



An
Bord
Pleanála

Inspector's Report ABP- 314278-22

Development

Ground floor level rear bedroom extension, reduction in rear private open space to less than 25sq.m. & shed within private open space.

Location

No. 2 Willian's Place East, Ongar, Dublin 15, D15V0Y1.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

FW22A/0111.

Applicant

Redzinaldas and Daiva Dirgela.

Type of Application

Retention Permission.

Planning Authority Decision

Refusal of Retention Permission.

Type of Appeal

First Party v Refusal of Retention Permission

Appellant

Redzinaldas and Daiva Dirgela.

Observer(s)

None

Date of Site Inspection

6th December 2022

Inspector

Enda Duignan.

1.0 Site Location and Description

- 1.1. The address of the appeal site is No. 2 Willian's Place East, Ongar, Dublin 15. Willian's Place East is a cul-de-sac serving 2 no. semi-detached single storey dwellings and the rear of properties on Willian's Avenue to the north, Willian's Park to the south and Willian's Green to the east. On site is a single storey, semi-detached dwelling which is served by an area of private amenity space to its rear. Car parking is located to the east of the appeal site, outside its curtilage. The site has a stated area of c. 0.0102ha.

- 1.2. In terms of the surrounds, the site is located within an established residential area which typically comprises single and double storey semi-detached and terraced style dwellings of a similar architectural form. A pair of semi-detached single storey dwellings are located to the immediate west of the site on Willian's Place West.

2.0 Proposed Development

- 2.1. Planning permission is sought for the retention of an existing single storey extension to the rear of the existing dwelling. The extension has a stated floor area of c. 8.8sq.m. and comprises a bedroom. The extension has a flat roof form with a maximum height of c. 2.6m. The proposal also seeks to retain an existing corrugated steel clad, timber framed shed within the rear amenity space with a stated floor area of 2.85sq.m.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council refused retention permission for the following 1 no. reason:

1. The works seeking retention permission result in inadequate private amenity space serving the dwelling which is detrimental to the residential amenity of the property, would contravene the RS land use zoning objective in the Fingal County Development Plan 2017-2023, would materially contravene Objective DMS88 of the Fingal Development Plan 2017-2023, would set an undesirable precedent for other similar developments and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Fingal County Council Planning Report forms the basis for the decision. The report provides a description of the appeal site and surrounds and provides an overview of the proposed development, the planning history of the site and the policy that is applicable to the development proposal.

Within their assessment, the Planning Authority raised concerns that the retention of the works would negatively impact upon the residential amenities of the existing residents as the area of open space remaining would not comply with Objective DMS88 of the current County Development Plan (CDP). In addition, the internal room standards would not comply with the requirements of Table 12.1 and Table 12.3 of the CDP. A refusal of retention permission was therefore recommended.

3.2.2. Other Technical Reports

Water Services Planning Section: Report received stating no objection subject to compliance with a condition.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Observations

None.

4.0 Planning History

4.1. Subject Site

FW19B/0041: Planning permission granted in May 2019 for a ground floor level infill extension to hall into the existing front recessed under-roof external area to create a new study.

FW18B/0099: Planning permission granted in October 2018 for a ground floor front partial infill extension to hall and creation of a new study with existing roof over. 2 no proposed velux roof lights in front slope of roof.

5.0 Policy and Context

5.1. Fingal County Development Plan, 2017-2023 (CDP)

The site is within an area zoned 'RS' (Residential) of the Fingal County Development Plan (CDP), 2017-2023, the objective of which is 'Provide for residential development and protect and improve residential amenity'. All lands within the immediate surrounds of the subject site are also zoned 'RS'. The vision for 'RS' zoned lands is to 'Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'.

The need for people to extend and renovate their dwellings is recognised and acknowledged in the current CDP. The policy notes that extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. The policy notes that ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space.

Policy objectives relevant to the development proposal include:

- **PM46:** Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.
- **DMS24:** Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3.
- **DMS42:** Encourage more innovative design approaches for domestic extensions.
- **DMS87 & DMS88:** Relates to minimum open space provision for dwelling houses.

5.2. Natural Heritage Designations

There nearest designated Natura site is the Rye Water Valley/Carton Special Area of Conservation (SPA) (Site Code: 001398), c. 4.6km to the south-west of the site. The 'Proposed Natural Heritage Area: Royal Canal' is also located c. 1km to the south of the site.

5.3. EIA Screening

- 5.3.1. The proposed development does not fall within a Class of Development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations, 2001 (as amended), therefore no EIAR or Preliminary Examination is required.

6.0 The Appeal

6.1. Grounds of Appeal

The main points made can be summarised as follows:

- The appellant notes that they have a growing family with teenage boys and therefore need this additional internal floor space to cater to the needs of their family. It is contended that the residential amenity is not detrimentally affected, and the rear garden is used and enjoyed by the family.
- It is stated that the original private open space to the rear was 25.8sq.m. and the minimum provision of 48sq.m. as per Objective DMS88 never existed. It is contended that it is not practical to set a quantitative minimum private open space area for this small building. It is the opinion of the appellant that the private amenity space requirement for this dwelling is more comparable to that of an apartment or duplex unit.
- The Appellant confirms that they are willing to remove the existing shed within the private open space area to increase the overall area of private open space. This shed is current utilised for the storage of bicycles but there is space within the existing side passage where these bicycles could be stored.
- Given the characteristics of the existing dwelling, it is contended that any precedence set by granting this retention would not adversely affect the surrounding area in terms of the quantity/scale of similar buildings.

- It is noted that their existing extension does not adversely impact the residential amenity of properties within the surrounds of the site.

6.2. Planning Authority Response

A response was received from the Planning Authority dated 22nd August 2022 which raised concerns with the level of residential amenity that would be available to the property. The Board was requested to uphold the decision of the Planning Authority. In the event of a grant of planning permission, the Planning Authority requests that a condition for financial contributions be included in the determination.

6.3. Observations

None.

6.4. Further Responses

None sought.

7.0 Assessment

The main issues to be considered are those raised in the First Party's grounds of appeal, the Planning Report and the consequent reason for refusal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Open Space & Residential Amenity
- Appropriate Assessment.

7.1. Open Space & Residential Amenity

- 7.1.1. The proposal seeks planning consent to retain the existing single storey extension to the rear of the dwelling. The extension comprises a bedroom which adjoins the site's western (rear) boundary for a total length of c. 3.1m. The extension has a stated floor area of c. 8.8sq.m. and has a maximum height of c. 2.6m above natural ground level. It is noted that the extension directly abuts the rear amenity space of the property to the west at No. 2 Willian's Place West. As noted earlier in this report, the site is located on lands zoned 'RS' (Residential) of the current CDP, the objective of which is 'Provide

for residential development and protect and improve residential amenity'. Given the nature of the development to be retained (i.e. a residential extension), I am satisfied that the principle of development is acceptable at this location.

7.1.2. The need for people to extend and renovate their dwellings is recognised and acknowledged in the policy of the current CDP. It is stated that extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Objective PM46 of the current CDP is relevant to the consideration of the application which seeks to 'Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area'. In terms of ground floor rear extensions, the policy notes that they will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space. Within their assessment of the planning application, concerns have been raised by the Planning Authority that the development to be retained results in a substandard open space provision which is detrimental to the residential amenity of the existing dwelling on site. The proposal was therefore considered to contravene Objective DMS88 of the current CDP. Objective DMS88 seeks to 'Allow a reduced standard of private open space for 1 and 2 bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/ corner sites. The policy also notes that in no instance will the provision of less than 48sq.m. of private open space be accepted per house.

7.1.3. As per the specific wording of Objective DMS88, one can reasonably conclude that this policy applies to development proposals for new dwellings. I note that it is commonplace in urban and suburban environments for open space areas to be reduced to facilitate the construction of extensions in order to cater to the needs of growing families. In cases such as this, open space provision can often be less than the quantitative standard of the relevant County Development Plan. In this instance, I note that the existing dwelling on site (prior to the construction of the extension) was served by a rear amenity area which would not comply with Objective DMS88 of the current CDP. There is 1 no. additional dwelling within Willian Place East and 2 no.

additional dwelling's within Willan's Place West which have a similar open space arrangement. This arrangement is also displayed in residential blocks to the north (Willian's Court & Willian's Lane) and west (Willian's Grove) of the site which likely formed part of the same overall development. I note that the appellant has confirmed that they are willing to remove the existing storage shed within the rear amenity area which further reduces the private open space on site. This would result in a total of 14.8sq.m. of open space to serve the existing dwelling on site. I note that the open space area benefits from a southern orientation and is directly accessible from the lounge/dining/kitchen of the existing dwelling. I am generally satisfied that overall amenity of the dwelling is not unduly diminished or compromised by the development to be retained and I am satisfied that the open space area will afford an acceptable standard of amenity to the existing occupants should the existing shed be removed from site. I consider it unreasonable in this instance to apply Objective DMS88 to the development proposal given the characteristics of the site and the pattern of development in the area and I therefore consider the proposal to be acceptable in this specific instance. I therefore recommend the inclusion of a condition which requires the applicant to remove the existing shed within 3 months of the grant of permission. As per the foregoing, I am satisfied that the proposed development does result in a material contravention of Objective DMS88 of the current CDP and consideration of the appeal by Board, having regard to Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) is therefore not warranted in this instance.

- 7.1.4. As outlined in the foregoing, Objective PM46 of the current CDP seeks to 'Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area'. I note the existing extension directly abuts the rear amenity space of the property to the west at Willian's Place West. The extension adjoins this boundary for a total length of c. 3.1m and has a maximum height of c. 2.6m above natural ground level. Having regard to the overall scale, height and form of the existing extension and the orientation of the site, I am satisfied that the development to be retained will not unduly compromise the residential amenity of immediately adjoining property by reasons of overlooking, overshadowing or by being visually overbearing. In this regard, the development to be

retained is considered to be acceptable having regard to the residential amenity of the surrounding area.

7.1.5. Within their assessment of the planning application, concerns were also raised that the internal room standards would not comply with the requirements of Table 12.1 and Table 12.3 of the current CDP. I note that Objective DMS24 of the current CDP has a requirement 'that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3'. Again, one can conclude that these standards are applicable to new dwellings. Notwithstanding this, the proposal provides an additional bedroom with a stated floor area of c. 8.8sq.m. and a width of c. 3m. I note that the floor area of the additional bedroom complies with the minimum standards prescribed in Table 12.3 of the current CDP (i.e. 7.1sq.m. for a single bedroom with a minimum width of 2.1m). I am therefore satisfied that the additional bedroom is of a size that will afford an acceptable standard of amenity to the current occupants.

7.1.6. On the basis of the foregoing assessment, I am satisfied that development to be retained, subject to compliance with conditions, will not unreasonably diminish the residential amenity of the existing dwelling on site, will not adversely impact the residential amenity of properties within the vicinity of the appeal site and is therefore considered to be in accordance with Objective PM46 of the current CDP. The proposal in this specific instance is considered to be in accordance with the proper planning and sustainable development of the area and I recommend that retention permission be granted.

7.2. Appropriate Assessment

7.2.1. The nearest designated site is the Rye Water Valley/Carton Special Area of Conservation (SPA) (Site Code: 001398), c. 4.6km to the south-west of the site. Taking into consideration the modest nature, extent and scope of the development to be retained and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered that the development to be retained would 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. Grant of retention permission is recommended.

9.0 Reasons and Considerations

9.1. Having regard to the nature and extent of the development to be retained and to the pattern of development in the area, it is considered that the development to be retained, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would afford an acceptable standard of amenity to the existing occupants and would, therefore, be accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development to be retained shall comply with the plans and particulars lodged with the application submitted, 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 Applicant shall provide for the removal of the existing storage shed within the rear amenity space within 3 months of the final grant of permission. Reason: In the interest of residential amenity.
3.	Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Reason: In the interest of public health.

4.	<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. The contribution shall be paid prior to the 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 the Board 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 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>
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Enda Duignan
Planning Inspector

09/01/2023