



An
Bord
Pleanála

Inspector's Report ABP-313896-22

Development

Permission is sought: Retention of a reinforced concrete foundation slab and partly constructed concrete blockwork walls and permission for the construction and completion on the reinforced concrete foundation slab of a single storey garden shed, storage room, home office/studio building to rear garden, all to include surface water drainage and all external works

Location

56, Landscape Park, Churchtown,
Dublin, D14

Planning Authority

Dun Laoghaire-Rathdown County
Council

Planning Authority Reg. Ref.

D22A/0243

Applicant(s)

Donla Lynott

Type of Application

Retention and Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Donla Lynott

Observer(s)

Brian Gorham

Date of Site Inspection

25/11/2022

Inspector

Lorraine Dockery

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 793 square metres, is located at 56 Landscape Park, Churchtown and contains a semi-detached dwelling. This is an established residential area.

2.0 Proposed Development

- 2.1 Retention of a reinforced concrete foundation slab and partly constructed concrete blockwork walls and permission for the construction and completion on the reinforced concrete foundation slab of a single storey garden shed, storage room, home office/studio building to rear garden, all to include surface water drainage and all external works.
- 2.2 The stated floor area of the proposed structure is circa 79m².

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for one reason as follows:

1. The proposed development fails to accord with Section 12.3.7.4 Detached Habitable Room of the Dun Laoghaire Rathdown County Development Plan 2022-2028 due to its excessive scale and ability to function as a separate independent dwelling, family member unit or large office. The building for which retention permission is requested is not considered to be ancillary to the primary dwelling and if granted the proposed development would set an undesirable precedent for similar development; may adversely impact the amenity of adjoining property's and would, therefore, be contrary to the proposed planning and sustainable development for the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the planner's report include:

- Proposal does not comply with Section 12.3.7.4 of County Development Plan relating to detached habitable rooms.
- Considered excessive in scale and given floor plan can function as a separate independent dwelling rather than ancillary use to primary dwelling.
- May also impact on adjoining dwelling by reason of intensification of use
- Setting of poor precedent
- Recommends refusal of permission

3.2.2 Other Technical Reports

Drainage Division- Further Information requested in relation to disposal of surface water run-off

3.3 Prescribed Bodies

Irish Water

Engagement required through the submission of a Building-over or Near Irish Water Asset Application form due to the presence of a 300mm diameter foul sewer crossing the rear of the site which may be impacted by the proposed development.

4.0 Planning History

PL06D.244488

Permission GRANTED for construction of two-storey extension to rear and side, porch, attic conversion and single storey garage/studio building to rear garden and all associated site works.

Condition No. 3

Prior to the commencement of development the applicant shall submit a floor plan and elevation drawings for the single storey garage/studio building to the rear garden. The structure shall have a maximum floor area of 36 square metres and a maximum ridge height of 3.6 metres. Reason: In the interest of clarity and residential and visual amenity.

ENF 37721- Enforcement

Non-compliance with conditions

5.0 **Policy and Context**

5.1 **Development Plan**

The Dun Laoghaire County Development Plan 2022-2028 is the operative County Development Plan.

Zoning: Objective A' which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities'.

Section 12.3.7.4 Detached Habitable Room

5.2 **Natural Heritage Designations**

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

5.3 **EIA Screening**

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The

need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1 Grounds of Appeal

- Purpose of structure is solely to be ancillary to dwelling; neither designed nor intended to be used as a separate dwelling
- Garage shed/garage will store garden equipment and motorcycle; storage room for audio/public address equipment and a home office/studio/garden room solely to be used by members of applicant's family. Five adults members currently working from home.
- Existing garage shed and motorcycle structure are in bad repair and will be removed as soon as proposed development is available
- A total floor area of 71m² is existing/permitted on site (36m² permitted but not constructed and 36m² existing), therefore proposed development is not excessive in this context
- Proposal has no sanitation or foul water connection
- Notes precedent for other developments in vicinity
- Refutes claims of visual impacts on adjoining property; additional planting proposed
- Considers proposal to comply with section 12.3.7.4 of operative County Development Plan

6.2 Planning Authority Response

A response was received which states that the grounds of appeal do not raise any new matter which in the opinion of the planning authority would justify a change of attitude to the proposed development.

6.3 Observations

The observation received may be broadly summarised as follows:

- Non-compliance with conditions of previous grant of permission PL06D.244488
- Visible from observer's property; dominates view due to excessive size, shape and position
- Concerns regarding future use of proposed structure
- Works to boundary wall/consent/other works under construction
- Request that appeal not be upheld

6.4 Further Responses

None

7.0 Assessment

- 7.1 I have read all the documentation attached to this file including inter alia, the appeal submission, the report of the Planning Authority and the observation received, in addition to having visited the site.
- 7.2 The primary planning issues, as I consider them, are (i) history/future use of structure (ii) the impact on the visual and residential amenity of the adjoining property arising from the proposed works and (iii) other matters.
- 7.3 The provision of a garden room or other structure ancillary to the enjoyment of the house is considered acceptable in principle, subject to an assessment under relevant Development Plan criteria, and is considered to be in accordance with the zoning objective of the area. The operative County Development Plan is generally favourable to such extensions, subject to normal planning criteria, and I note section 12.3.7.4 in this regard.

History/Future Use of subject structure

- 7.4 I note that planning permission was granted by An Bord Pleanála for development on this site which included for a single storey garage/studio in the rear garden area, under PL06D.244488 (May 2015). Condition No. 3 of that aforementioned grant of permission restricted the size of this structure to 36m² with a maximum ridge height of 3.6 metres. Works are currently underway constructing a two-storey extension to side of the existing dwelling.
- 7.5 The decision of the planning authority and the contents of the observer submission raise concerns in relation to the future use of the structure, in particular its possible future use as a residential unit. I can only assess the proposal before me, as set out in the public notices. The appeal currently before me relates to the retention and completion permission of this structure for use as a garden shed, storage room, home office/studio building. The applicants are not applying for the use of this structure as a residential unit and therefore it should not be assessed as such. The first party appeal submission states it will be ancillary to the main dwelling and outlines the anticipated uses for each element of the structure. I am generally satisfied in this regard and consider that the use of the proposed structure can be addressed by condition attached to any grant of permission, generally restricting its use for purposes incidental to the enjoyment of the dwelling house on site.
- 7.6 Any future non-compliance with conditions is a matter of enforcement for the planning authority.

Visual Amenity

- 7.7 In terms of visual amenity, I note the concerns raised in relation to its size and scale and the fact that it is visible from the observer's property. The garden at the present time is quite unsightly due to the fact that construction works are currently on-going to the side of the existing dwelling. I would anticipate that once these works are completed and the garden reinstated, then the visual amenity of the site will be greatly improved.
- 7.8 A previously permitted garden structure, which was not constructed, was limited at 36m² on appeal. While I acknowledge this restriction, dating back to 2015, I note that the appeal submission states that there is currently a timber garden shed/motorcycle store in the rear garden, measuring approximately 36 square

metres. Therefore the size of this shed, taken in conjunction with the permitted structure is not substantially smaller than that applied for currently on the site. It is anticipated that this shed will be demolished once the proposed structure becomes of use thereby reducing the overall development in the rear garden area to approximately 36m², similar to that previously permitted. I recommend that if the Board is disposed towards a grant of permission that a condition be attached to any such grant, stipulating that the existing timber garage/motorcycle store be fully demolished prior to the occupation of the structure currently proposed for retention and completion. Notwithstanding this, I do not have issue with the extent or scale of the proposed garden room structure and consider that it would integrate well with the existing dwelling and other properties in the vicinity. Given its overall height and design, I consider that the proposal would not result in material impacts on adjoining properties in terms of overbearance and I do not consider it to be visually incongruous or dominant in this context. Details of exact materials/finishes could be adequately dealt with by means of condition. Given the urban location of the site, it is not unexpected that one would be able to see other development from within their property. I am satisfied in this regard.

Residential Amenity

- 7.9 In terms of impacts on residential amenity, I consider that any impacts would not be so great as to warrant an alteration to its design or a refusal of permission. This is considered to be a minor, small-scale, garden room development providing ancillary accommodation within the rear garden area, which has capacity to absorb it.
- 7.10 Given the single storey height and design rationale put forward, I do not anticipate levels of overlooking or impacts on privacy to be excessive.
- 7.11 I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. I am generally satisfied in this regard. I have no information before me to believe that the proposal would lead to devaluation of property in the vicinity.

Other Matters

- 7.12 I note that the Drainage Division of the planning authority have raised concerns in relation to surface water drainage while Irish Water require engagement due to the presence of a 300mm diameter foul sewer crossing the rear of the site which may be

impacted by the proposed development. I consider that the matter of drainage can be adequately dealt with by means of condition.

7.13 I note concerns raised in relation to the boundary wall. I consider this to be a legal matter outside the remit of this planning appeal.

7.14 I note an enforcement file exists in relation to this site. Concerns raised in relation to compliance with conditions of a previous grant of permission are a matter for the planning authority, outside the remit of this planning appeal.

Conclusion

7.15 Having regard to all of the above, I am satisfied that the proposed development is in accordance with the provisions of the operative County Development Plan, in particular section 12.3.7.4; is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

8.0 Appropriate Assessment Screening

8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 Recommendation

9.1 I recommend permission be GRANTED subject to conditions.

10.0 Reasons and Considerations

Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenity of property

in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1.	<p>The development shall be retained and completed 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.</p> <p>Reason: In the interest of clarity</p>
2.	<p>Water supply and drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
3.	<p>The proposed garden room shall not be used for human habitation or for the keeping of pigs, poultry or pigeons, ponies or horses or for any other purpose other than a purpose incidental to the enjoyment of the house and shall not be used for commercial purposes without a prior grant of planning permission. In addition, it shall not be separated from the principal dwelling by lease or sale.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>The existing timber garden shed/motorcycle store shall be fully demolished, prior to the first use of the garden shed, storage room, home office/studio building</p> <p>Reason: In the interest of residential and visual amenity</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

6.	<p>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.</p> <p>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</p>
----	--

Lorraine Dockery
Senior Planning Inspector

28th November 2022