



An
Bord
Pleanála

Inspector's Report

ABP-315380-22

Development	The retention of a timber garden office/shed (3.0sq.m) and timber fence.
Location	6 Brooklawn Wood, Blackrock, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/0995
Applicant(s)	Niall and Olivia Riordan
Type of Application	Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Niall and Olivia Riordan
Observer(s)	Brooklawn Residents Owners Management CLG
Date of Site Inspection	28/03/2023
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. Brooklawn Wood is a small residential development, located off Stradbroom Road, in the south Dublin suburb of Blackrock.
- 1.1.2. No. 6 Brooklawn Wood, is a two-storey dwelling that forms the north-western 'corner' of a block of four dwellings (no.s 5,6,7 and 8). There are three 'blocks' each comprising four dwellings within the Brooklawn Wood housing development.

2.0 Proposed Development

- 2.1. On the 11th November 2021 planning permission was sought to RETAIN a timber garden office / shed of 3sq.m. and a timber fence, on a site of 0.0075 ha that also accommodates a 60.5sq.m. house.
- 2.2. The application was accompanied by a cover letter that responds to correspondence sent in relation to an enforcement notice ENF 23621.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 13th January 2022, the Planning Authority issued a notification of their intention to REFUSE permission to retain the timber garden office / shed and timber fence for the following reason:

- 1 Having regard to the development's (shed and fence) location and layout, in close proximity to adjacent front façades, other properties and footpaths, the development proposed for retention, by reason of its heights, design/materials, and layout, is considered to be visually obtrusive, disruptive and seriously out-of-character when viewed from the adjoining and adjacent sites and footpaths, including negatively impacting on the character of the subject dwelling, and its directly adjoining neighbouring properties. The development proposed for retention, is visually obtrusive and incongruous when viewed from the surroundings and would help set a poor precedent for similar development in the area. The development proposed for retention, therefore, seriously injures the amenities and depreciate the value 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 Report:** Most of the planning history in this estate relates to attic conversions. Proposed office / garden has 3sq.m. external dimensions, fence to be retained is 3.2m long spanning the rear shared boundary. Development to be retained uses one-quarter of the 21sq.m. private open space of the dwelling, leaving c. 18sq.m. amenity space. The structures due to their heights, layout, design and finish have serious negative visual impacts on the visual amenity and character of the surrounding properties and as viewed from the surrounding footpaths and on the character of the existing structure. Structures do not materially contravene condition no. 6 of the parent permission which required that there be no alterations to the layout of the development or design of the dwellings. Setbacks are insufficient. Materials do not match the dwelling. Recommendation to refuse permission for retention. In the event of a grant of permission, the report recommends that a condition regrading drainage be attached. Notes that the refusal of a permission would address the bulk of the third-party concerns.

3.3. **Prescribed Bodies**

3.3.1. None on file.

3.4. **Third Party Observations**

3.4.1. **Cllr. Séafra Ó Faoláin:** The adjudication on this application for retention of a small garden office should be treated consistently with the application of planning requirements for other garden office / sheds in Brooklawn.

3.4.2. **Brian McBryan 19 Brooklawn Wood:**

- Home faces the subject site. No objection to improvements, as long as in consultation with neighbours, within the rules of the Brooklawn OMC and within planning requirements.
- Proposed development is over development of the site, leaves inadequate open space, creates an undesirable precedent and results in a congested layout.
- Proposed development does not comply with original planning permission 604/84 which required “unity of the design of the total development”.
- No provision for drainage of surface water from roof. Past issues of flooding in Brooklawn.

- Unauthorised development has caused concern and distress in this tight-knit community.
- Proposed development would create an undesirable precedent.
- Proposed development will not be temporary.
- The photos and other examples submitted by the applicants are not comparable. Structures in back patios have been removed following action by the Planning Authority and An Bord Pleanála. There is no precedent for the proposed development.
- The Planning Authority is requested to refuse permission.

3.4.3. **Brooklawn Residents Owners Management CLG (OMC)**

- Application should be deemed invalid on the grounds of insufficient detail.
- The development to be retained is not an extension but a standalone structure
- The proposed use is unclear.
- The new addition is unsightly, given its visibility from the commons areas.
- A grant of permission would cause a serious precedent and would allow for a proliferation of non-standard extensions.
- The location and size of the structures is not acceptable. It impacts on the unity of the development.
- The reduction in open space results in a congested layout that is contrary to the proper planning and sustainable development of the area.
- There is no basis for allowing the temporary retention of the structure.
- The external finishes of the structure should not impact the decision to approve retention as they do not match the existing dwellings.
- The examples submitted by the applicant are not comparable as they do not share the same characteristics as the subject development.
- The application should be refused.

3.4.4. **Patricia Clifton, 18 Brooklawn Wood**

- Purchased dwelling presuming the unity of the development would be maintained.
- Home is in direct view of the construction, for which no prior consultation was undertaken.

- To avoid a precedent permission, should be refused.

4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **D17A/0542**: Permission granted for conversion of attic space on the subject site.
- 4.1.2. **Enf. 236/21** and **Enf. GC363/21** refer to allegations of unauthorised development on the subject site.
- 4.1.3. Planning Authority reg. ref **604/84** refers to a grant of planning permission for 93 no. residential units at Brooklawn, Stradbrook Road.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Council Development Plan

- 5.1.1. The subject application was assessed by the Planning Authority under the 2016-2022 Development Plan which was operative at that time. Dun Laoghaire Rathdown County Council have subsequently adopted the 2022-2028 Development Plan, which came into effect on the 21st April 2022.
- 5.1.2. The zoning of the subject site did not change in the current plan, and it retains the Objective A Residential zoning, which has the stated objective ‘to provide residential development and improve residential amenity while protecting the existing residential amenities’. Residential use is permitted in principle in such zones.
- 5.1.3. **Section 12.3.7.4** of the 2022-2028 development plan refers to detached habitable rooms, stating that “This can provide useful ancillary accommodation such as a playroom, gym, or study/home office for the main residence. It should be modest in floor area and scale, relative to the main house and remaining rear garden area. The applicant will be required to demonstrate that neither the design nor the use of the proposed structure will detract from the residential amenity of adjoining property or the main house. Any such structure shall not be to provide residential accommodation for a family member/ granny flat nor shall the structure be let or sold independently from the main dwelling”.

5.2. **Natural Heritage Designations**

- 5.2.1. The South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024) are 0.9km to the north of the subject site.

5.3. **EIA Screening**

- 5.3.1. Having regard to nature and scale of the proposed development and the urban location of the site 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**

- 6.1.1. The applicant has appealed the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:
- The family home of 60sq.m. accommodates two adults and two small children.
 - Two adults working in the house / from home during the pandemic was not possible as there is only one room downstairs. So the small garden office of 3sq.m. was constructed.
 - An enquiry to Dun Laoghaire Rathdown about an exemption was not responded to.
 - Permission to retain was sought after a warning letter was received.
 - The subject shed was a sustainable and appropriate solution, utilising the space available in the most efficient way. It reduced commuting, is made from renewable material and has a low carbon footprint.
 - The immediate neighbours did not object. Objections to the proposal are from dwellings in excess of 35m away.
 - The structure is aesthetically pleasing but can be further screened with a fast-growing plant such as clematis / jasmine.
 - The applicants cannot afford to move to a bigger dwelling due to the housing crisis.

- Permission is sought to retain the structure for at least two years. It is a temporary structure, not fixed to the grounds and can be removed if needed.

6.2. **Planning Authority Response**

- 6.2.1. The Board is referred to the previous Planners Report. The Planning Authority consider that the grounds of the appeal do not raise any new matter which would in their opinion, justify a change in attitude to the proposed development.

6.3. **Observations**

6.3.1. **Brian McBryan, 19 Brooklawn Wood**

- Urges the Board to endorse the decision of DLRCC to refuse retention permission.
- His home faces the subject site. No objection to improvements, as long as in consultation with neighbours and within planning requirements.
- Agrees with the conclusions of DLRCC and requests that the decision not be reversed.
- Proposed development leaves inadequate private open space provision with only 19sq.m., results in a congested layout and creates an undesirable precedent.
- Proposed development does not comply with original planning permission 604/84 which required “unity of the design of the total development”. External finishes do not match and does not fit in.
- No provision for drainage of surface water from roof. Past issues of flooding in Brooklawn. The estate is highlighted as a flood-risk area in the current development plan.
- Distances to neighbouring structures not included on the plans.
- Unauthorised development has caused concern and distress in this tight-knit community.
- The photos and other examples submitted by the applicants are not comparable. They may show extensions in rear gardens of regular townhouses. No. 6 the subject site is not a house with a back garden, it is a maisonette in a block of 4 no. with no rear gardens. Structures in back patios have been removed following action by the Planning Authority and An Bord Pleanála. There is no precedent for the proposed development.

- The proposed development would cause an undesirable precedent for non-standard extensions.
- Proposed development will not be temporary.
- The permitted attic conversion does not appear to have been constructed and could act as an alternative to the subject structure to be retained.
- Personal comments made by the appellants are not relevant and are not correct.
- The Board is requested to refuse permission.

6.3.2. **Brooklawn Residents Owners management CLG (OMC)**

- The property is located in a multi-unit development with very specific planning requirements.
- The subject structure is not an extension but a standalone structure, which creates an unwelcome precedent.
- This does not comply with condition no. 6 of the original planning permission 604/84 which refers to a unity of design and that there shall be no alterations to the layout of the development or the design of the dwellings.
- The subject dwelling is one of two back-to-back maisonettes with an open side-patio. The new addition and large fence are unsightly and out of character. They are clearly visible from the common areas and have been the subject of a number of complaints.
- Precedents have been set for the removal of structures in two-bed maisonettes – D04B/0725 and 06D.210071.
- In response to the applicant's design statement: it is irrelevant that the structure is not forward of the front wall, does not exceed 25sq.m., or that a large area of open space exists. The proposed development represents a congested layout. The owners of the subject dwelling were advised of the objections of OMC to the proposed development. Alternative space within the attic conversion exists. The subject design does not match the surrounding maisonettes.
- Insufficient detail on the proposed screening. The existing fencing does not screen and have a significant impact on the unity of the design of the patios.
- The photographs and notes submitted by the applicant are not relevant as they are not comparable. Non-compliant structures have been removed in the estate.

- The submission made by OMC to the Planning Authority was made on behalf of the Management Company not the individual named. The Board represents the 91 no. homeowners in the estate.
- The Board is requested to endorse the decision of the Planning Authority to refuse.

6.3.3. **Patricia Clifton 18 Brooklawn Wood**

- Requests the Board to have consideration of matters brought to the Planning Authority's attention.
- Requests that permission be refused.

6.4. **Further Responses**

6.4.1. **Brian McBryan:** Owner of no. 19 facing the subject property. Wishes to emphasise that the subject property is a maisonette in a square block of four units, without a back-garden with a patio in full view of the common area. Continues to endorse the decision of DLRCC to refuse permission, agreeing that the value of properties will be negatively impacted.

6.4.2. **Patricia Clifton:** No further comment to make.

6.4.3. **Applicants Response:** There is no significant information made available in the submissions from that available on file. A number of neighbours have indicated that they have no difficulty with the home office, the garden office complies with development plan policy as it is small and does not detract from visual amenity. The loss of open space is compensated by the adjoining open area. The fence protects the applicants two children. The photos submitted by one of the Observers are out of date. Recent planting has increased the screening of the home office. The examples of structures removed are not comparable to the home office. The home office will not create a precedent and has no impact on the overall development. That the office is not front of the boundary and under 25sq.m. and that there is a large open space is relevant. The attic is used for storage as it is not suitable for conversion. The external finishes are sympathetic. It is submitted that the Observers do not represent the views of the entire estate. No immediate neighbours have objected. There is little visual impact from the dwelling 35m north of the applicant's garden. The Board are requested to grant permission.

6.4.4. **Brooklawn Owners Management Company (OMC):** The submission of OMC is the most important one as it represents the views of the Board appointed by the OMC members to act on their behalf. The OMC believes the development should not be permitted to be retained primarily due to the impact on the 'unity of design' requirement of the parent planning permission 604/84. The hut cannot be exempted development as it reduces the private open space available to 19sq.m. The OMC has received numerous complaints, particularly from no. 5 due to overshadowing. The precedent set by permitted the development would be extremely detrimental to the unity of the development.

7.0 Assessment

- 7.1.1. Permission is sought to retain two structures: a timber fence of 1.85m high sitting atop an existing brick wall and a flat roofed timber structure, in use as a home office.
- 7.1.2. As noted above the development plan refers to detached habitable rooms, (section 12.3.7.4 refers) recognising that they can provide useful ancillary accommodation once they are modest in scale, relative to the main house and the remaining rear garden area.
- 7.1.3. The subject structure at 3sq.m. is modest in scale relative to the small dwelling and small open space. It reduces the private open space available to the dwelling, but this is acceptable in this instance due to the large common open space directly in front of the dwelling. Further, the space to the side of the dwelling functions less as a traditional private rear garden and more as an open patio area, so its reduction in size is less acute. Both the fence and the home office are keeping with the general palette of finishes in the wider area.
- 7.1.4. I am satisfied that the structure does not detract visually from the existing dwelling or the wider area. It is in compliance with the development plan policy on detached structures and provides useful ancillary accommodation to the applicants. I am satisfied that neither structure detracts from the "unity of the development", given the very small scale, use of complimentary finishes and limited visibility of the structures in the question.

7.1.5. Noting the development management guidance on temporary permissions, namely that they should never be used because of the adverse effects of a development, I see no cause for limiting the life of the structure to be retained.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development to be retained in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development 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. I recommend permission to RETAIN be GRANTED for the following reasons and considerations and subject to the following conditions:

9.0 **Reasons and Considerations**

9.1.1. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development to be retained and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought to retain would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1.	The development shall be retained 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. Reason: In the interest of clarity.
2.	Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

	<p>Reason: In the interest of public health and to ensure a proper standard of development.</p>
3.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.</p> <p>Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process</p>

Gillian Kane
Senior Planning Inspector

14 April 2023