



An
Bord
Pleanála

Inspector's Report

ABP-310448-21

Development	RETENTION: Permission to retain existing single storey detached prefabricated habitable structure located to the rear of existing dwelling house.
Location	17, Kildonan Avenue, Finglas West, Dublin 11, D11 T9C5
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2413/21
Applicant(s)	Tyra Properties Limited
Type of Application	Retention Permission
Planning Authority Decision	Refuse Retention
Type of Appeal	First Party
Appellant(s)	Tyra Properties Limited
Date of Site Inspection	10 th July, 2021
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located in Finglas West, a short distance to the north west of the Garda station and the leisure centre on Mellows Road. The site comprises an end of terrace residential property in an area of predominately two storey terraced houses.
- 1.2. The site has a stated area of 300 sq. metres and is irregular in shape widening out to the rear such that it has a width of c.12.5 metres along the southern (rear) boundary. To the west, the site is adjoining by No.19 Kildonan Avenue which is occupied by a two storey terraced house. To the north, the site fronts Kildonan Avenue and to the east, the site adjoins a laneway that connects Kildonan Avenue and Kildonan Drive. To the south, the site adjoins the rear gardens of residential properties on Kildonan Drive.
- 1.3. The existing house on the site has a stated floor area of 49.7 sq. metres and has been extended to the rear with the addition of a single storey extension. The area to the rear of the house on the site is also occupied by a small single storey portacabin structure which is indicated on the submitted plans as being used for storage. At the time of inspection this structure was observed to be used for the storage of gym equipment. Further to the rear of the site is located a larger portacabin structure which is proposed for retention as part of the application the subject of this appeal. This structure is indicated as residential accommodation on the submitted plans and appeared to be unoccupied at the time of inspection.
- 1.4. Access to the area to the rear of the site, including the larger portacabin structure, is available via a side passage to the east of the main house and independent access to the unit to the rear is therefore available without going through the main house. There is currently no subdivision of the site or the garden area.
- 1.5. To the front, the site has an area that could provide for the off street parking of one car.

2.0 Proposed Development

- 2.1. The development which is the subject of this appeal comprises the proposed retention of the larger portacabin structure located to the rear of the site. The submitted plans indicate this structure laid out as residential accommodation with 2 no. bedrooms, a combined living / kitchen area, a store, and a bathroom. The stated floor area of the structure proposed for retention is 49.7 sq. metres gross floor area as per the drawings. The figure stated in the application form is 47.9 sq. metres.
- 2.2. Externally, the structure proposed for retention has the appearance of a standard portacabin with a flat or very low pitched roof. The structure is located on supports that raise it up c.300mm above the ground level of the garden and result in the overall height of the structure being c.2.9 metres above ground level. The dimensions of the structure as per the submitted plan are c.9.3 metres long by 5.7 metres in width. An access door is provided in the south facing elevation of the structure and both the eastern and western elevations are characterised by multiple windows. The east facing elevation also has a second door access.
- 2.3. The structure proposed for retention is located such that it is separated by c.1.0 metres from the western boundary of the site, and by a distance varying between 1.6 and 5.5 metres from the eastern site boundary. To the rear, the structure is separated from the rear boundary of the site and the properties to the south on Kildonan Drive by c.1.6 metres. To the north, the structure is separated from the smaller pre-fabricated building on site by c.3.3 metres and from the main rear elevation of the house on site by c.13 metres and c.10 metres from the single storey rear extension to this house. The boundary with the laneway to the east is characterised by a wall that has been raised in height up to c.1.9 metres. The boundary with the site to the west is much more open being characterised by a low level railing.
- 2.4. The application documentation indicates that the habitable accommodation provided is connected to the public water supply.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for two reasons that can be summarised as follows:

1. That the retention of the unit would result in a sub standard level of residential amenity for occupants that would be contrary to the provisions of Quality Housing for Sustainable Communities and the provisions of Section 16.10.2 of the Dublin City Development Plan. The development would therefore comprise a substandard form of residential development that would seriously injure the residential amenities of the area and would be contrary to the provisions of the development plan and the proper planning and sustainable development of the area.
2. That the scale and extent of the building for which retention is sought and its proximity to the western boundary of the site is such that the structure would seriously injure the residential amenities of adjoining properties by virtue of visual impact, overbearing and loss of privacy.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer notes the location of the structure to the rear of an existing house and that it therefore falls to be assessed as an independent habitable structure. The principle of residential development on lands zoned Objective Z1 is considered to be acceptable in principle, however the scale and layout of the unit does not meet the internal space standards set out in Quality Housing for Sustainable Communities and is deficient in terms of private amenity space. The impact of the structure on the amenity of the existing house to the west in terms of overlooking and visual intrusion is noted and there are concerns regarding the remaining open space available to serve the existing house and parking for the

existing and proposed units on the site. Refusal of permission consistent with the notification of decision which issued is recommended.

3.2.2. Other Technical Reports

Drainage Division – No objection to proposed development.

Transportation Planning Division – Report recommends further information on the parking provision for the existing dwelling and the unit for retention.

3.3. Prescribed Bodies

None on file.

Details of the application were referred to Irish Water, but no response is recorded as being received.

3.4. Third Party Observations

No observations received by the Planning Authority.

4.0 Planning History

There is no record of any planning history relating to the appeal site.

The following enforcement case is referenced in the report of the Planning Officer:

EN/1039/19 relating to the erection of two pre-fabricated buildings in the rear garden of No.17 Kildonan Avenue. Only the larger structure forms part of the current application for retention.

5.0 Policy Context

5.1. Development Plan

The appeal site is located on lands that are 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*'.

The following policies / sections of the Plan are considered to be of relevance in the assessment of the case:

Section 5.5.2 relates to sustainable residential development and includes Policy QH7 and QH8 which seek to promote residential development at sustainable residential densities.

Paragraph 16.10.2 relates to residential standards for houses including in relation to unit / room sizes and open space provision.

Paragraph 16.10.8 relates to Backland development,

Copies of these policies / sections of the development plan are attached with this report.

5.2. Natural Heritage Designations

The site is not located within or close to any European site. The closest European sites to the appeal site are as follows:

- **South Dublin Bay and River Tolka Estuary SPA** site which is located c.7km to the south east of the appeal site at the closest point.
- **North Bull Island SPA** site which is located c.9.5km to the south east of the appeal site at the closest point.

5.3. EIA Screening

Having regard to the scale and nature 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 following is a summary of the main issues raised in the first party grounds of appeal:

- That the planning authority failed to recognise in their assessment the pressure on housing and affordable accommodation and particularly in the context of the Government Action Plan for Housing and Homelessness.
- Submitted that this site which is adjacent to all necessary amenities is suitable accommodation.

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 relevant to the assessment of this appeal:

- Principle of Development
- Residential Layout and Compliance with Development Plan and Other Relevant Standards
- Design, Visual Impact, and Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The appeal site is located on lands that are 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*'. The principle of additional residential development is therefore acceptable in principle subject to compliance with other relevant development plan and other related policies and standards. The development for which retention is sought is advertised as a 'detached habitable structure'. No information with regard to any functional connection with the main dwelling on the site is provided with the application or appeal and therefore it is my opinion that the development as constructed comprises a separate residential unit on the site and falls to be assessed as such.
- 7.2.2. I note the case made by the first party that the planning authority failed to recognise in their assessment the pressure on housing and affordable accommodation and particularly in the context of the Government Action Plan for Housing and Homelessness. In terms of planning policy, the National Planning Framework and the Regional Spatial and Economic Strategy are supportive of the principle of urban consolidation and infill development. These principles are also supported at local plan level in the Dublin City Development Plan and specifically, section 2.2 under the heading of Core Strategy states that '*The policies and objectives in this plan promote intensification and consolidation of Dublin city.....*'
- 7.2.3. Section 5.5.2 of the plan relates to sustainable residential development and includes Policy QH7 which seeks to promote residential development at sustainable residential densities '*having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area*'. Other policies generally supportive of residential consolidation and densification include QH8 which promotes the sustainable development of underutilised infill sites subject to respecting the design and character of the surrounding area.
- 7.2.4. These policy supports for densification and urban consolidation are however clearly subject to considerations relating to the impact of such development on residential and visual amenity and compatibility in terms of design and character. Paragraph 16.10.8 of the development plan relates to backland development, which in my

opinion best describes the form of development the subject of this appeal, and specifically notes that development of individual backland sites can conflict with the established pattern and character of development in an area and can cause a significant loss of amenity to existing properties.

- 7.2.5. In conclusion, while there is strong policy support for urban consolidation and increased densification at both national and local planning policy level, the form of development the subject of this appeal comprises backland development for the development of an separate residential unit and as such falls to be assessed in accordance with the provisions of the development plan relating to such development. The backland location of the development also has potential to impact negatively on residential and visual amenity and these issues are considered in detail in the following sections.

7.3. Residential Layout and Compliance with Development Plan and Other Relevant Standards

Unit / Room Sizes

- 7.3.1. One of the main issues identified as problematic in the report and recommendation of the planning officer relates to the size and layout of the residential accommodation provided. Specifically, paragraph 16.10.2 of the Dublin City Development Plan requires that residential accommodation (houses) comply with the internal space and accommodation standards set out in Section 5.3 of the DEHLG policy document '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007). From a review of section 5.3 of this document, and especially the unit / room areas cited in Table 5.1, I would agree with the assessment of the planning officer on this issue. Specifically, I note the fact that the target GFA for a 2 bedroom, 3 bedspace single storey house is 60 sq. metres which is well in excess of the c.49 sq. metre structure erected on site. No individual breakdown of room sizes is presented with the application or appeal however I estimate the living area (excluding kitchen) to be c.16 sq metres in area and therefore significantly less than the 28 sq. metres aggregate recommended. The aggregate floor area of the bedrooms is in excess of the 20 sq. metres minimum recommended in Quality Housing for Sustainable Communities, however the floor

area of the single bedroom at c.6.6 sq. metres is less than the 7.1 sq. metres minimum specified in section 5.3.1 of the same document.

Private Amenity Space

- 7.3.2. Paragraph 16.10.2 of the Dublin City Development Plan requires that for houses a standard of 10 sq. metres of private amenity space per unit will be required, that this standard can be relaxed in certain inner city locations and that '*generally, up to 60-70 sq.m of rear garden area is considered sufficient for houses in the city.*' The accommodation for which retention is sought provides a total of 3 no. bedspaces (1 no. double and 1 no. single) and therefore a minimum of 30 sq metres of open space would be required.
- 7.3.3. The layout of the site as observed at the time of inspection is such that there is no demarcation between that part of the site that is proposed to remain with the original house and that which is proposed to be for the use of the additional accommodation / unit. In addition, the area to the rear of the main house has been impacted by the installation of a smaller pre-fabricated structure which was observed at the time of inspection to be use for the storage of gym equipment. The location of this structure is such that it fragments the open space area to the rear of the house such that only the area to the west of this structure and the extension can, in my opinion, be considered as a proper amenity space of any quality. The extent of this area up to the southern end of this smaller pre fab measures c.25 sq. metres. The extent of private amenity space to serve the structure for retention essentially comprises the area to the east of the structure which measures c. 40 sq. metres.
- 7.3.4. I consider that it has not been clearly demonstrated that the private amenity space provision for the existing and proposed residential accommodation on the site is such that it would provide a sufficient level of residential amenity for occupants or that it would meet the development plan minimum standards. No provision has been made for the separation of the site to provide a dedicated private amenity space for the pre-fabricated accommodation and there is no clear dedicated access to this accommodation that does not impact on the amenity of the occupants of the original house. Overall, therefore it is my opinion that the private amenity space provision and layout proposed for the site is such that it would result in a sub standard level of

residential amenity for existing and future occupants of the site and would be contrary to the requirements of the development plan.

- 7.3.5. Overall, I consider that the size and layout of the accommodation proposed for retention and the level of private amenity space serving this accommodation is such that it does not meet the standards set out in the *Dublin City Development Plan, 2016-2022* and would result in a sub standard level of residential amenity for current and future occupants of the accommodation. I therefore agree with the basis of reason for refusal No.1 attached to the notification of decision issued by the Planning authority, and recommend that permission be refused for reasons relating to sub standard residential layout including interior accommodation, private amenity space to serve the residential accommodation on the site and failure to adequately subdivide the site or provide independent access to the accommodation to be retained.

7.4. Design, Visual Impact, and Impact on Residential Amenity

- 7.4.1. Externally, the structure proposed for retention has the appearance of a standard portacabin and is such that it has a poor visual appearance which in my opinion is out of keeping with the residential setting and character of the site. The nature of the structure is also in my opinion such that its durability and standards in terms of insulation and construction make it unsuitable as residential accommodation.
- 7.4.2. The siting of the structure within c.1 metre of the western boundary of the site combined with the nature of the boundary in this location in this area which comprises a low level railing, means that the structure has a very significant visual and amenity impact on the occupants of this adjoining property to the west (No.19 Kildonan Avenue). As noted above, the design and character of the structure is such that it is not in my opinion compatible with a residential location and this, combined with its overall height at c.2.9 metres above ground level, results in a structure that has a significant overbearing visual impact on the adjoining property to the west and an overall significant negative impact on the visual amenities of this adjoining residential property.
- 7.4.3. The design and location of the structure as erected is also such that it has 7 no. windows in the west facing elevation which face directly onto the third party property

at No.19. These windows serve bedroom, kitchen and bathroom areas and are such that in my opinion they have a very significant negative impact on the residential amenity of the adjoining property by reason of overlooking and loss of privacy. The scale and proximity of the structure to the boundary with No.19 is also in my opinion such that it is likely to have a negative impact in terms of the availability of sunlight to the rear garden of No.19.

- 7.4.4. For the reasons I consider that the second reason for refusal attached to the notification of decision issued by the Planning Authority is appropriate and that permission should be refused on the basis of the adverse impacts on the visual amenities of the area and the significant negative impact that the retention of the structure would have on the residential amenities of the adjoining property to the west at No.19 Kildonan Avenue.

7.5. Other Issues

- 7.5.1. In the event that the Board was minded to grant permission the structure comprises a type and scale of development that would require the payment of a development contribution in accordance with the provisions of the adopted s.48 development contribution scheme.
- 7.5.2. I note the report on file from the Traffic and Transportation Division of the council and the recommendation that further information be requested regarding the provision of car parking to serve the accommodation on the site. There is room for the parking of a single car to the front of the site, however at the time of inspection there was no car parked in this area and it did not appear that this area was in use for car parking. In the event that a grant of permission was being considered it is recommended that further information on the issue of car parking would be required.
- 7.5.3. It is noted that there is no report on file from Irish water and it is not clear whether any connection agreement has been obtained from Irish Water. In the event that a grant of retention permission was being considered it is recommended that a condition requiring the first party to enter into connection agreements with Irish Water for water supply and waste water.

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

1. Having regard to the design and layout of the structure for which retention is sought, in particular the size and layout of the internal accommodation that does not meet the standards set out in the government guidance '*Delivering Homes for Sustainable Communities – Quality Housing for Sustainable Communities*' (2007), the absence of any physical separation between the structure to be retained and the original house on the site or independent access to the accommodation to be retained and the limited provision of high quality well sited and laid out private amenity space areas to serve the original house and accommodation for which retention is sought, it is considered that the retention of the structure would result in a sub standard form of residential accommodation for existing and future occupants of the site that would be contrary to the provisions of Paragraph 16.10.2 of the *Dublin City Development Plan, 2016-2022 relating to Residential Quality Standards - Houses*. The retention of the development would therefore seriously injure the residential amenities of occupants of the site and the residential amenities of the area, would set an undesirable precedent for other similar forms of development and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the design and scale of the structure to be retained including the presence of windows in the west facing elevation of the structure, to the proximity of the structure to the boundary with the property to the west at No.19 Kildonan Avenue, and to the nature and low level of the boundary between the appeal site and this property, it is considered that the retention of the structure as proposed would have a significant negative impact on the residential amenities of No.19 Kildonan Avenue by virtue of overlooking, overbearing visual impact and visual intrusion. The retention of the development as proposed would therefore seriously injure the amenities and depreciate the value of adjoining properties and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

11th July, 2021