



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312493-22

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<b>Development</b>	Retention of an existing flat roof building for personal office use and extended storage.
<b>Location</b>	86 Huntstown Avenue, Clonsilla, Dublin 15
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	FW21A/0194
<b>Applicant(s)</b>	Anna Marstenyuk
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Refuse Retention
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Anna Marstenyuk
<b>Observer(s)</b>	Catherine Byrne Niall Clifford
<b>Date of Site Inspection</b>	9 <sup>th</sup> April, 2022.
<b>Inspector</b>	Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the Huntstown area of Clonsilla in west Dublin. The site is located on a street of two storey semi detached houses and the prevailing pattern of development in the general area is of two storey semi detached and terraced housing.
- 1.2. The stated area of the appeal site is 0.2846 ha. and the existing house on the site has been extended to the rear with a single storey extension constructed on the south western side of the floorplan. The house to the west (No.84) has also been extended to the rear. The general ground level on the site rises to the south along the rear garden and the existing site boundaries to the sides and rear comprise block walls. To the rear (south), the rear gardens of the adjoining houses are characterised by existing pitched roofed shed or garage structures.
- 1.3. The site is characterised by an existing single storey structure located at the southern end of the back garden. This structure is largely completed and was unoccupied at the time of inspection of the site.

## 2.0 Proposed Development

- 2.1. The development for which retention is sought comprises the existing building located at the southern end of the site. This structure measures c. 4.78 metres by 4.475 metres internally and c.5.5 by 5.1 metres externally. The structure has a maximum height to parapet level of c.4.225 metres above ground level and a stated floor area of 21.4 sq. metres. From the drawings, behind the parapet, the roof has a very shallow pitch with a fall to the western side.
- 2.2. The submitted plans indicate that the structure is located c.1.4 metres from the western site boundary, c.0.550 metres from the eastern boundary and between 1.4 and 0.7 metres from the rear (southern) boundary of the site. The ground levels at the rear of the site appear to have been reduced to create a level area to accommodate the structure.
- 2.3. The structure has sliding access doors and other glazing that take up virtually all of the north facing elevation and there are two existing windows in the west facing elevation. There are also two rooflights indicated in the submitted drawings.

2.4. The structure is stated to be used for storage and as a home office, however at the time of inspection it was unoccupied and was being used for the storage of building materials and equipment. The structure is currently unfinished with the external elevations largely comprising exposed concrete blocks. Parts of the elevations have been fitted with external foam insulation and the drawings indicate that it is proposed that this would be completed over all elevations and rendered.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority issued a Notification of Decision to refuse Permission for a single reason that can be summarised as follows:

That the height, design, and finish of the structure is such that it creates an overbearing feature in the local area and such that its retention would seriously injure the amenities of properties in the vicinity and would be contrary to the Objective RS zoning objective of the site.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The report of the Planning Officer notes the location of the structure, its scale, height and visual prominence and the fact that it can be seen from the front of the site. The content of the observations received are noted and the fact that the ground levels on site rise to the rear in the vicinity of the structure is also noted. Considered that the scale of the structure is excessive and such as to be out of keeping with other sheds / garages in the vicinity and the residential zoning of the site and such as to have a significant negative impact on residential amenity of surrounding properties by virtue of overbearing and visual obtrusiveness. A number of inconsistencies in the submitted drawings are noted. Refusal of permission consistent with the notification of decision which issued is recommended.

### 3.2.2. Other Technical Reports

Water Services – No objection.

### 3.3. Prescribed Bodies

Irish Water – No objection.

### 3.4. Third Party Observations

A number of observations were received by the Planning Authority and the following is a summary of the main issues raised in these submissions:

- Loss of privacy and overlooking,
- That the site topography means that the structure is on the highest part of the site,
- That there are inaccuracies in the drawings. The rooflights project higher than illustrated.
- That the application details do not accurately demonstrate the scale of the structure relative to the surrounding houses.
- Concerns regarding the proposed use.

## 4.0 Planning History

The following planning history is referenced in the report of the Planning Officer:

- Fingal County Council Ref. FW10B/0063; ABP Ref. PL06F.237437 – Permission granted by the planning authority and decision upheld on appeal for an attic roof conversion with dormer window to the rear of the existing house.
- There is reference to an enforcement notice being issued in relation to the structure the subject of the current appeal – Fingal County Council Ref. ENF20/80B.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant development plan is the Fingal county Development Plan, 2017-2023. Under this plan the site is zoned Objective RS with a stated object '*to provide for residential development and protect and improve residential amenity*'. The stated vision for such areas is '*to ensure that any new development in existing areas would have minimal impact on and enhance existing residential amenity*'.

There are a number of provisions of the plan that relate to extensions and other forms of development in residential areas. Specifically:

**Objective PM46** seeks to encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties. The following factors are specifically referenced and will be taken into account in assessment of proposals:

- Overshadowing, overbearing, and overlooking together with proximity to boundaries and height and length along such boundaries.
- Remaining rear private open space
- External finishes and design which should match existing,

**Objective DMS42** seeks to encourage more innovative designs in domestic extensions.

**Objective DMS28** requires that the separation of a minimum 22 metres would be provided between directly opposing windows at first floor level.

### 5.2. Natural Heritage Designations

The site is not located within or close to any European sites. The closest such site is the South Dublin Bay and River Tolka Estuary SPA located c.12km to the east of the appeal site.

### 5.3. EIA Screening

The form of development proposed comprises an ancillary structure to a residential dwelling and is not therefore a class of development for the purposes of EIA.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party appeal received:

- That the structure is intended as a home office / home storage unit.
- That the area of the structure is c.21 sq. metres which is less than the exempted floor area for a shed.
- That there is significant garden area remaining post development.
- That the separation to the existing house to the south is c.18 metres. The development plan standard of 22 metres separation only relates to development at first floor level.
- That there are no possible overlooking issues given the single storey nature of the structure and the fact that there is not a mezzanine level.
- That screen planting and trellis is proposed along the shared site boundaries to reduce the visual impact.
- The development does not have any impact on sunlight to adjoining properties.
- The form of development proposed is consistent with Objective DMS42 which seeks to encourage more innovative designs in domestic extensions.
- That there is currently a small step into the building that ranges in height from 150 to 225mm. It is proposed to remove this step and provide paving decking to the front and such that the overall height would be reduced to 4.0 metres.
- That at the time of construction, the applicant was unaware of the height restrictions in place for a flat roof garden building.

- That Objective DMS111 relating to Home Based Economic Activity seeks to permit home based economic activity where the proposed activity is subordinate to the main residential use, and it does not impact on the residential amenity of the area by way of traffic, noise, fumes, vibration, or dust. Implication therefore is that the development for which retention is sought is consistent with this objective.
- Precedent cases / permissions for other home office structures in the Dublin 15 area are cited by the appellant.

## 6.2. Planning Authority Response

The following is a summary of the main issues raised in the response received from the Planning Authority:

- That the application was assessed against the policies and objectives contained in the Fingal County development Plan and existing policy and guidance.
- That the Planning Authority remain of the view that the development to the rear of the existing dwelling constitutes ad hoc development in an established residential area and an overbearing feature that adversely affects the visual amenities of the area and materially contravenes the zoning objective.

(I note that the stated reason for refusal given in the Notification of Decision issued by the Planning Authority does not state that the development is a material contravention of the development plan).

- In the event that the appeal is successful, requested that a financial contribution in accordance with the s.48 development contribution scheme would be attached.

## 6.3. Observations

Two observations on the appeal have been received by the Board. The following is a summary of the main issues raised in these submissions:

- That the building as constructed is an eyesore that overlooks and has an overbearing visual impact on adjoining properties.

- That the ground levels at the rear of the site where the structure is built is raised and this together with the extent of glazing, leads to issues of overlooking.
- That the development as constructed significantly impacts on property prices in the vicinity.
- There is no justification for the height of the building as constructed. There are concerns that it could accommodate a mezzanine floor in the future.
- That the property is now rented and so the justification as a home office is questioned.
- That the other developments / precedents cited by the appellant are not in the local area of the appeal site and the circumstances are different such that they are not comparable.
- That the proposal that the step would be removed would not make any material difference.
- That as can be seen from the photos enclosed, the design is not consistent with the submitted drawings particularly with regard to the rooflights that protrude above the roof level. The development clearly is in excess of the 4.0 metre maximum for a pitched roof as per exempted development regulations.
- That the proposed planting on the boundaries would not mitigate the sight lines into first floor rooms in the observers property.
- That the scale of the development is completely out of character / proportion with other similar structures in the vicinity.
- Observation accompanied by advert for the letting of the house and associated photographs that show the development. Photographs from the observers property are also submitted.



## 7.0 Assessment

7.1. The following are considered to be the main issues relevant to the assessment of this appeal:

- Design, Scale and Visual Impact,
- Impact on Residential Amenity,
- Other Issues,
- Appropriate Assessment.

### 7.2. Design, Scale and Visual Impact

7.2.1. The structure for which retention is sought comprises a garden room structure. It has a low pitched roof behind a parapet, and external dimensions of c.4.1 metres in width and 6.0 metres. The building is currently unfinished, being partially externally insulated, and is proposed to be finished with render. The basic form and proposed materials of the structure are in my opinion consistent with many such garden structures installed in residential properties and in terms of floor area (c.21.4 sq. metres) and stated use (storage and home office) is not of particular note. What is however significant in this case is firstly its height and secondly, and related to the overall height, the extent of glazing to the north facing elevation where it faces the existing house on the site.

7.2.2. The structure is very tall for single storey accommodation, measuring c.4.225 metres above ground level and projecting very significantly above the existing relatively high block wall garden boundaries such that it forms a very prominent feature in the rear gardens of surrounding properties. As noted by the observers to the appeal, the structure is very significantly larger and out of character with other similar shed structures in the vicinity such as that located on the adjoining site to the east at No.88 and is such that in my opinion it comprises a visually dominant and overbearing feature in the local area. I also note and agree with the statement of the observers that the ground levels at the rear of the site are elevated relative to those closer to the main building line and therefore such that the structure for which

retention sought is at a greater elevation and therefore even more visually prominent than would otherwise be the case.

- 7.2.3. In terms of **design and fenestration**, in the south facing elevation the lower level windows and sliding patio doors are augmented by higher level windows above. These higher level windows together with the overall scale of the structure are such that I consider it to have a significant overbearing visual impact on adjacent residential properties with resulting loss of residential amenity. In support of this conclusion, I refer the Board to the photograph submitted by the observer at No. 90Huntstown Avenue which shows the visual prominence of the structure from the rear windows in their house and from their garden.
- 7.2.4. The structure is located in very close **proximity to site boundaries**, especially along the eastern side, which I consider increases the sense of overbearing visual impact and visual intrusion that the development gives rise to for surrounding houses, particularly those immediately to the east and west. The proposal set out in the first party appeal that planting and trellis would be used along the site boundaries to screen the development is noted. I do not however consider that this is a realistic form of mitigation to the issues of visual prominence and overbearing visual impact highlighted above given the scale of the structure and the proximity to site boundaries.
- 7.2.5. With regard to the **overall height**, I note the statement in the first party appeal that there is currently a small step into the building that ranges in height from 150 to 225mm and that it is proposed to remove this step and provide paving decking to the front and such that the overall height would be reduced to 4.0 metres. These proposed works would only have the effect of artificially reducing the height of the structure above ground level on its northern side and would have no impact in terms of an overall reduction in the scale or visual impact of the structure. The appellant makes reference to an overall height of 4.0 metres, and this has some relevance in that it is the maximum permitted height for a pitched roof shed that would constitute exempted development under Class 3 of Part 1 of the Second Schedule of the *Planning and Development Regulations, 2001* (as amended). It should however be noted that the works proposed to artificially raise ground levels on the northern side of the structure would still mean that it would be 4.225 metres above the established ground level.

### 7.3. Impact on Residential Amenity,

- 7.3.1. The observers to the appeal contend that the structure as completed leads to **overlooking and a loss of privacy**. While the ground level to the rear of the site rises such that the floor level of the structure is noticeably higher than the ground floor level of the houses to the north, the degree to which this is the case, the separation distances to the rear of the houses on Huntstown Avenue and the height of the boundary walls are such that I do not consider that overlooking from within the structure would be a significant issue or lead to a significant loss of residential amenity for surrounding properties. As noted above however, the high level windows and extent of glazing in the north facing elevation towards the rear of the houses on Huntstown Avenue are very visually prominent and such as to give rise to a perception of overlooking. The comments of the observers regarding the potential future installation of a mezzanine level are also noted although no such mezzanine was observed at the time of inspection of the site.
- 7.3.2. With regard to the impact on **daylight and sunlight** to surrounding properties, the separation between the structure and the existing rear building line of the houses on Huntstown Avenue is in excess of 12 metres and such that no loss of daylight to existing properties would arise. The height of the structure and its proximity to site boundaries is however such that I consider it would have a significant negative impact on surrounding houses by the overshadowing of what are relatively small rear private amenity spaces.
- 7.3.3. Overall, in terms of residential amenity, I consider that the scale and design of the structure, its proximity to site boundaries and the relative ground levels with surrounding houses are such that the development as constructed has a significant negative impact on residential amenity by virtue of visual prominence, visual intrusion, perception of overlooking and loss of sunlight to adjoining private amenity spaces. These impacts are in my opinion such that the development is contrary to the **residential (Objective RS) zoning** of the site which has a stated objective 'to provide for residential development and protect and improve residential amenity'. For these reasons it is recommended that permission for retention should be refused.

#### 7.4. Other Issues,

- 7.4.1. With regard to **private amenity space** retained on the appeal site the submitted site plan indicates that c.70 sq. metres of such space remains available which is considered to be acceptable and such as to retain adequate private amenity space to serve the existing residential use on the site.
- 7.4.2. I note the **precedent examples** of similar structures cited in the first party appeal submission. While full details of these developments are not available, a review indicates that either the scale of structure referenced is smaller than that constructed on the current appeal site or the size of the garden in which they have been constructed is significantly larger than this site. For these reasons, I do not consider that the cases cited constitute a clear precedent for the form of development for which retention permission is sought under this appeal.
- 7.4.3. I note that the stated **use of the structure** is for storage and also as a home office, both of which are uses that I consider to be acceptable in principle and consistent with the residential zoning objective of the area. The observers to the appeal contend that the first party no longer reside at the site and therefore question the necessity for the development as a home office space. On the basis of my inspection of the site I do not know whether the first party is or is not currently residing at the site, however I consider that the principle of the proposed uses is acceptable and the main issues in the assessment of this case are those relating to design, scale and impact on residential amenity as addressed in the sections above.

#### 7.5. Appropriate Assessment

- 7.5.1. 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 retention permission would be refused based on the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the scale and design of the structure as constructed, including its height, fenestration, proximity to site boundaries and the relative ground levels with surrounding houses, it is considered that the structure for which retention is sought comprises a visually incongruous and dominant feature in this residential location such as to have a significant negative impact on the residential amenity of surrounding properties by virtue of visual prominence, visual intrusion, perception of overlooking and loss of sunlight to adjoining private amenity spaces. The retention of the structure as sought would therefore seriously injure the amenities and depreciate the value of surrounding properties, would be contrary to the residential zoning objective of the site and contrary to the proper planning and sustainable development of the area.

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Stephen Kay  
Planning Inspector

11<sup>th</sup> April, 2022