



An
Bord
Pleanála

Inspector's Report ABP-314346-22

Development

Retention for extension of the existing single-storey rear garage outbuilding to provide single-storey residential accommodation accessible from the existing rear garden of the main house and through the existing access off the rear laneway. The residential accommodation provided in this extended residential area is ancillary to the main house and used exclusively by the occupants of the main house for private family residential use.

Location

116 Palmerstown Avenue,
Palmerstown, Dublin 20.

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD22B/0230

Applicant(s)

Ciaran Sweeney

Type of Application

Permission for Retention

Planning Authority Decision

Refusal

Type of Appeal	First Party v. Decision
Appellant(s)	Ciaran Sweeney
Observer(s)	None.
Date of Site Inspection	27 th March, 2023
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located to the rear of No. 116 Palmerstown Avenue, Palmerstown, Dublin 20, in an established residential area predominantly characterised by conventional, two-storey, terraced housing with front & rear garden areas and off-street car parking. It has a stated site area of 0.027 hectares, is broadly rectangular in shape, and is occupied by a two-storey, mid-terrace dwelling house with a detached single-storey garage / outbuilding used as additional residential accommodation situated within its rear garden area. The site is bounded by the public road to the northwest and by neighbouring housing to the northeast and southwest while a narrow laneway extending from Palmerstown Avenue provides access to the rear of the property.

2.0 Proposed Development

- 2.1. The proposed development consists of the retention of an extension to a single-storey garage / outbuilding (within the rear garden area of the existing property) so as to provide for additional residential accommodation ancillary to the main dwelling house. The overall construction is based on a simple rectangular plan with a conventional pitched roof and has a combined floor area of 49.5m² with a maximum ridge height of 3.775m. External finishes include rendered blockwork, brickwork, and concrete roof tiles.
- 2.2. The structure is described as providing accommodation for the exclusive use of the occupants of the main residence for private family purposes and includes 2 No. bedrooms, a bathroom, a combined kitchen / living area, and a storage space. The construction will be accessible from the existing rear garden of the house and through an existing access off the rear laneway.
- 2.3. The proposal will connect to the public water supply and mains sewerage via existing connections.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 18th July, 2022 the Planning Authority issued a notification of a decision to refuse permission for the following single reason:

- Having regard to the design and internal layout of the subject residential unit, it is considered that the development would not comply with Housing Policy 19 Family Flats and Section 11.3.3(ii) of the South Dublin County Council Development Plan 2016-2022. In addition, it is considered that the extension of the shed, as carried out, is excessive in scale and massing and therefore results in an overbearing relationship on the residential amenities of the neighbouring properties. The subject development would, therefore, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site location, planning history, and the relevant policy considerations (since superseded by the adoption of the South Dublin County Development Plan, 2022-2028) before assessing the proposal in the context of Policy H19: ‘*Family Flats*’ which supports the development of family flats subject to the protection of residential and visual amenities. This is given further expression in H19 Objective 1 which seeks ‘*To favourably consider family flat development where the Council is satisfied that there is a valid need for semi-independent accommodation for an immediate family member (such as an older parent or other dependent), subject to the design criteria outlined in Chapter 11 Implementation*’. The report proceeds to analyse the proposal by referring to the 4 No. qualifying criteria set out in Section 11.3.1(ii) of the former Plan as follows:

- *The applicant shall be required to demonstrate that there is a genuine need for the family flat:*

No evidence has submitted to demonstrate that there is a genuine need for the family flat.

- *The overall area of a family flat should not exceed 50% of the floor area of the main dwelling house:*

The gross floor area of the proposal at 67.2m² is more than half that of the main dwelling (120m²).

- *The family flat should be directly accessible from the main dwelling via an internal access door:*

The proposal would be independently accessed via a doorway from the rear garden of the existing property and would not be linked to the main house.

- *The design criteria for dwelling extensions will be applied:*

Having regard to Policy H19 of the Plan and the design criteria set out in Section 11.3.3(ii), the retention of the ancillary accommodation does not comply with the requirements of the Development Plan and is thus unacceptable.

It is also noted that the depth of the development to be retained is substantially greater than that of other structures to the rear of neighbouring dwellings. In this regard, it is further considered that the scale and depth of the construction along both its eastern and western boundaries would have a negative impact on the residential amenity of adjoining properties.

The report concludes by recommending that permission for retention be refused for the reason stated.

3.2.2. *Other Technical Reports:*

Roads Dept.: No objection, subject to conditions,

Public Realm: No comments / conditions to add.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None.

4.0 Planning History

4.1. On Site:

PA Ref. No. SD13B/0254 / ABP Ref. No. PL06S.242855. Was granted on appeal on 6th May, 2014 permitting Ciaran Sweeney permission for the extension of the existing rear extension and the construction of a first floor rear extension to the existing dwelling inclusive of all necessary building and site works.

5.0 Policy and Context

5.1. South Dublin County Development Plan, 2022-2028:

5.1.1. Land Use Zoning:

The proposed development site is zoned as 'RES' with the stated land use zoning objective 'To protect and / or improve residential amenity'.

5.1.2. Other Relevant Sections / Policies:

Chapter 6: Housing:

Section 6.7: Quality of Residential Development:

Section 6.7.1: Residential Design and Layout

Section 6.8: Residential Consolidation in Urban Areas:

Section 6.8.3: Family Flats:

A family flat refers to a temporary subdivision or extension of an existing single dwelling unit to provide semi-independent accommodation for an immediate family member (older parent or other dependent). The Council will consider family flat developments where an established need has been satisfactorily demonstrated.

Policy H15: Family Flats:

- Support family flat development subject to the protection of residential and visual amenities.

H15 Objective 1:

- To favourably consider a family flat development where the Council is satisfied that there is a valid need for semi-independent accommodation for

an immediate family member or members subject to the criteria outlined in Chapter 12: Implementation and Monitoring.

Chapter 12: Implementation and Monitoring:

Section 12.6: Housing - Residential Development:

Section 12.6.7: Residential Standards

Section 12.6.8: Residential Consolidation: Family Flats:

A family flat is to provide semi-independent accommodation for an immediate family member (dependent of the main occupants of an existing dwelling). A family flat is not considered to represent an independent dwelling unit and as such open space and car parking standards are not independently assessed. Proposals for family flat extensions should meet the following criteria:

- The applicant shall be required to demonstrate that there is a genuine need for the family flat;
- The overall area of a family flat should not generally exceed 50% of the floor area of the existing dwelling house;
- The main entrance to the existing house shall be retained and the family flat shall be directly accessible from the front door of the main dwelling via an internal access door, and the design criteria for dwelling extensions will be applied;
- Any external doors permitted (to provide access to private / shared open space or for escape from fire) shall be limited to the side or rear of the house;
- Conditions may be attached to any grant of permission that the family flat cannot be sold, conveyed or leased separately from the main residence, and that when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit.

5.2. Natural Heritage Designations

- 5.2.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Liffey Valley Proposed Natural Heritage Area (Site Code: 000128), approximately 700m east of the site.
- The Grand Canal Proposed Natural Heritage Area (Site Code: 002104), approximately 2.6km south of the site.
- The Royal Canal Proposed Natural Heritage Area (Site Code: 002103), approximately 3.3km north of the site.

5.3. EIA Screening

- 5.3.1. Having regard to the minor nature and scale of the development under consideration, the site location in an established built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, 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

- The development to be retained provides for much needed additional residential accommodation, will be entirely ancillary to (and supported by) the main dwelling house, and is not intended to function as a 'standalone' unit.
- It is considered that a balanced assessment of the development has been compromised due to the difficulty in its precise categorisation given that structure does not strictly amount to a "family flat" (as defined in the Development Plan) nor does it adhere to the definition of an "extension" or a "house". Instead, the proposal should be assessed on its own merits as a well-considered form of development which provides for a high standard of residential amenity.

- It is the underlying policy of the South Dublin County Development Plan, 2016-2022 to support the principle of development such as that proposed with Policy No. 19 stating:

'It is the policy of the council to support family flat development subject to the protection of residential and visual amenities'.

The stated objective being to:

'To favourably consider family flat development where the council is satisfied that there is a valid need for semi-independent accommodation for an immediate family member (such as older parent or other dependent), subject to the design criteria outlined in Chapter 11 Implementation'.

Therefore, in support of the proposal, and for the purposes of clarity, the Board is advised that the applicant's mother-in-law is no longer capable of living independently. Accordingly, the intention is to make the accommodation in question available to her on a permanent basis thereby affording her the opportunity to live semi-independently, albeit with under the care of the applicant and his family. This arrangement will allow the applicant's family to maintain their current home without the financial burden of having to seek further costly extensions while simultaneously providing his mother-in-law with a degree of independence and privacy.

- In response to the requirements of certain provisions of the South Dublin County Development Plan, 2016-2022, the Board is requested to consider the following:

- Section 11.3.1(iv): *Dwelling Standards:*

Notwithstanding that the proposed development is not a "house" but is rather a residential area ancillary to the main dwelling, its floorspace of 43m² is only marginally below the 50m² floor area requirement specified for a standalone unit.

Similarly, the private open space available to the proposed development extends to 64m² and thus is comfortably in excess of the required minimum of 50m² (whilst accepting it will be shared with the main house).

While the aforementioned standards relate to an independent one-bedroomed dwelling house, they illustrate that the proposed development is far from deficient in terms of floor area etc.

- Section 11.3.2(ii): *Corner / Side Garden Sites:*

This states that '*dwelling should generally be designed and sited to match the building line and respond to the roof profile of adjoining dwellings*'.

Drg. No. 202204/05 shows the rear elevation of the proposal in the context of other single-storey buildings along the laneway and demonstrates that the guidance has been followed exactly.

- Section 11.3.2(iii): *Backland Development:*

This states that '*Development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking*'.

The proposal adheres to the foregoing requirements and does not give rise to an overbearing relationship with adjoining properties.

- Section 11.3.3(ii): *Family Flat:*

The proposed development is not a 'family flat' as defined by the Development Plan e.g. it is not feasible for there to be an interconnecting door. While the proposal is for a 'semi-independent' unit, it will nevertheless share much of the same residential amenity as the main dwelling house. Similar developments have been described as comprising a 'family annex', summerhouse, a granny-flat or a garden-house, however, the case remains that the proposal provides for comfortable, well-proportioned residential accommodation ancillary to the main house.

- For comparison purposes, it is of note that the internal room sizes and other design aspects of the proposed development are broadly compliant with the standards set out in the '*Quality Housing for Sustainable Communities, Best Practice Guidelines*' published by the Department of the Environment, Heritage and Local Government in 2007.

- It is not accepted that the scale and massing of the proposed development would be so overbearing as to detract from the residential amenities of neighbouring properties.
 - The roof profile follows that of the original single storey garage / outbuilding while the 3.4m depth of the proposed extension ensures that a rear garden area measuring over 63m² is maintained.
 - The floor level of the unit is 400mm lower than the garden level.
 - The highest ridge line of the roof is 950mm lower than that of the single storey return to the rear of the main house.

The development proposed effectively amounts to a single-storey outbuilding at the end of a garden with windows facing the main house. Accordingly, given its height, footprint and massing, the proposal could not be construed as overbearing and will have a negligible impact on the amenity of neighbouring properties.

- In seeking to ascertain how the Planning Authority defines an 'overbearing' impact, the Board is referred to the South Dublin County Council House Extension Guide which offers its own detailed definition of what amounts to an overbearing impact on neighbouring properties. The examples shown therein almost exclusively concern two-storey development to the rear of housing and cannot be compared to a single storey construction that is set below garden level.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The principle and nature of the proposed development
- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

7.2. The Principle and Nature of the Proposed Development:

- 7.2.1. From a review of the available information, it is apparent that the pertinent issue in the assessment of the subject appeal is the nature and use of the structure proposed for retention. In this respect, the applicants have openly confirmed that the structure is to be ancillary to the main dwelling house and for the exclusive use of the occupants of that property as additional private family residential accommodation. Further elaboration is provided in the grounds of appeal wherein it is stated that the development is to be made available for permanent occupation by the applicant's mother-in-law who is no longer able to live independently. In support of the proposal, the applicant has sought to emphasise that the proposal will afford its occupant the respect and dignity of living semi-independently, albeit under the care of the applicant and his family. It has also been submitted that the proposed development represents a pragmatic solution to the particular constraints of the site as it involves the extension and upgrading of a former garage / outbuilding thereby allowing the applicant to maintain his own home without the financial burden of having to seek a further costly extension during the current cost-of-living crisis. In essence, it has been submitted that the development to be retained functions as semi-independent living accommodation in an ancillary capacity to the main residence. In this respect, it is my opinion that parallels may be drawn between the proposed usage and that of a more conventional 'family / granny flat'.
- 7.2.2. Having considered the submitted plans and particulars, and following a site inspection during which it was confirmed that the accommodation in question encompasses a combined kitchen / living area, a bathroom, and 2 No. bedrooms, it would appear that the structure in question is reliant on shared services (e.g.

electricity, water & sewerage etc.) and is primarily accessed through the curtilage of the main dwelling house. It amounts to a self-contained semi-independent living unit (with separate access through a storage area via the laneway to the rear) that is intended to be ancillary to the main residence and, therefore, I would consider it reasonable to assess the proposal by reference to Sections 6.8.3: '*Family Flats*' & 12.6.8: '*Residential Consolidation: Family Flats*' of the current Development Plan for the area.

7.2.3. Section 6.8.3: '*Family Flats*' of the Development Plan defines a family flat as encompassing a temporary subdivision or extension of an existing single dwelling unit to provide semi-independent accommodation for an immediate family member and states that such developments will be considered where an established need has been satisfactorily demonstrated. H15 Objective 1 subsequently states that favourable consideration will be given to a family flat development provided a valid need for semi-independent accommodation for an immediate family member(s) has been established, subject to the design criteria set out in Section 12.6.8: '*Residential Consolidation: Family Flats*'. Accordingly, I propose to assess the proposal against the applicable criteria as follows:

7.2.4. *The applicant shall be required to demonstrate that there is a genuine need for the family flat:*

Within the grounds of appeal, it has been submitted that the applicant intends to make the development available to his mother-in-law, a retired widow who is no longer able to live independently. Although no further documentation has been provided to support this proposition, I would consider such a prospect to be reasonable in establishing that there is a genuine need for the accommodation proposed. However, I note that the particulars submitted with the initial application refer to the extension & upgrading works as having been completed in 2014 (seemingly in lieu of the extension to the main dwelling house approved under PA Ref. No. SD13B/0254 / ABP Ref. No. PL06S.242855) and thus questions arise as to the previous occupation / usage of the structure given the implication that the applicant's mother-in-law only 'intends' to occupy the development.

7.2.5. *The overall area of a family flat should not generally exceed 50% of the floor area of the existing dwelling house:*

The residential accommodation proposed for retention has a stated floor area of 49.5m² as per the response to Question No. 12 of the planning application form, although the grounds of appeal refer to a floor area of 43m². A crude measurement from the submitted drawings would suggest that the accommodation has an internal floorspace of c. 41.75m² (exclusive of that area used for the storage of garden tools & bicycles etc.) whereas the entirety of the structure (including the storage area) without the exterior garden veranda (c. 5.2m²) can be similarly measured as extending to an approximate internal floor area of 52.5m². In this regard, it is unclear why the assessment undertaken by the Planning Authority has determined that the accommodation in question extends to 67.2m².

Given that the main dwelling house has a stated floor area of 120m² (with measurement from the submitted plans suggesting an internal floor area of c. 108m² exclusive of the attic storage space), in my opinion, it is apparent that the overall area of the residential accommodation proposed for retention does not exceed 50% of the floor area of the existing house.

- 7.2.6. *The main entrance to the existing house shall be retained and the family flat shall be directly accessible from the front door of the main dwelling via an internal access door, and the design criteria for dwelling extensions will be applied:*

The accommodation in question comprises a detached structure separate from the main dwelling house with its development having involved the extension and upgrading of a former garage / outbuilding (rather than any construction attached to the house itself) for reasons of practicality and cost. It is not physically connected to the main residence and is only accessible through the rear garden area of the existing house or via a public laneway to the rear of the property.

The Development Plan is clear in stating that any family flat should be directly accessible from the front door of the main dwelling via an internal doorway. It is understood that the intent of this policy requirement is to prevent such developments from being utilised as separate independent accommodation units, and to ensure that they can be readily incorporated into the main dwelling house when no longer required. Therefore, I would concur with the view of the Planning Authority that the provision of standalone residential accommodation to the rear of the site would not comply with the design criteria for family flats. While I would acknowledge the

contention by the applicant as regards the intended usage of the development, there is a risk that the accommodation could be used as a separate dwelling unit at some time in the future. The detached construction as a unit in its own right would not comply with the relevant provisions and standards regarding private open space, access and parking. Whilst a condition could be imposed restricting its use, the long-term enforceability of any such a condition is questionable. Due to its design, the unit could not be reintegrated with the main dwelling house when no longer required. In this regard, I am of the view that the accommodation proposed is an inappropriate form of backland development and does not comply with the Development Plan.

- 7.2.7. *Any external doors permitted (to provide access to private / shared open space or for escape from fire) shall be limited to the side or rear of the house:*

Given that the structure is a detached construction situated within the rear garden / yard area of a mid-terrace property, it is only accessible through the rear garden of the existing dwelling house or via a public laneway to the rear of the property. The limiting of access to the side or rear of a house is likely intended to prevent any such development from being utilised as a separate independent dwelling unit, however, as the subject proposal is not physically connected to the main residence, difficulties arise in achieving strict compliance with this design criterion.

- 7.2.8. *Conditions may be attached to any grant of permission that the family flat cannot be sold, conveyed or leased separately from the main residence, and that when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit:*

In the event of a grant of permission for retention, it would be appropriate to attach a condition prohibiting the sale, conveyance or leasing of the development separate from the main residence, however, given the detached nature of its construction, I would suggest that in the absence of any future need for the additional accommodation / family flat, difficulties may arise in integrating it into the existing dwelling house.

- 7.2.9. On the basis of the foregoing, it is my opinion that the residential accommodation proposed for retention does not satisfy the design criteria set out in Section 12.6.8:

'Residential Consolidation: Family Flats' and thus fails to comply with H15 Objective 1 of the Development Plan.

7.3. Impact on Residential Amenity:

- 7.3.1. Having regard to the overall scale, design and single-storey construction of the development proposed for retention, the broader pattern of comparably scaled development to the rear of existing housing in the surrounding area, and the difference in levels both through the rear of the site and adjoining properties, I am not of opinion that the proposal is overbearing or that it would seriously detract from the residential amenity of neighbouring properties.

7.4. Appropriate Assessment:

- 7.4.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission for the retention of the proposed development be refused for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to the design, layout and use of the development to be retained, and the lack of integration with the existing dwelling house, it is considered that the proposed development would materially contravene the provisions of the South Dublin County Development Plan, 2022-2028, with specific reference to H15 Objective 1 and Sections 6.8.3: 'Family Flats' & 12.6.8: 'Residential Consolidation: Family Flats', which seek to ensure that family flats are of a temporary nature and are linked directly to the dwelling

house so as to be capable of being subsumed back into the main residence. The development proposed for retention would therefore set an undesirable precedent for other similar forms of development and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Robert Speer
Planning Inspector

29th March, 2023