loss of traditional fabric.

5.2. Natural Heritage Designations

None of relevance.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. 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 grounds of appeal are submitted from the applicant in relation to the PA reason for refusal and the issues raised are summarised below:

Subdivision of the dwelling

- The property has not been subdivided into residential units, rather it operates on the basis to many houses in the street where the rooms are rented out on an individual basis.
- A Section 5 Declaration from Dublin City Council for a similar type of development (Reg Ref 0227/18) confirmed the property was not for short-term letting. In this case 15 men rented a 5-bedroom house and shared the living accommodation. No renovation works had been carried out. This is a relevant precedence. The amount of open space was not considered relevant in this case.
- The number of bedrooms in the dwelling have not been increased.

Compliance with the Development Plan Policy

- The proposal complies the objectives of the Z2 land use zoning and will improve the quality of the existing dwelling located on the site.
- The proposed extension does not negatively impact the appearance of the main dwelling nor is it harmful to the neighbouring properties in the area.

Alterations to Extensions to Dwellings

- The proposed increase (c.11m²) complies with Section 16.2.2.3 of the development plan and those requirements relating to alterations and extensions to dwellings.
- The extension is designed in a manner which respects the appearance of the dwelling.
- The extension supports a greater living space which benefits the existing residents of the dwelling.

National and Regional Policy

- The proposal complies with national and regional policy where it promotes homes in the existing built up settlements, including Dublin City Centre.

Open space

- The private open space has been reduced to c. 16 m² although there is an increase in amenity for the residents internally.
- There is a large number of public open space facilities in the area.

6.2. Applicant Response

The appellant is the applicant.

6.3. Planning Authority Response

None received.

6.4. Observations

One observation was received from the Cabra Residents Association. The issues raised are similar to those raised in their original submission to the PA as detailed above and are summarised as follows:

- Use as “co-living”,
- Quantum of open space,
- Impact on the scale and character of the overall dwelling.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Multiple Occupancy of the Dwelling
- Design and Layout of the extension
- Private open Space
- Appropriate Assessment

Multiple Occupancy of the Dwelling

7.2. The subject site is located within a compact residential area in Phibsboro, Dublin 7. The site consists of a mid-terrace two storey dwelling with a small front garden and rear alleyway which serves as the rear garden. The property has been recently extended and the report of the area planner notes an enforcement file relating to an alleged unauthorised rear extension. The proposed development is for a retention permission.

7.3. The observation received from the residents association and several of the third party submissions to the retention application, raised concern in relation to the multiple occupancy of the dwelling, the absence of sufficient open space for the occupants and the undesirable precedence this proposal would have for other dwellings in the vicinity.

7.4. Further Information was sought by the PA regarding the occupancy of the dwelling and the amount of open space to serve the occupants of the property. The applicant's further information request response confirmed multiple occupancy with 8 no. bedrooms and 16 no. bedspaces based on 2 no single beds per room. Both the further information response and the grounds of appeal reference a Section 5 Declaration by Dublin City Council (Reg. Ref. 0227/18). This Section 5 request considered where the dwelling had not been previously amended and the rooms where rented out on an individual basis, no planning permission was required, and the proposal was exempted development.

7.5. The Board will note that the proposed development does not relate to the use of the building although I consider the functioning of the dwelling has a bearing on the retention of the rear extension and in turn the reduction of the open space at the rear

of the property. I note the grounds of appeal argue the rear extension provides an extension for a living space for the residents yet upon a site inspection I noted a sign on the door of the room in the extension for a staff room. In addition, I note the plans illustrate two bedrooms on the ground floor of the property. In the absence of any details relating to the original configuration of the dwelling, it can not be confirmed that the dwelling has not been altered to such an extent that it currently functions in a completely different way than was originally intended. I do not consider the Section 5 Declaration is relevant to this proposed development as the particulars of that case specifically noted the absence of any alterations to the original property, whereas the dwelling on the subject site does not appear to be in its original form. This aside, I consider the planning merits of each case are different and the Board will note the absence of any Section 5 Declaration for multiple occupancy at this site.

- 7.6. Having regard to the layout of the premises, principally the number of bedspaces and location of the staff room, and the absence of any details relating to the original dwelling, I consider the retention of the rear extension is intrinsically linked to the overall use of the dwelling and I do not consider the principle of the retention of the rear extension potentially linked to a commercial operation is acceptable.

Design and Layout of the extension.

- 7.7. The rear extension, to be retained, extends along the western boundary adjoining No 13. The extension is single storey in height with a flat roof. The overall design of the extension was not raised as an issue by the PA although the grounds of appeal detail the overall design and submits the proposal complies with the guidance in the Dublin City Development Plan 2016-2022, specifically Appendix 17 and Section 16.2.2.3, I do not consider the substantive issues relate to the design of the proposal. This aside, I note the design at the rear and having regard to the location I do not consider it will have negative impact on the character of the area or the residential amenities of those occupants of adjoining properties.
- 7.8. The PA reason for refusal refers to the location of the open space relative to the design of the extension stating that “...*the inaccessible nature of the remaining rear garden coupled with the absence of any functional relationship between the internal living spaces of the dwelling and the rear garden area, the proposed development to be retained results in substandard private open space, in terms of quality and*

quantity to serve the dwelling on site and is not considered to offer a satisfactory standard of residential amenity for the occupants of the dwelling.”. I consider this relates more to the functioning of the open space rather than the design of the extension. I have addressed the issues relating to the open space separately below.

Private Open Space

- 7.9. Section 16.10.2 of the development plan “Residential Quality Standards-Houses” includes open space standards for houses. Having regard to the lowest required standard of 5-8m² private open space for houses in the inner city and assuming the lowest possible occupancy for 7 persons in the dwelling (1 per bedroom), there would be a requirement for 35m². The observation to the appeal notes the layout and quantum of open space and considers this sub-standard.
- 7.10. The plans indicate the open space area along the west of the rear extension. Upon site inspection it was noted that this area operated as a rear alley way with a large commercial bin and designated covered smoking area. There was no evidence that this open space currently functioning as useable open space for residents.
- 7.11. Whilst I note the traditional layout and form of the dwelling and those in the vicinity includes small rear gardens, I have concern over the number of residents occupying the dwelling and the absence of any meaningful open space. The grounds of appeal (Fig 10) refers to areas of public open space in the surrounding area and it is considered that the provision of these spaces within walking distance to the dwelling will provide amenities for the residents. I note the location of these public open spaces although as they are not directly linked to the site and at a distance to the dwelling, I do not consider they will provide any direct amenity for the residents of the dwelling.
- 7.12. To this end, having regard to the number of occupants in the dwelling and the absence of functional rear open space, I consider the proposed development, being the additional rear extension, will have a serious negative amenity on the occupants of the dwelling and I recommend that the retention of this development is refused.

Appropriate Assessment

- 7.13. Having regard to the distance of the site from European Sites, to the small scale of the proposed development and to the absence of any direct pathway from the site to

the designated sites I consider that the proposed development individually, or in combination with any other plans or projects, would not be likely to have any significant effect on any European Site.

8.0 Recommendation

8.1. I recommend that planning permission should be **refused** for the reason and consideration set out below.

9.0 Reasons and Considerations

Having regard to the quantum of accommodation on the site, the use of this part of the dwelling as a staff room and the overall quantum and functionality of the open space serving the overall development which consists of 18 no. bedspaces, it is considered that the proposed development would seriously injure the residential amenity of existing residents by reason of loss of open space and provision of substandard private open space. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

Karen Hamilton
Senior Planning Inspector

28th of June 2021