



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311367-21

<b>Development</b>	Part demolition of extension and outbuildings, construction of two storey extension to rear, extension to front porch to include new bay window, self-contained granny flat to rear, widening of front entrance and associated site works.
<b>Location</b>	30, Oak Park Avenue, Santry, Dublin 9, D09 VK76
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3018/21
<b>Applicant(s)</b>	Christine Grange
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Split Decision
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant(s)</b>	Christine Grange
<b>Observer(s)</b>	None

**Date of Site Inspection**

1<sup>st</sup> February 2022

**Inspector**

Ian Campbell

## 1.0 Site Location and Description

- 1.1. The appeal site is 30 Oak Park Avenue, Santry, Dublin 9. The appeal site is located within an established residential area, to the east of Santry Village and to the west of the Port Tunnel/M1 Motorway.
- 1.2. The appeal property comprises a two-storey, semi-detached dwelling on a long, narrow site. The building line of the dwellings at this location are staggered. The front elevation of the appeal property is orientated north, facing an area of open space. The rear garden backs onto the rear/side garden of an adjacent property, No. 4 Oak Park Grove. The rear of the appeal site is bounded by a c. 2-metre-high block wall.
- 1.3. At the time of my site inspection some elements of the proposed development had commenced. The outer walls of the granny flat had been constructed; the sunroom had been demolished; the ground floor element of the rear extension to the dwelling had been partially constructed; the outbuilding had been partially demolished and the outer wall of the extension connecting the granny flat to the dwelling had been partially constructed.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following;
  - Part demolition of rear extension/sunroom and outbuilding;
  - Construction of two-storey extension to rear;
    - Projecting c. 3.5 metres at ground and first floor level, across the full width of the dwelling.
    - Stated height of c. 7.1 metres.
    - Positioned flush with western site boundary and c. 1.3 metres off eastern site boundary);
  - Construction of granny flat in rear garden/yard of dwelling;
    - Overall floor area c. 33 sqm.
    - Stated height of c. 3.6 metres with flat roof.
    - Positioned flush with site boundaries.

- Construction of extension to front porch to include bay window;
  - Projecting c. 1.4 metres with hipped roof.
  - Stated height of c. 3.5 metres.
- Widening of existing front entrance;
  - Increase in the width of front entrance from c.3 metres to c.3.2 metres.
- All associated site works.

### 3.0 Planning Authority Decision

#### 3.1. Decision

On the 17<sup>th</sup> August 2021 Dublin City Council issued a split decision in respect of the proposed development, specifically a Notification of Decision to **Grant** Permission for;

- The part demolition of the existing extension and outbuildings.
- The erection of a new two-storey extension.
- Extension of the existing front porch to include a new bay window.
- The widening of the front driveway entrance and all associated site works.

Permission was granted subject to 10 no. conditions contained in **Schedule 1**. These conditions are standard in nature and refer to issues including finishes, surface water, construction management and the payment of a development contribution.

A Notification of Decision to **Refuse** Permission was issued for the granny flat for a single reason set out in **Schedule 2** and can be summarised as follows;

The proposed development does not comply with Section 16.10.14 of the Dublin City Development Plan 2016-2022, which sets out the requirements for ancillary family accommodation. Specifically, the proposed granny flat is located in the rear garden of the existing dwelling and is neither connected to the dwelling nor reliant on it for services, and would constitute a separate detached dwelling unit. Additionally, the proposed granny flat is considered backland development, conflicting with the established pattern and character of development in the area, and to permit it would

set a precedent for similar development which would seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

### 3.1.1. Planning Reports

The report of the Planning Officer (dated 17<sup>th</sup> August 2021) includes the following comments;

- Noted that the proposed rear extension will not give rise to any overshadowing or overbearance of adjoining properties.
- Noted that the front extension and the enlargement of the window on the front elevation is considered acceptable.
- Noted that the proposed widening of the front entrance is acceptable.

The report of the Planning Officer includes the following comments regarding the proposed granny flat;

- Noted that no information has been submitted in relation to the requirement for the granny flat, or its intended occupant.
- Noted that the proposed granny flat would constitute a separate detached dwelling unit, with no direct access to the dwelling and no possibility for its re-integration back into the dwelling.
- Noted that granny flat accommodation is intended to be an extension/sub-division of a dwelling to ensure that a dependent relative can be supported and also to allow for the granny flat to be integrated into the dwelling when no longer required.

### 3.1.2. Other Technical Reports

Drainage Division (report dated 20<sup>th</sup> July 2021) - no objection subject to standard conditions (re. surface water).

### 3.2. **Prescribed Bodies**

None received.

### 3.3. **Third Party Observations**

None received.

## 4.0 **Planning History**

### **Appeal Site**

There is no planning history associated with the appeal site referenced in the report of the Planning Officer.

### **Vicinity of Appeal Site**

**PA Ref. 2432/20 / ABP Ref. 307613-20** – permission granted for two-storey dwelling in side garden at No. 4 Oak Park Grove, Santry, Dublin 9.

**PA Ref. 5108/08** – permission granted for two-storey dwelling in side/rear garden at No. 16 Oak Park Avenue, Santry, Dublin 9.

**PA Ref. 2845/07** – permission granted for two-storey dwelling in side/rear garden at No. 17 Oak Park Avenue, Santry, Dublin 9.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1 The relevant development plan is the Dublin City Development Plan 2016-2022, under which the appeal site/property is zoned 'Z1' - 'Sustainable Residential

Neighbourhoods' with a stated objective 'to protect and/or improve residential amenities'.

5.1.2 The provisions of the Dublin City Development Plan 2016-2022 relevant to this assessment are as follows:

5.1.3 Extensions to Dwellings

**Section 16.10.12** (Volume 1) 'Extensions and Alterations to Dwellings' states, *'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 would:*

- *'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'.*

**Appendix 17** (Volume 2) provides guidance in respect of residential extensions. Section 17.8 provides specific requirements regarding the 'subordinate approach' when proposing to extend dwellings, including the need for extensions to perform a 'supporting role' in scale and design to the original dwelling.

5.1.4 Ancillary Family Accommodation

**Section 16.10.14** (Volume 1) provides policy in respect of 'Ancillary Family Accommodation' which is applicable to the proposed development. Section 16.10.14 describes ancillary family accommodation as being *'an extension of a single dwelling unit to accommodate an immediate family member for a temporary period or where an immediate relative with a disability or illness may need to live in close proximity to their family'*. Section 16.10.14 provides that, generally, such accommodation should be directly connected to the main dwelling with no exterior difference in appearance

between an extension and ancillary family accommodation and that, in principle, proposals of this nature will be favorably considered subject to compliance with the following criteria;

- *'A valid case is made, including details of the relationship between the occupant(s) of the main dwelling house and the proposed occupant(s) of the ancillary family accommodation;*
- *The proposed accommodation is not a separate detached dwelling unit, and direct access is provided to the rest of the house; and,*
- *The accommodation, being integral with the original family house shall remain as such when no longer occupied by a member of the family'.*

#### 5.1.5 Vehicular Entrances

**Appendix 5** (Volume 2) 'Road Standards for Various Classes of Development' - Section 5.1 provides, *'where driveways are provided, they shall be at least 2.5 m or, at most, 3.6 m in width, and shall not have outward opening gates. The design standards set out in the planning authority's leaflet 'Parking Cars in Front Gardens' shall also apply'.*

## 5.2. **Natural Heritage Designations**

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



### 5.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) and therefore is not subject to EIA requirements.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The applicant, who is in ill-health, intends to reside independently in the granny flat. The applicant's son intends to reside in the main/existing dwelling with his family, enabling support to be given to the applicant.
- The main/existing house is too small to accommodate the applicant, her son and his family in its current layout.
- The development as granted by Dublin City Council cannot proceed as it does not accommodate the applicant's requirements. The applicant requires bathroom/showering facilities at ground level and these do not currently exist within the main/existing house.
- The proposed granny flat will be used solely by the applicant and would not be rented/leased.
- The refusal reason stated that the granny flat is not connected to the main/existing dwelling, nor is it reliant on the main/existing dwelling for services. To address this, a doorway connecting the granny flat to the house is now proposed. The applicant confirms that services will be provided to the proposed granny flat from the main/existing dwelling.
- The proposal aligns with similar developments in the vicinity, specifically PA Ref. 5108/08 and 2845/07, which relate to planning permission for houses in the rear gardens of dwellings.
- The proposed granny flat is low profile, blends in with neighbouring buildings and does not impinge on the privacy of neighbouring property.

- The proposal has been discussed with neighbours and no objections were received by Dublin City Council.
- Had the applicant been afforded an opportunity to articulate her case, a split decision would not have been issued, instead the proposal would have been either granted or refused in its entirety.

## 6.2. Planning Authority Response

None received.

## 7.0 Assessment

7.1 I consider the main issues in the assessment of this appeal are as follows:

- Scope of appeal.
- Principle of Development and Compliance with Policy on ‘Ancillary Family Accommodation’.
- Impact on Visual Amenity.
- Impact on Residential Amenity.
- Appropriate Assessment.

## 7.2 Scope of Appeal

7.2.1 The Planning Authority issued a split decision in respect of the proposed development, specifically a Notification of Decision to Grant Permission for the part demolition of the existing extension and outbuildings; the erection of a new two-storey extension; extension of the existing front porch to include a new bay window; the widening of the front driveway entrance and all associated site works and a Notification of Decision to Refuse Permission for the granny flat.

7.2.2 This is a first-party appeal against the decision to refuse permission for the granny flat. Section 37 (1b) of the Planning and Development Act 2000, as amended, provides that *‘the Board shall determine the application as if it had been made to the*

*Board in the first instance and the decision of the Board shall operate to annul the decision of the planning authority as from the time when it was given'. Accordingly, the determination of this appeal is made on a de novo basis.*

### **7.3 Principle of Development and Compliance with Policy on 'Ancillary Family Accommodation'**

7.3.1 The subject site is zoned 'Z1'- 'Sustainable Residential Neighbourhoods' under the Dublin City Development Plan 2016-2022, and 'Residential' use as proposed is a permissible use under the 'Z1' zoning. I therefore consider that the extension(s) and alterations to the dwelling and the granny flat/ancillary family accommodation accord with the 'Z1' zoning and that the form of development proposed is acceptable in principle.

7.3.2 Paragraph 16.10.14 of the Dublin City Development Plan 2016-2022 states that proposals for 'ancillary family accommodation' will be favorably considered subject to compliance with a number of criteria. These criteria include that a *'valid case for such a proposal is made, including identifying whom the proposal is to serve and the relationship between the occupant(s) of the main dwelling house and the proposed occupant(s) of the ancillary family accommodation; that the proposed accommodation is not a separate detached dwelling unit, and that direct access is provided to the rest of the house; and that the accommodation being integral with the original family house shall remain as such when no longer occupied by a member of the family'*.

7.3.3 As set out at paragraph 3.1 above, the Planning Authority refused permission for the proposed development on the basis that the proposal did not meet the requirements of Section 16.10.14 of the Dublin City Development Plan 2016-2022, including that the proposed granny flat was not connected to the main dwelling, was not reliant on the main dwelling for services and, that it essentially constituted a separate detached dwelling. I note that the report of the Planning Officer also referred to the absence of information regarding the intended occupant of the granny flat and its rationale.

7.3.4 The applicant has submitted a revised design for the proposed granny flat to the Board (see Drawing No. 19-03-2021 'IA'). An internal door between the granny flat and the games rooms is now proposed, providing direct access between the granny flat and the dwelling. The proposed granny flat can now be reintegrated with the dwelling when

its requirement ceases. The applicant has also confirmed in the appeal submission that the proposed granny flat will be connected to the services of the main dwelling. I note that the proposed granny flat is indicated on Drawing No. 19-03-2021 as being connected into the surface and foul sewer system within the site. A more robust rationale for the proposal has also been provided, including details of the intended occupant of the granny flat. On the basis of the revised proposal and updated information received by the Board, I consider that the proposed granny flat complies with the requirements set out under Section 16.10.14 of the Dublin City Development Plan 2016-2022.

#### **7.4 Impact on Visual Amenity**

7.4.1 I consider that the scale and design of the proposed porch extension, alterations to the first-floor window on the front elevation and the widening of the vehicular entrance would not be incongruous with the character of the area and are acceptable.

7.4.2 I also consider that the proposed rear extension and the granny flat would not be overtly visible from the front of the site or the public road. A small section of the granny flat exceeds the height of the site boundary and would be visible from neighbouring properties, however noting the modest scale of the proposed granny flat and its height at c. 3.6 metres, I do not consider that the proposed granny flat would give rise to any significant negative impacts on the visual amenity or character of the area.

#### **7.5 Impact on Residential Amenity**

7.5.1 Having regard to the two-storey nature of the proposed rear extension and to the characteristics of the appeal site, I consider that impacts on the residential amenity of adjoining properties may arise from overshadowing, overbearance and overlooking. The provision of private amenity space and the alterations to the vehicular entrance are also addressed. I will assess each in turn.

##### Overshadowing

7.5.2 Noting the scale and extent of the proposed front extension, and its relationship to adjoining site boundaries, I do not consider that the proposed front extension would result in any significant overshadowing of adjoining property.

- 7.5.3 The proposed rear extension is located to the south of the dwelling and projects 3.5 metres from the main rear wall of the dwelling/adjoining dwelling over two floors. I note that the existing ground floor extension/sunroom projects c. 5.5 metres from the rear wall of the dwelling. Noting the extent of the proposed new extension, its height at c. 7 metres, and its position east of No. 29 Oak Park Avenue, I do not consider that any significant overshadowing of the property to the west would arise as a result of the proposed two storey rear extension.
- 7.5.4 The proposed two storey rear extension would result in a degree of overshadowing of the property to the east, No. 31 Oak Park Avenue, in particular the southern part of its rear garden in the evening. Some overshadowing of the rear garden of No. 29 Oak Park Avenue is also likely, but this would be largely limited to the morning. Given the extent of the proposed two storey rear extension, and its relationship to the adjoining properties to the east and west, I do not consider that the level of overshadowing would be significant or be such as to have a significant impact on the residential amenity of adjoining properties.
- 7.5.5 The proposed development includes the partial demolition of the existing outbuilding which is positioned along the western site boundary. The proposed works to the outbuilding relate to the east elevation of the structure. Consequently, in terms of overshadowing, I do not consider that any significant negative impacts on the property to the west are likely to arise as a result of the proposed works to the outbuilding.
- 7.5.6 The height of the proposed granny flat exceeds the height of the site boundary wall by c. 1.6 metres. I do not consider that the proposed granny flat would give rise to any significant degree of overshadowing of adjoining properties having regard to its height and to the existing site boundary which interfaces with the properties to the east, west and south.

#### Overbearance

- 7.5.7 Noting the extent of the proposed front extension, the proposal will not result in any significant overbearance on the adjoining property to the west. Similarly, having regard to the extent of the proposed two-storey rear extension, and to the height of the proposal, I do not consider that any significant overbearance will occur on adjoining properties.

7.5.8 As addressed under paragraph 7.5.5, the proposed works to the outbuilding relate to the east elevation of the structure and I do not consider that this element of the proposal would result in any overbearance on the adjoining property to the west.

#### Overlooking

7.5.9 A bedroom window is indicated at first floor level on the rear elevation of proposed two-storey rear extension. I do not consider that this window would give rise to any significant degree of overlooking, over and above that which exists from the existing first floor windows serving the appeal property.

7.5.10A kitchen window is proposed at ground level on the side/east elevation of the proposed rear extension. This window is positioned c. 1 metre off the eastern site boundary. Noting the nature of the eastern boundary at this location, that being a c. 2-metre-high block wall, no overlooking of the property to the east is anticipated.

#### Private Amenity Space

7.5.11 Regarding private amenity space, the Development Plan requires a minimum standard of 10 sqm of private open space per bedspace, with a double bedroom representing two bedspaces. The Development Plan provides that private amenity space should be located to the rear or side of a house and that generally up to 60-70 sqm of rear garden area is considered sufficient for houses in the city. The appeal property will be served by c. 56 sqm of private amenity space, located to the rear of the dwelling. There are 3 no. bedrooms within the main extended dwelling. The occupancy of these bedrooms has not been specified. However based on the dimensions of these bedrooms I consider that the main dwelling comprises 2 no. single bedrooms and 1 no. double bedroom. The proposed granny flat is indicated as being single occupancy. On this basis, I consider that an adequate quantum of private amenity space remains to serve the appeal property.

#### Alterations to Vehicular Entrance

7.5.12 The Development Plan requires that entrance widths be at least 2.5 metres, that they do not exceed 3.6 metres in width, and that they have outward opening gates. The

proposed development provides for the widening of the existing vehicular entrance to 3.2 metres. The proposal complies with the applicable Development Plan policy in this regard. In the event of a grant of permission, I recommend that a condition prohibiting the use of outward opening gates be attached.

## **7.5 Appropriate Assessment**

Having regard to the nature and limited scale of the proposed development, to the serviced nature of the site, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

## **8.0 Recommendation**

Having regard to the above it is recommended that permission is granted based in the following reasons and considerations and subject to the attached conditions.

## **9.0 Reasons and Considerations**

Having regard to the residential land use zoning of the site, to the prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application (as amended by the further plans and particulars received by An Bord Pleanala on the 13<sup>th</sup> September 2021), 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 with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p><b>Reason:</b> To restrict the use of the extension in the interest of residential amenity.</p>
3.	<p>The proposed granny flat shall be used solely for that purpose and shall revert to use as part of the main dwelling on the cessation of such use. The granny flat shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
4.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>The external finishes of the proposed extension and granny flat shall be the same as those of the existing dwelling in respect of colour and texture.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<p>The vehicular entrance shall not have outward opening gates.</p>



	<b>Reason:</b> In the interests of traffic and pedestrian safety.
7.	The footpath and kerb shall be dished in accordance with the requirements of the planning authority.  <b>Reason:</b> In the interest of orderly development.
8.	All costs incurred by Dublin City Council including any repairs to the public road and services necessary as a result of the development shall be at the expense of the developer.  <b>Reason:</b> In the interest of orderly development.
9.	Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.  <b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.
10.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.  <b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

	Development Contribution Scheme made under section 48 of the Act be applied to the permission
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Ian Campbell  
Planning Inspector

7<sup>th</sup> March 2022