



An  
Bord  
Pleanála

## Inspector's Report ABP-313537-22

<b>Development</b>	The removal of an existing garage and construction of a single storey outbuilding for purposes incidental to the enjoyment of the house and a car port and storage shed and all ancillary works.
<b>Location</b>	2 Blackheath Grove, Clontarf, Dublin 3
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3305/22
<b>Applicant(s)</b>	Kenneth Thomas
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 7 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Caroline Mahon & Kevin Oliver
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	6 <sup>th</sup> October 2022
<b>Inspector</b>	Hugh D. Morrison

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## **1.0 Site Location and Description**

- 1.1. The site is located at the end of a meandering cul-de-sac, known as Blackheath Grove, which is accessed off Blackheath Park to the south, an east/west street, which runs between Vernon Avenue (R808) and Castle Avenue in Clontarf. This cul-de-sac serves five detached dwelling houses, which are informally laid out and set within their own grounds. To the north of it lies the Central Remedial Clinic and to the west lies Clontarf Hospital.
- 1.2. The site itself is roughly rectangular in shape and it extends over an area of 853 sqm. It is accessed from its south-western corner via gates from the end of the cul-de-sac. This site presently accommodates a dormer bungalow, which is sited across its northern portion. Forward of this bungalow is a mature garden with a driveway running through it to an extensive parking area beside the bungalow. A detached garage is sited in a central position with its back to the western boundary of the site.
- 1.3. To the north the site abuts the grounds of the Central Remedial Clinic, to the east and south it abuts the dwelling house and grounds to No. 3 Blackheath Grove, and to the west it abuts the end of the cul-de-sac and the dwelling house and grounds to No. 1 Blackheath Grove. These boundaries are denoted by mature hedgerows and, to the west, by the eastern elevation of the dwelling house at No. 1.

## **2.0 Proposed Development**

- 2.1. The proposal would entail the following elements:
  - The removal of the existing detached garage (11.2 sqm),
  - The construction of a single storey outbuilding for purposes incidental to the enjoyment of the house (c. 65 sqm). This outbuilding would be sited in the south-eastern portion of the site, and it would comprise a home art studio/gym and a home office along with a bathroom and hallway,
  - The construction of a car port and storage shed (c. 3.2 sqm) in the south-western portion of the site and a new 2.1m high boundary wall between this car port and the site entrance, and
  - Associated alterations to existing paving/landscaping.

- 2.2. Under the proposal, the existing floorspace of the dwelling house would be retained (305 sqm) and 68.2 sqm of new floorspace would be added to give a total of 373.2 sqm.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Permission granted, subject to 7 conditions, including the following one denoted as No. 3:

*The proposed development shall adhere to the following:*

- (a) The provision of a boundary wall of 2.1m in height with No. 1 Blackheath Grove shall be omitted.*
- (b) The home office/gym/studio and car port structures hereby approved shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses or for any other use other than a use incidental to the enjoyment of the dwelling house as such, unless authorised by a prior grant of planning permission.*
- (c) The home office/gym/studio structure shall not be used for the operation of a business involving visiting members of the public or for the sale of goods from the site, without a prior grant of planning permission.*
- (d) The structures hereby approved and the principal house shall not be divided/subdivided by means of sale, lease or otherwise unless authorised by a prior grant of planning permission.*
- (e) The fenestration to the east facing elevation shall be fitted with obscure glazing.*
- (f) 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.*

*Reason: in the interests of residential amenity.*

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

See Condition No. 3 above.

### 3.2.2. Other Technical Reports

- Dublin City Council:
  - Drainage: No objection, standard drainage advice given.
  - Transportation Planning: Advises that, under the proposal, the on-site parking would not change, i.e., only covered parking would be introduced.

## 4.0 Planning History

Site: 0222/98: Dormer style dwelling house: Permitted.

## 5.0 Policy and Context

### 5.1. Development Plan

Under the Dublin City Development Plan 2016 – 2022 (CDP), the site is shown as lying within an area that is zoned Z15, wherein the objective is “To protect and provide for institutional and community uses.”

The appellants cite the following provisions of the CDP:

Section 16.2.1 relates to the following design principles:

*...development will respond creatively to and respect and enhance its context, and have regard to:*

- 1. The character of adjacent buildings, the spaces around and between them and the character and appearance of the local area and the need to provide appropriate enclosure to streets*
- 2. The character, scale and pattern of historic streets, squares, lanes, mews and passageways*
- 3. Existing materials, detailing, building lines, scale, orientation, height and massing, and plot width*
- 4. The form, character and ecological value of parks, gardens and open spaces, and*
- 5. Dublin's riverside and canal-side settings.*

Section 16.2.1.1 relates to respecting and enhancing character and context. It includes the following advice:

*In assessing new development, consideration will be given to how the design has responded to the existing context and its relationship to the established pattern, form(s), density and scale of surrounding townscape, taking account of existing rhythms, proportion, symmetries, solid to void relationships, degree of uniformity and the composition of elevations, roofs and building lines.*

Section 16.10.8 relates to backland development. It includes the following advice:

*The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening.*

Section 16.10.12 relates to extensions and alterations to dwellings. It includes the following advice:

*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 will:*

- *Not have an adverse impact on the scale and character of the dwelling*
- *Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.*

Section 16.38.7 relates to the layout of car parking spaces. It states the following:

*Car parking spaces should generally be sited within established building lines in such a manner as to ensure minimal injury to the amenity of adjoining premises. Where parking will be open to public view, adequate landscaping and tree planting must be provided to counteract the appearance of the parking areas. All car parking bays are to be clearly demarcated in accordance with the design criteria in Section 16.38.9.*

## **5.2. Natural Heritage Designations**

Portions of Dublin Bay are the subject of European designations.

### 5.3. EIA Screening

The proposal is for domestic outbuildings within an existing residential curtilage. Such outbuildings are not a class of development for the purpose of EIA.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellants, Caroline Mahon & Kevin Oliver, reside in the dwelling house at No. 1 Blackheath Grove, which abuts the western boundary of the site.

- Car parking
  - The view is expressed that the proposal should be assessed as if it was a new build situation for parking purposes. Accordingly, as the site lies within the CDP's Zone 2, 1 space per dwelling is appropriate. By contrast, the proposed car port would be large enough to accommodate 4 cars. A further existing 2 uncovered spaces would be retained. Gross over provision would result.
  - Advice on the layout of car parking is set out in Section 16.38.7 of the CDP. The proposal would fail to reflect this advice insofar as the car port would be sited forward of the existing dwelling house and it would be an unsympathetic addition to its softly landscaped context.
- Sylvan setting
  - Blackheath Grove is composed of 5 detached dwelling houses set within their own heavily wooded grounds. While they have no common front building line, they each have a front garden, which is integral to the character of the dwelling houses.
  - Design principles set out in the CDP under Section 16.2.1 are cited. Concern is expressed that contrary to these principles the proposal would not exhibit a layout and design that is at all sympathetic to adjacent dwelling houses and its sylvan context. Consequently, this proposal risks the establishment of an adverse precedent, which if replicated would erode the character of the Grove.

- Contrary to Section 16.2.1.1 of the CDP, the proposal would entail the loss of the existing front garden to structures that would be alien to their context.
- Attention is drawn to the history of the Grove: No. 1 may originally have been a barn and Nos. 2 & 3 may have been servants' quarters. Each was subsequently converted to residential use. Nos. 4 & 5 were 20<sup>th</sup> Century additions as planned backland development. The proposal would be in conflict with the resulting pattern of development, and it would, contrary to Section 16.10.8 of the CDP, result in a "loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening."
- The proposal would also be contrary to Section 16.10.12 of the CDP with respect to domestic extensions and alterations.
- Foul drainage
  - The appellants testify to their experience of renovating and extending No. 1 Blackheath Grove during which they discovered that the existing drainage infrastructure serving the cul-de-sac is complex and substandard. Under the proposal, this infrastructure would be relied upon. Foul drainage from the site discharges via No. 1 and yet how any blockages would be dealt with has not been addressed.
- Boundary treatment
  - The hedgerow between Nos. 1 & 2 is an impermanent feature and so it cannot be relied upon to screen the proposed car port. The case planner's assessment is critiqued in this respect as it requires the removal of a wall and yet requires the car port of similar height to simply be sited 600 mm into the site.
  - Concern is expressed that after years of neglect the hedgerow has recovered and yet, under the proposal, it would suffer from reduced sunlight and the free flow of wind through it. Likewise, the proximity of the siting of the car port would jeopardise its roots.



- Scale, mass, overshadowing, building line, noise and disturbance
  - Previous concerns are reiterated and further concerns over the unsuitability of the proposal to a front garden situation are expressed, i.e., resulting noise and disturbance, which would normally be mitigated by a more discrete location. Concern is also expressed that in the future the proposed home office/gym/studio would be converted for use as a dwelling.

## 6.2. Applicant Response

- Car parking
  - The proposal would not generate increased traffic movements.
  - The applicants have an interest in quality cars and motorbikes – this provides the impetus for the proposed car port.
- Sylvan setting
  - Under the proposal, existing trees and hedgerows would be retain. The structures themselves would be clad in timber.
  - Existing dwelling houses on Blackheath Grove are an eclectic mix of styles, each of which is largely invisible to the others.
  - Concerns over building lines, the environment, and backland development are all misplaced.
- Foul drainage
  - The proposal would not result in increased foul water flows.
  - The appellants left a spur for the applicant to connect to when they undertook their renovations/extensions. The potential for blockages would presumably have been addressed then. Nevertheless, the applicant has an alternative insofar as connection could be made to a manhole in his rear garden.

- Boundary treatment
  - The car port would be built off a slab and so the roots of the adjacent hedgerow would be unaffected.
  - The juxtaposition of wall and hedgerow would not be unusual.
- Scale, mass, overshadowing, building line, noise and disturbance
  - No new issues are raised.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

None

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the Dublin City Development Plan 2016 – 2022, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) The proposal,
- (ii) Visual and residential amenity,
- (iii) Car parking,
- (iv) Water, and
- (v) Appropriate Assessment.

### **(i) The proposal**

- 7.2. The proposal relates to development within the curtilage of an existing dwelling house, which would be retained. This development would entail the construction of a freestanding single storey outbuilding and a freestanding car port and storage shed, both of which would be sited in the front garden. The outbuilding would be used for purposes incidental to the enjoyment of the dwelling house, i.e., as a home art studio/gym and a home office. The applicant states in a letter of support to the application that Lorna Daly is an artist and the applicant, Kenneth Williams, is an electrical contractor. They would use the proposed outbuilding in connection with their work, although this would not entail any persons visiting either of them. The car port would be capable of accommodating four cars and the storage shed would be sited at one end of it over a floorspace of 3.2 sqm. The applicant collects quality cars and motorbikes, which would be accommodated in the car port.
- 7.3. I note from the presentation of the proposal that no material change of use of the residential property is envisaged. I note, too, that Condition 3(b), (c), and (d) would ensure that what is envisaged remains the case.
- 7.4. I conclude that, under the proposal, the site would remain in residential use.

### **(ii) Visual and residential amenity**

- 7.5. During my site visit, I observed that Blackheath Grove is a single lane meandering cul-de-sac that affords access to five dwelling houses set within their own grounds. These dwelling houses are laid out in an informal manner in relation to one another. The dwelling houses at Nos. 1, 2, and 3 abut one another, but due to a combination of mature hedgerows and elevations that are either blank or contain only high-level windows the application site is remarkably self-contained.
- 7.6. Under the proposal, two new outbuildings would be constructed in the south-eastern and south-western portions of the site between the existing driveway and forward of the applicant's dwelling house. These outbuildings would be of low slung, single storey, elongated form. They would be of modern design and their finishes would include expanses of timber panelling.
- 7.7. The appellants express concern that the proposal would entail the loss of the applicant's front garden and that it would risk the establishment of an adverse precedent for the cul-de-sac. They also express concern that this proposal would be

alien to its sylvan setting and that it may threaten the mature hedgerows upon which it depends for screening. The applicant has responded by drawing attention to the self-contained nature of the site and the design and appearance of the proposed buildings, which would complement their sylvan context. He challenges the concern that the proposed car port would threaten the adjacent hedgerow along the western boundary by drawing attention to the specification for it of a slab foundation.

- 7.8. Under the proposal, a significant proportion of the front garden would become built up. While ordinarily such an approach to developing a residential site would be inappropriate, given the informal layout of the cul-de-sac and the eclectic mix of its largely self-contained residential properties, there is latitude in this instance for this approach. Provided the existing hedgerows are protected during any construction phase, they should continue to afford the screening that the site presently enjoys. In these circumstances, the omission, under Condition 3(a), of the proposed stretch of boundary wall appears reasonable. By the same token, the requirement under Condition 3(e) that obscure glazing be installed to the hallway opening in the eastern elevation of the proposed outbuilding appears unreasonable.
- 7.9. The appellants also express concern over the impact of the use of the proposed buildings upon the amenities of the area. The applicant has responded by stating that no new impact would arise, by which I understand him to mean that, as the uses concerned are already being undertaken/could be undertaken on the site without the need for planning permission, no change would effectively occur.
- 7.10. I conclude that the proposal would be compatible with the visual and residential amenities of the area.

### **(iii) Car parking**

- 7.11. During my site visit, I observed that there was scope in a gravelled area forward of the applicant's dwelling house for several cars to park. (During my site visit, two cars were parked in this area). Under the proposal, a car port with space to accommodate four cars would be constructed. The applicant has advised that the impetus for this car port is the need to accommodate his collection of quality cars and motor bikes.
- 7.12. The appellants express concern over the level of parking provision, i.e., 4 spaces in the proposed car port and 2 spaces on the retained gravel area, and the potential for additional vehicular movements along the cul-de-sac. They state that, as the site lies

within the CDP's Zone 2 for car parking purposes, only 1 car parking space should be provided. The applicant has responded by stating that no additional vehicular movements along the cul-de-sac to the site would be generated by the proposal.

- 7.13. As discussed under the first heading of my assessment, the proposal would entail the continuation of the existing residential use of the site, i.e., a material change of use would not occur. Clearly the proposal is not for the comprehensive redevelopment of the site. In these circumstances, I consider that the opportunity to apply the CDP car parking standard does not arise. I further consider that the effect of the proposal would be to afford some covered parking to a site where, at present, it is all uncovered, rather than the addition of net new parking.
- 7.14. I conclude that the proposal raises no parking issues.

#### **(iv) Water**

- 7.15. The proposed outbuilding would have a bathroom, which would be served by the existing public mains water supply to the site and by a new private sewer that would connect with an existing private sewer that passes underneath the appellants' residential property. The appellants testify to their experience of developing their residential property during which they discovered that the existing foul sewer serving Blackheath Grove is complex and substandard. The applicant has responded by stating that the mere provision of the proposed bathroom would not lead to increased foul water flows and that the appellants left a spur in their private sewer for the applicant to connect to. Should use of that spur now be problematic, he has an alternative, insofar as a connection could be made to the manhole in the rear garden to his dwelling house.
- 7.16. Surface water run-off from the roofs of the proposed buildings would discharge to an infiltration blanket that would be sited underneath the existing driveway.
- 7.17. Under the OPW's flood maps, the site is not the subject of any identified flood risk.
- 7.18. I conclude that the proposal would raises no water issues.

#### **(v) Appropriate Assessment**

- 7.19. The site is not in or beside any European site. It is a fully serviced suburban site. Under the proposal, the outbuildings would be constructed within the curtilage of the existing dwelling house on this site. No Appropriate Assessment issues would arise.

- 7.20. Having regard to the nature, scale, and location of the proposal, and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal 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

- 8.1. That permission be granted.

## 9.0 Reasons and Considerations

Having regard to the Dublin City Development Plan 2016 – 2022, it is considered that, subject to conditions, the proposal would lead to the appropriate development of the site within the context of residential properties on Blackheath Grove. It would be compatible with the visual and residential amenities of the area. Parking provision and traffic movements would be unaffected. Water and Appropriate Assessment issues would not arise. The proposal would accord 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 particulars received by An Bord Pleanála on the 25<sup>th</sup> day of May 2022, 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.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>The proposed development shall be amended as follows:</p>

	<p>(a) The construction of the proposed 2.1m high boundary wall with No. 1 Blackheath Grove to the south of the car port shall be omitted</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of visual amenity.</p>
3.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed outbuildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>Prior to the commencement of development, a scheme providing details of how the existing hedgerows to the site boundaries will be protected during the construction phase shall be submitted to and agreed in writing with the Planning Authority and, thereafter, the agreed scheme shall be fully implemented on a continuous basis throughout the construction phase.</p> <p><b>Reason:</b> In order to safeguard the hedgerows in the interests of visual and residential amenity.</p>
5.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>The outbuildings shall only be used for purposes incidental to the enjoyment of the dwelling house on the site. As such, they shall not be</p>

	<p>used for a business involving visiting members of the public or for the sale of goods from the site and they shall not be divided by means of sale, lease or otherwise from the dwelling house on the site.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
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Hugh D. Morrison  
Planning Inspector

20<sup>th</sup> October 2022