



An
Bord
Pleanála

Inspector's Report ABP 312085-21.

Development

Alterations to previously permitted interior and exterior: -. Changes to the design of first floor extension approved under planning application 2318/19 in respect of external finish from zinc cladding to brickwork, window locations & window sizes. Changes to the design of second floor extension approved under planning application 2094/20 in respect of external finish from zinc cladding to brickwork, roof pitch, floor area, window locations & window sizes and site works. Permission for retention of Change to design of garage approved under planning application 3812/19 in respect of roof design, floor area, door & window layout, and boundary wall treatment permitted under P. A. Reg. Refs 1318/19, 2094/20 and 3812/19

Location

1 Cowper Road and Cowper Mews, Rathmines, Dublin 6.

Planning Authority

Dublin City Council

P. A. Reg. Ref.

3480/21.

Applicant

Ciara Lyster,

Type of Application

Permission /Permission for Retention.

Decision

Grant

Type of Appeal

Third Party

Appellant

Siobhain Green

Date of Inspection

4th March 2022

Inspector

Jane Dennehy

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1.0 Site Location and Description

1.1. The application site is that of an end of terrace, two storey over garden level house with front, side and rear gardens facing onto Cowper Road, with its side boundary along Rathmines Road Upper and rear boundary along Cowper Mews, which is parallel to and at the rear the houses on Cowper Road. It serves as an access to residential development at Cowper Mews to the north east as well as the rear of the properties on Cowper Road. Along the rear garden to the rear of the house there is a single storey extension and a detached garage structure with its entrance off Cowper Mews.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for permission and for permission for retention.

2.1.1. The proposals for Permission are for alterations comprising:

- Changes to the design of first floor extension approved under P. A. Reg. Ref. 2318/19 in respect of external finish from zinc cladding to brickwork, window locations & window sizes.
- Changes to the design of second floor extension approved under P. A. Reg. Ref. 2094/20 in respect of external finish from zinc cladding to brickwork, roof pitch, floor area, window locations & window sizes and site works.

2.1.2. The proposals for Permission for Retention are for:

- Change to design of garage approved under P. A. Reg. Ref. 3812/19 in respect of roof design, floor area, door & window layout and,
- boundary wall treatment approved under P. A. Reg. Refs 1318/19, 2094/20 and 3812/19.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 3rd November, 2021, the planning authority decided to grant permission and permission for retention subject to conditions generally of a standard nature. A condition, (No 3) is also included omitting use for human habitation, for housing for animals or any use other than use incidental to the enjoyment of the dwelling unless otherwise authorised by a grant of planning permission. The reason provided is for the interest of residential amenity.

3.2. Planning Authority Reports

- 3.2.1. The planning officer in his report indicates no objection to the proposals for permission for alterations to elements of the previously permitted extensions under P. A. Reg. Refs 2094/20 and 2318/19 noting that the roof profile changes are minor, the brick facing, instead of zinc is compatible subject to a compliance submission for the brick selected and that fenestration changes including ope sizes not giving rise to undue overlooking and are also acceptable.
- 3.2.2. The planning officer in his report indicates no objections to the proposals for permission for retention of changes to the previously permitted garage under P. A. Reg. Ref. 3812/19, noting changes in the footprint, (to 8.04 metres x 7 metres from 7.8 metres x 6.7 metres), a reduction in the roof pitch resulting in an increased a height of 3.67 metres, a reduction in the width of the vehicular entrance and addition of a pedestrian entrance of Cowper Mews, addition of rooflights and a window in the south elevation and minor decorative details.

3.3. Third Party Observations

Submissions were lodged by four parties in which the issues raised include concerns as to:

Unauthorised use of garage,

Excessive size for the garage

Negative visual impact – inappropriate external finishes

Pedestrian safety and additional demands for parking.

4.0 Planning History

4.1. The current application includes proposals for permission for retention of changes to the previously permitted development as provided for under the following three grants of planning permission.

P.A. Reg. Ref. 2094/20 – Permission was granted for the addition of an en-suite room on second floor level, above previously granted first floor rear extension with zinc cladding, separated from main house with vertical glazing and rooflight.

P.A. Reg. Ref. 3812/19 – Permission was granted for a single storey garage to the rear of the property with access from existing gate at Cowper Mews, Rathmines, Dublin 6. According to Condition No 2 the maximum height for the roof of the garage is restricted to four metres.

P.A. Reg. Ref. 2318/19: Planning permission granted for a first-floor extension over existing rear extension with zinc cladding, windows and set back at 2.2 metres from neighbouring boundary.

4.2. The site also has a prior planning history as outlined below.:

P.A. Reg. Ref. 2830/09/ (PL 29S 234142- The planning authority decision to grant permission granted for the demolition of single storey kitchen extension at rear, block up existing pedestrian gate to garden, construct a two-storey rear / side extension comprising additional living and bedroom accommodation at garden and hall floor levels and a conservation roof window & ventilation vent to rear of existing roof space for attic bathroom was upheld following appeal.

P.A. Reg. Ref. 1217/08- Planning permission refused for the demolition of existing single storey rear kitchen extension, two storey side bay window and blocking up of pedestrian side gate and construction of a two-storey rear/side extension comprising kitchen, dining, utility & bedroom at garden level and library and bedroom at hall floor level together with three velux roof windows and 1 no. dormer window at rear roof level and 1 no. circular window to attic bathroom on side elevation.

507/06/PL 29S 218452- Planning permission refused for demolition of existing rear kitchen and construction of a two-storey extension and dormer windows to attic at the rear of existing dwelling; a new bay window with flat roof at first floor level with window to refurbished attic area at front of dwelling; the construction of a new two-storey over garden level, dormer end of terrace dwelling to side of existing dwelling with new pedestrian entrance from Cowper Road and demolition and rebuilding of a section of boundary wall to public footpath on Rathmines Road.

5.0 Policy Context

5.1. Development Plan

The operative development is the Dublin City Development Plan 2016-2022 according to which the site is in an area subject to the zoning objective: Z2: ‘*To protect and improve the amenities of residential conservation areas.*’

Guidance and standards for alterations and extension to residential properties are set out in section 16.10.12 and in Appendix 17.

6.0 The Appeal

An appeal was lodged by the Appellant on her own behalf on 30th November, 2022 according to which:

- The applicant’s use of the garage is for his business and trucks collect and deliver materials there. The applicant increased the height of the garage so that it could accommodate machinery. Storage of building machinery in a residential area is too dangerous for a lane serving residential properties in a residential area. Clause, (*condition*) No 6 is too vague and allows for unauthorised use.
- The applicant recently advertised the garage is being suitable for a home office in connection with the sale of the property. The location and garage are not suitable for office use because no parking is available and unauthorised double parking is an obstruction for other residents.

- The curved wall adjacent to the garage was replaced by a pillar which juts out from the original standing wall and blocks drivers views of pedestrians on Upper Rathmines Road which is hazardous.
- The development creates precedent in that other garages along the lane have been increased in height.

6.1. Applicant Response

6.1.1. A submission was lodged by the applicant's agent on 10th December, 2021 in which it is submitted that the appeal is erroneous and possibly vexatious. It is stated that:

- The permitted garage is typical for domestic use ancillary to a dwelling and the proposed alterations are unrelated to any potential use of a commercial nature.
- The contention that a construction business is operated at the garage is refuted and rejected. It is used by the applicant for storage of tools, parking and other purposes ancillary to the dwelling. (Photographs are included) The garage is not used or intended for use as a home office.
- The roof height was reduced rather than increased as contended in the appeal. To comply with the requirements of Condition No 2 of the grants of permission under P. A Reg. Ref. 3812/19 the height was reduced to 3936 mm from 4658 mm.
- The planning officer in his report clearly considers the proposed alterations, (*the retention of which is proposed*) to be of a minor nature. Extracts from the report are included in the submission.
- The planning officer did not refer to internal reports by the Transportation Department so it can be presumed that no potential hazards were observed
- The pillar referred to in the appeal which is within the applicant's property is slightly forward of the former stone wall. Motorists need to stop at the junction and check for traffic and pedestrians before crossing onto Rathmines Road Upper.

- The succinct assessment in the planning officer report indicates an appropriate scale and nature of development and of the minor nature of the alterations for which retention is sought. (The relevant extract from the assessment is reproduced in full in the submission.) Condition No 3 adequately and sufficiently addresses the domestic use of the garage to preclude commercial use.

6.2. **Planning Authority Response**

There is no submission on file from the planning authority.

7.0 **Assessment**

- 7.1. The appeal grounds relate to the permitted garage structure in respect of which the retention of alterations is sought in the application and relate primarily to the size and nature of use and hazard on the lane and at the junction with Upper Rathmines Road which is associated with use of the entrance, traffic generation and demand for parking.
- 7.2. On review of the application *de novo* it is considered that all the proposed modifications to the extensions permitted under P. A. Reg. Refs 2094/20 and 2318/19, which are minor are all acceptable, both in terms of impacts of residential amenities of adjoining properties which, if any are negligible. Also, in and in terms of visual amenities and compatibility with the existing development and that of the surrounding area the proposals are fully acceptable. It can be confirmed that the proposed alterations provide for a garage structure at a reduced rather increased height from that previously permitted, a height of 3.67 metres being indicated. The proposed garage is fully visually acceptable for the location in scale, design and finishes. The planning authority assessment and decision in this regard are fully supported.
- 7.3. With regard to the appeal, which solely relates to the garage structure, it should be noted that the structure has the benefit of a grant of planning permission, the current proposal being confined to some relatively minor alterations to the permitted development. As such there is no scope in the current instance for substantive reconsideration of the grant of permission for the original proposal.

- 7.4. The permitted garage, the proposed increase in footprint of which provides for circa a floor area of circa fifty- six square metres is considerable for domestic related uses ancillary to the residential use of a dwelling. Nevertheless, it is noted that the increase is relatively small, relative to that of the previously permitted garage structure. The images of the interior included in the response to the appeal show a range of equipment, machinery and tools in storage.
- 7.5. It should be borne in mind that follow up or investigation with regard contentions as to possible business/commercial use operated at the garage premises and/or the dwelling are outside the remit of the Board and would be a matter for the planning authority and specifically its enforcement section. However, a condition similar to that attached to the planning authority decision and the prior grant of permission clarifying that limitation of the use to that associated with the residential use of the main dwelling can be attached if permission for retention is granted.
- 7.6. The observations and recommendations of the Transportation Division are not available in respect of the current proposal, and it is also noted that they were not available in respect of the application for the previously permitted proposal for the garage under P.A. Reg. Reg. 3812/19. However, it is considered that the permitted development, with the proposed alterations for retention including the boundary in place would result in any significant material difference in effect with regard to conflicting movements and obstruction associated with the use of the entrance which is close to the junction with Rathmines Road Upper and potential traffic hazard and risk to the safety of all road users at and in the vicinity of Cowper Mews and Rathmines Road Upper.
- 7.7. **Environmental Impact Assessment Screening.**
- Having regard to the nature of the proposed development and its location in a serviced urban 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.

7.8. **Appropriate Assessment.**

Having regard to the nature and scale of the proposed development, 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.**

Given the foregoing, it has been concluded that the proposed development is acceptable and that the planning authority decision to grant permission and permission can upheld based on the reasons and considerations and conditions which follow.

9.0 **Reasons and Considerations**

Having regard to the planning history for the site and to the nature and extension of the alterations proposed for permission and for permission for retention, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the residential and visual amenities of the area, would not endanger public safety by reason of traffic hazard and, would be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions.**

1. The development shall be completed and retained 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 development shall be in accordance with the conditions attached to the prior grants of permission under P.A. Reg. Refs 2094/20, 3812/19 and 2318/19 except as modified to conform with the provisions indicated in the plans and particulars lodged with the application.

3. **Reason:** In the interest of clarity.

4. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. 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.

Reason: 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.

Jane Dennehy

Senior Planning Inspector
6th March, 2022.