



**An
Bord
Pleanála**

Inspector's Report ABP315731-23

Development	The conversion of an existing garden room to a family flat with a new covered walkway to connect family flat to existing house.
Location	No. 215 Griffith Avenue, Drumcondra, Dublin 9.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	5204/22.
Applicant(s)	Anne Simmonson.
Type of Application	Permission
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant(s)	Anne Simmonson.
Observer(s)	<ul style="list-style-type: none">• Gerry and Mary Garvan (54 Griffith Downs)• Eamon Walsh and Bernadette McNally (215 Griffith Avenue)• Claire and James Cassidy (55 Griffith Downs)

Date of Site Inspection

25/05/2023.

Inspector

Anthony Abbott King.

1.0 Site Location and Description

- 1.1. The applicant site comprises a substantial semi-detached two-storey dwelling house in a linear tree-lined streetscape of similar sized suburban type family homes constructed post 1920 on the north side of Griffith Avenue. These houses are sited on large mature plots enjoying generous front and rear gardens. The rear gardens back onto the rear gardens of houses on Griffith Downs – a residential cul-de-sac comprising estate type detached houses constructed circa.1980. The rear garden of no. 215 bounds the rear gardens of nos. 54 & 55 Griffith Downs.
- 1.2. The rear gardens of the houses on Griffith Avenue are located behind the uniform building line on Griffith Avenue and by reason of the juxtaposition of the rear gardens of the houses on Griffith Downs are fully enclosed private amenity spaces.
- 1.3. It is noted that the principal entrance no. 217 Griffith Avenue is to the side of the dwelling house facing the west gable of no. 215 Griffith Avenue.
- 1.4. There is a single-storey pitched roof structure located in the rear garden of no. 215 Griffith Avenue abutting the boundary wall with the houses on Griffith Downs.

2.0 Proposed Development

- 2.1. The conversion of an existing garden room to a family flat with a new covered walkway to connect the family flat to the existing house and associated works.

3.0 Planning Authority Decision

3.1. Refusal

The form of the proposed link and the integration between the existing house and the garden structure does not meet the requirements of Appendix 18, Section 7.0 Ancillary Family Accommodation of the Dublin City Development Plan 2022-2028, due to the fundamental separation between the dwelling unit and the detached garden structure. The link structure does not follow the established pattern of

development in the area and would be an inappropriate intervention in this location and would set a poor precedent for similar development in the city on sites of this type. The development is contrary to council policy relating to ancillary family accommodation Appendix 18, Section 7.0 of the Dublin City Development Plan 2022-2028.

3.2. Planning Authority Reports

3.2.1. The decision of the CEO of Dublin City Council reflects the recommendation of the planning case officer.

3.2.2. None relevant

4.0 Planning History

- WEB1859/20 retention permission was granted (11/03/2021) for a single storey detached garden room (study, playroom, gym & toilet) and bicycle tool shed attached subject to condition. Condition number 2 restricts the use of the retained development to exclude human habitation; Condition number 3 prohibits commercial use and restricts use only to that incidental to the enjoyment of the dwelling house. Furthermore, Condition number 3 prohibits separation of the development from the principal dwelling house through lease or sale. All of the above requirements conditioned in the interests of residential amenity.
- WEB1128/20 planning permission was granted (12/08/2020) for single-storey and two-storey side and rear extensions and relocation of entrance door from the side to the front elevation.

5.0 Policy and Context

5.1. Development Plan

The relevant landuse zoning objective is Z to *protect, provide and improve residential amenities*. The proposed development is a permissible use.

Appendix 18 (Ancillary Residential Accommodation), Section 7.0 (Ancillary Family accommodation) of the Dublin City Development Plan 2022-2028 is relevant:

This policy provision provides for a subdivision or extension of a single-family dwelling house to accommodate an immediate family member for a temporary period.

Generally, the purpose of ancillary family accommodation is to provide an amenable living area offering privacy, manoeuvrability and independence while maintaining a direct connection to the main dwelling. Usually, there is no exterior difference in appearance between an extension and ancillary family accommodation and is still considered a single residential unit. Ancillary family accommodation should:

- *Be contained within the existing unit or provided as an extension to the main dwelling (exempted development principles for residential extensions can apply where applicable. Where an extension is not exempt, planning permission is required).*
- *Preferably have a direct connection to the main home.*
- *Not be let separately for the purpose of rental accommodation.*
- *Not be a separate detached dwelling unit.*
- *Be reintegrated back into the original unit when no longer occupied by a member of the family.*

5.2. **EIA Screening**

The development is not in a class where EIA would apply.

5.3. **Grounds of Appeal**

- The ancillary accommodation at no. 215 Griffith Avenue is specifically required to accommodate a relative of the owner, Ms. Anne Simmonson, who has an established and genuine need to reside close to her family due to illness. A letter attached to the appeal from a GP clarifies the medical status of Ms. Simmonson, as requiring care and nursing on site.
- The appellant has taken 'extreme care' to ensure that works to the garden room to facilitate residential use have been undertaken to the highest architectural design standard and material specification. Certificates of compliance with architectural, engineering and environmental building standards are enclosed.
- The appellant has utilised the appeal statement to provide a response to third-party observations submitted under Reg. Ref: 5204/22.
- The appellant is of the opinion that the criteria provided for in Appendix 18, Section 7.0 (Ancillary Family Accommodation) have been satisfied claiming that the proposed link structure / covered walkway is an extension to the main dwelling house providing a permanent integration between the garden room and the main house via a direct link whilst providing independence and privacy to the family member.
- The specific wording 'fundamental separation' describing the relationship between the main house and the ancillary family accommodation extension, as provided for in the planner's report rationale for refusal, is not consistent with the wording of Appendix 18, Section 7.0 of the Dublin City Development Plan 2022-2028 and that the assessment of the local authority is a subjective departure from the provisions of the Plan.
- The prohibition on letting the unit separately and the reintegration of the unit with the main family dwelling house can be dealt with by way of condition to the permission.
- A review of the pattern of development in the rear gardens in the area highlights several similar structures of significance and similar scale to the rear of neighbouring properties.

- The appellant cites several developments in the jurisdiction of Dublin City Council as precedent for the proposed configuration of the ancillary accommodation comprising a satellite detached structure physically linked to the main dwelling via a covered link walkway.
- The proposed development will provide a precedent that is consistent with Dublin City Council policy as provided for in Appendix 18, Section 7.0 for how this form of ancillary family accommodation can be achieved with a sensitively designed link structure where significant garden depths exist.

5.4. Applicant Response

N/A

5.5. Planning Authority Response

None

5.6. Observations

There are 3 observations on file submitted by the residents of the adjoining properties at no. 217 Griffith Avenue (Eamon Walsh and Bernadette McNally), no. 54 Griffith Downs (Gerry and Mary Garvan) and no. 55 Griffith Downs (Claire and James Cassidy), respectively. The grounds of observation are summarised as follows:

- The observers agree with the refusal of Dublin City Council to refuse permission for the habitable use of the garden room. However, not all matters of concern were addressed in the planner's report including the impact of the proposed development on the properties in Griffith Downs.
- There are several factual errors in the appeal statement. Furthermore, clarity is required regarding the name of the appellant as the name of the appellant has variation throughout the appeal statement.
- The boundary walls have been / will be used to facilitate development in the rear garden of no. 215 Griffith Avenue without the permission of adjoining property owners. The proposed link corridor along the boundary with no. 217

Griffith Avenue would have a negative visual impact as the shared boundary wall at the intersection of the link corridor and garden room is lower at the point of connection (the Planner's Report is contradictory in this regard and the drawings submitted are inaccurate) and may undermine the boundary wall foundation.

- The motivation of the owner of no. 215 Griffith Avenue for the provision of the garden room is interrogated with reference to observation of the construction phase where it is evidenced that it was built as a self-contained dwelling. It is claimed it was always the intention of the owner of no. 215 Griffith Avenue to use the garden room structure for accommodation purposes.
- There is concern at the use of the structure as a habitable accommodation because of proximity to adjoining properties and the potential for nuisance, noise, and property devaluation.
- The garden room is not a suitable location to provide for a relative with an illness in specific a person requiring wheelchair access given the location and configuration of the accommodation proposed including the width of the corridor link.
- The conditions of the previous permission granting retention of the garden room have not been fully discharged.
- The proposed link structure is would not be an exempted development (if the rear extension to the main house had not been built) as it is location to the side of No. 215 Griffith Avenue and not to the rear.
- The appeal statement reference to satellite or drone imagery of Griffith Avenue showing several structures of similar scale relates to the garden room not the link structure. The appeal states that the proposed development will act as a precedent suggest that no existing precedent exists at present.
- The cited precedents in the appeal statement include examples of coach houses, which are conserved under a separate policy framework. None of the examples are similar to the proposed development in terms of the separation distance involved.

- The development proposal would create a precedent for similar separate houses at the rear of houses on Griffith Avenue. The building at the end of the garden will always be regarded as a separate house because of the separation distance involved (32 metres) regardless of whether or not it is linked to the main house.

6.0 Assessment

6.1. The appellant has appealed the decision of Dublin City Council to refuse permission for the change of use from garden room to ancillary family accommodation of an existing single-storey structure with pitched roof located to the rear of no. 215 Griffith Avenue for the occupation of a family member. A medical letter from a GP, Dr. Mary Behan, dated 31st January 2023, providing confirmation of the medical status of the family member who is the prospective occupant, Ms. Anne Simmonson, is attached to the appeal statement. The letter *inter alia* states: *In my view it is essential that the patient can avail of family support and nursing care when required whilst living in a unit at the family property.* It is noted that the GP qualifies the medical status of the patient as the patient's current state of health and further notes that having the patient reside in the ancillary dwelling *would be extremely beneficial and valuable to their care, recuperation, and quality of life.*

Dublin City Council have previously granted planning permission (2021) for the retention of the subject garden room located within the substantial rear garden of no. 215 Griffith Avenue abutting the northern boundary wall with nos. 54 & 55 Griffith Downs. The Planning Authority restricted the use of the garden room by way of condition to the incidental enjoyment of the main dwelling house and prohibited human habitation in the interests of residential amenity.

It is now proposed to convert the authorised garden room to habitable use. The ancillary family accommodation would be attached to the main dwelling house via a flat roof covered walkway structure (the width of the covered walkway would be an approximate 1 metre and the height would be approximately 2.3 metres with variations in height as the gradient of the rear garden rises south to north). The covered walkway would be punctuated by rooflights and would be located along the boundary with no. 217 Griffith Avenue (the covered walkway would be an

approximate 27 metres in length along the party wall measured from the kitchen extension but would extend further along the shared boundary with 217 Griffith Avenue to the street frontage), providing a ramped link running between the front driveway and the garden room. The covered walkway would have a patio door opening and side-light windows located on the east elevation approximately midway along the link that would provide access to the rear garden and a dedicated patio. The corridor would also provide an access door to the kitchen extension of the main dwelling house.

The garden room and attached shed to its immediate rear are located on the boundary of no. 215 Griffith Avenue with nos. 54 & 55 Griffith Downs at the end of the long back garden. The garden room orientation is to the south facing the rear elevation of the dwelling house. It is proposed to re-configure the garden room internally as a self-contained residential suite comprising a separate kitchen / living room and bedroom accessed through the kitchen / living room with bathroom and storage facilities. The floor area is an approximate 40 sq. metres (measured from external walls).

It is noted that the plot rises in a south to north direction (from front to back). The garden room is located on an elevated site above the patio level (patio grade is 0.69 mm below garden room floor level) of the main dwelling house (Site Section B-B); the proposed linear corridor or walkway, although it would exhibit a flat roof, would change in roof profile with the incremental change in grade – the roof rising from south to north as it negotiates the uphill slope to link with the elevated garden room.

- 6.2. The residential zoning objective for the area seeks to protect, provide, and improve residential amenities. The proposed ancillary family accommodation would be accommodated within the garden room, which is approximately 2.5 metres south of the boundary wall with nos.54 and 55 Griffith Avenue; separated from the party wall by a shed and yard. The link corridor as previously discussed would directly abut the party wall with no. 217 Griffith Avenue. The garden room is approximately 10 metres from the rear elevations of the houses on Griffith Downs. Three number observations have been made on the appeal by the neighbouring residents at no. 217 Griffith Avenue, no. 54 Griffith Downs and no. 55 Griffith Downs. The observations relate *inter alia* to residential amenity concerns in terms of privacy, noise and precedent for similar such habitable development on the property boundary. It is noted that

Condition number 2 of WEB1859/20 restricts the use of the retained garden room to exclude human habitation in the interests of residential amenity. I consider that habitation of the garden room would have negative impacts on the enjoyment and character of the rear gardens of adjoining properties as undisturbed private open spaces within this established suburban location.

- 6.3. Appendix 18 (Ancillary Residential Accommodation), Section 7.0 (Ancillary Family Accommodation) is the policy framework providing criteria for the assessment of ancillary family accommodation including the requirement that this accommodation forms part of the main dwelling house and is not a separate dwelling unit. The planning case officer made the following assessment of the proposed link structure:

The link would be out of character with the pattern of development in this area, and should be omitted from the proposal. Without the link structure, the proposal falls outside of the criteria on connection and integration, and the development would result in a separate detached dwelling unit, and therefore the proposal should be refused.

I would concur with the assessment of the planning case officer. Appendix 18, Section 7.0 states: *Usually, there is no exterior difference in appearance between an extension and ancillary family accommodation and is still considered a single residential unit.* In the instance of the subject development, it is considered that the ancillary accommodation would be separate to the dwelling house and different in appearance to the dwelling house (and the rear extension of the dwelling house). The proposed family accommodation is a distinct entity to the rear of no. 215 Griffith Avenue in terms of its backland location, distance from the main house (27 metres), orientation (south facing), building form and elevated position above the level of the rear kitchen extension patio. The provision of connectivity with the dwelling house via a covered walkway would not change that physical relationship.

Furthermore, the assessment criteria for ancillary family accommodation requires that the family accommodation should be contained within the existing unit or provided as an extension to the main dwelling and should not be a separate dwelling unit. I consider that these objectives have not been achieved in the instance of the current proposal, to retrofit the authorised garden room to the rear of no. 215 Griffith

Avenue, to provide ancillary family accommodation in accordance with Section 7.0 of the Dublin City Development Plan 2022-2028.

The appellant is of the opinion that the criteria provided for in Section 7.0 have been satisfied claiming that the proposed link structure / covered walkway is an extension to the main dwelling providing permanent integration between the garden room and the kitchen of the dwelling house. Furthermore, the appellant advocates the future application of the proposed development as a precedent for how this form of ancillary family accommodation can be achieved with a sensitively designed link structure where significant garden depths exist.

It is my opinion that the extrusion of the habitable use of the dwelling house to the rear boundary of the plot at a distance of approximately 27 metres (measured from the rear kitchen extension of the main house to the garden room) via a covered walkway is problematic both in terms of the reasonable reading of Section 7.0 and in terms of the precedent it would set for residential development between the established building lines on Griffith Avenue and on Griffith Downs. It is considered that the proposed link covered walkway is out of character with the pattern of development in the area. It is without precedent in the area to my knowledge based on my site visit and the submitted documentation (including the appellant's analysis of the drone and satellite footage cited in the appeal statement). I would consider that the proper planning and sustainable development of the area would require a plan-led approach to any potential global provision of residential accommodation in the rear gardens of houses on Griffith Avenue, which may facilitate an area-based design solution subject to public consultation.

- 6.4. The appellant has also provided a number of examples of ancillary family accommodation with 'purposeful links' to integrate the satellite accommodation with the principal dwelling house, including an example of a corridor link (approximately 11 metres in length) at no.14 Leinster Road West, Dublin 6. The appellant has also noted that there are significant structures of similar size (to that of the garden room to the rear of no. 215 Griffith Avenue) in the rear gardens of neighbouring properties. However, none of the examples at a city level are applicable to the specific suburban location of the application site and the extensive plot area enjoyed by the subject dwelling house and the neighbouring houses. Furthermore, it is considered that the

example given of no.14 Leinster Road West is not applicable as the property backs onto an established mews laneway.

It is considered that the proposed presence of a link walkway at no.215 Griffith Avenue does not camouflage the status of the proposal as a stand-alone residential unit located at the rear of a suburban garden with no independent road frontage. It is considered that the proposal to change the use from garden room to habitable use, under the provision for ancillary family accommodation, would in effect introduce a third residential building line to the established building lines on Griffith Avenue and Griffith Downs and set a poor and undesirable precedent for similar such development and should be refused.

6.5. In conclusion, it is considered that the proposed ancillary family accommodation is separate from the dwelling house and is different in appearance to the dwelling house (and the extension of the dwelling house) and is a distinct entity to the rear of no. 215 Griffith Avenue in terms of its backland location, distance from the main house (27 metres), orientation, building form, and elevated position above the level of the kitchen extension patio (patio grade is 0.69 mm below garden room floor level). The provision of connectivity with the dwelling house via a covered walkway would not change that physical relationship. It is considered that the proposed development comprising the change of use of the garden room to ancillary family accommodation with the construction of a link covered walkway from the garden room to the main house kitchen would not satisfy a reasonable interpretation of the assessment criteria set out in Appendix 18, Section 7.0 of the Dublin City Development Plan 2022-2028, as the ancillary family accommodation would not be contained within the existing house nor would it be provided as an extension of the main dwelling. It would in effect be a separate dwelling unit albeit connected to the dwelling house by a linear corridor and as a habitable dwelling unit located on the property boundary would have a potential negative impact on the residential amenities of adjoining properties. I conclude that the proposed development would not satisfy Appendix 18, Section 7.0 of the Dublin City Development Plan 2022-2028 and that the development as proposed would set a poor and undesirable precedent for similar such development by introducing a third residential building line between the established building lines on Griffith Avenue and Griffith Downs.

6.6. Appropriate Assessment Screening:

The proposed development comprises ancillary family accommodation to a dwelling house in an established urban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS.

7.0 Recommendation

7.1. Refuse permission for the reasons and considerations stated below:

8.0 Reasons and Considerations

Having regard to the reason for refusal, the zoning objective to protect, provide and improve residential amenities, the pattern of development in the area and the Dublin City Council policy framework for ancillary family accommodation, the proposed development should be refused permission for the following reason:

The form of the proposed link and the integration between the existing house and the garden structure does not meet the requirements of Appendix 18, Section 7.0 (Ancillary Family Accommodation) of the Dublin City Development Plan 2022-2028, it is considered that the proposed ancillary family accommodation is separate dwelling house and is different in appearance to the dwelling house (and the extension of the dwelling house), as it is a distinct entity to the rear of no. 215 Griffith Avenue in terms of its backland location, distance from the main house (27 metres), orientation, building form, and elevated position above the level of the kitchen extension patio (patio grade is 0.69 mm below garden room floor level). The provision of connectivity with the dwelling house via a covered walkway would not change that physical relationship. The link structure does not follow the established pattern of development in the area and would be an inappropriate intervention in this location. The habitable use of the garden room would result in the introduce of a third residential building line behind the establish building lines on Griffith Avenue and Griffith Downs and would set a poor precedent for similar

development in the city in the rear gardens of suburban dwelling houses.

Therefore, the development is contrary to the Dublin City Council policy framework for ancillary family accommodation Appendix 18, Section 7.0 of the Dublin City Development Plan 2022-2028 and as such and by reason of the precedent for similar back land development in the rear gardens of adjoining properties would seriously injure the amenities of properties in the vicinity.

"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".



8.1.

Anthony Abbott King
Planning Inspector

14th June 2023