



An
Bord
Pleanála

Inspector's Report

ABP-317100-23

Development	Construction of a gym/home office and all ancillary site works.
Location	12A Slademoore Court, Dublin 13, D13 E7C3.
Planning Authority	Dublin City Council North.
Planning Authority Reg. Ref.	3254/23.
Applicants	Clive and Victoria White.
Type of Application	Permission.
Planning Authority Decision	Grant, subject to conditions.
Type of Appeal	Third Party.
Appellants	Billy and Jacinta Malone.
Observers	Edward and Anne Valente. Gavin Carey.
Date of Site Inspection	20 th June 2023.
Inspector	Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site refers to the dwelling and plot located at 12A Sladmore Court, a tree lined residential cul-de-sac in Dublin 13. The existing detached two storey dwelling occupies a large corner plot that terminates the cul-de sac. Given the formation of the existing plot, the majority of the private amenity space is located to the front of the property, with a smaller area of garden ground provided to the rear. The existing dwelling benefits from a single storey side extension that provides ancillary residential accommodation in the form of a 'granny flat'. The plot is fully enclosed by a boundary wall of approximately two metres height.
- 1.2. The site is bounded to the north by Malahide Road roundabout and Blunden Drive, to the east and south by the neighbouring properties at No. 12 and No. 15A Sladmore Court and bounded to the west by the Malahide Road. The area is characterised by two storey, semi-detached homes with off-street parking.

2.0 Proposed Development

- 2.1. The proposal is for the erection of a single storey detached outbuilding/garden room for use as a home office and gym/games room. The proposed outbuilding would be located in the southwestern corner of the front garden, opposite the gated entrance. The building would have a pitched roof with a height of 3,987mm at the ridgeline and 2,450mm at the eaves.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission for the proposed development was issued on the 20th April 2023 subject to seven generally standard conditions. Condition 2 places a restriction on the use of the proposed outbuilding, limiting it to uses incidental to the enjoyment of the dwellinghouse, not including human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses.

3.2. **Planning Authority Reports**

- 3.2.1. Planning Reports: The report from the Deputy Planning Officer was issued on the 13th April 2023 and forms the basis of the Council's assessment and decision. The report notes the specific circumstances of the appeal site in having most of the private amenity space to the front of the dwelling.
- 3.2.2. Other Technical Reports
- 3.2.3. Drainage Division (12.014.2023): No objections, subject to conditions. The relevant conditions relate to a Surface Water Management Plan and incorporation of a sustainable drainage system.

3.3. **Prescribed Bodies**

- 3.3.1. None.

3.4. **Third Party Observations**

- 3.4.1. Observations were received to the planning application from the following six parties:
- Rita Gamble, 3 Slademore Court.
 - James and Phyllis Downes, 6 Slademore Court.
 - Phyllis Deegan, 8 Slademore Court.
 - Gavin Carey, 10 Slademore Court.
 - Edward and Anne Valente, 11 Slademore Court.
 - Keatley Architects, for and on behalf of Billy and Jacinta Malone of 12 Slademore Court.
- 3.4.2. All of the observations raised the similar issues, and these are summarised below in the grounds of appeal.

4.0 **Planning History**

- 4.1.1. **PA Reg. Ref. 4941/06:** Planning permission was granted in April 2007, subject to conditions, for the erection of a detached two storey house with attic office area, new vehicular entrance from Slademore Court, new side entrance and associated site and

drainage works all to the side of existing house. Condition 13 of this consent required the height of the dwelling to be reduced. The applicant subsequently appealed the imposition of Condition 13 (ABP-PL29N.220545) and the Board agreed to its removal.

- 4.1.2. **PA Reg. Ref. 2710/13:** Planning permission was granted in September 2013, subject to conditions, for a single storey ancillary family accommodation extension, comprising bedroom, kitchen and bathroom, to the side of the existing dwelling.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dublin City Development Plan 2022 – 2028 (CDP), categorises the site as zone 'Z1 – Sustainable Residential Neighbourhoods'. The stated objective for these areas is 'to protect, provide and improve residential amenities.'

- 5.1.2. Appendix 18, Section 2.0: Detached Habitable Rooms, refers to backland development within the curtilage of an existing dwelling that does not contain a separate vehicular access point. The purpose of these rooms is to provide for additional space within the rear garden of an existing dwelling for study/ home office use or additional living/ children's playroom. These rooms shall only be used as ancillary residential accommodation.

5.2. Natural Heritage Designations

- 5.2.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), the North Bull Island SPA (Site Code 004006) and the North Dublin Bay SAC (Site Code 000206).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal against the decision of Dublin City Council to grant planning permission for the proposed development has been lodged by Billy and Jacinta

Malone of 12 Sladmore Court, Dublin 13. The grounds of appeal can be summarised as follows:

- Together with the attic conversion and granny flat, the proposal would result in overdevelopment of the site. The ancillary extension (granny flat) granted permission in 2013 has been used as rental accommodation since its completion and as such has not complied with Condition 3 of the relevant permission which requires it to be used as ancillary accommodation only. Likewise, the attic conversion is also rented to non-family members.
- The proposed development would considerably reduce open space at the front of the dwelling and would reduce space for car parking which would result in cars parking on the street causing disruption to residents.
- The new structure sits outside of the building line of the existing houses on the street, would not be pleasing in views and would set an unwelcome precedent.
- The applicant has stated that the proposed unit would be used as a physiotherapy clinic which would be a breach of use and would cause further traffic and disruption to residents.

6.2. Applicant Response

6.2.1. No response.

6.3. Planning Authority Response

6.3.1. No response.

6.4. Observations

6.4.1. Observations have been received from Gavin Carey of 10 Sladmore Court, and Edward and Anne Valente of 11 Sladmore Court. Both observations raise issues that are already covered by the grounds of appeal, including:

- Ancillary accommodation is being rented independent from the main dwelling. This is an unauthorised use that has caused traffic and parking issues.

- There are concerns the proposed development would also be used in an unauthorised manner either as rented accommodation or as a physiotherapy clinic.
- The development would increase parking and traffic issues as well as compromise safety.
- The proposed home office/gym should be accommodated within the existing extension (granny flat).

6.5. Further Responses

6.5.1. None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Overdevelopment and Parking
- Existing and Proposed Uses
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The appeal site is wholly contained within an area zoned 'Z1 - Sustainable Residential Neighbourhoods', where the land use objective is to protect, provide and improve residential amenity, and where residential development is considered a permissible use. The principle of a detached garden room for ancillary residential purposes is therefore acceptable.

7.2.2. Appendix 18, Section 2.0: Detached Habitable Rooms, generally expects such rooms to be provided within the rear garden. The existing dwelling differs from other homes on the street by having the majority of its private amenity space at the front of the property, which is a result of the infill nature of the parent dwelling.

7.2.3. In assessing the suitability of the proposed development within the front garden, I have considered the scale and location of the proposed development, the nature of the plot, and the established pattern of development in the area in terms of building lines. The appeal site terminates the cul-de-sac together with the adjacent property at 15A Sladmore Court. The nature of the plot and its relationship to the street is therefore not typical of properties in the area. In this respect I am satisfied that a detached habitable room could be located within this garden space without setting a precedent for development of this nature in other front gardens.

7.2.4. The proposed garden room would have a maximum height at ridgeline of just under 4m and would be set back 10.5m from the front boundary with Sladmore Court which is a substantial set-back. Given the role of the front garden in terminating the cul-de-sac, the scale and set back of the proposed garden room and the existing high boundary wall, I am satisfied that the proposed development would not break the established building lines of the street, which would still be clearly marked by the consistent lines of semi-detached dwellings. Furthermore, I am of the opinion that the proposed development would not be highly visible, nor would it have any detrimental impact on the visual amenity of the street.

7.3. Overdevelopment and Parking

7.3.1. Concerns have been raised regarding the overdevelopment of the site and the impact of the existing and proposed development on car parking. The proposed development would equate to approximately 30sqm of development and this would leave well in excess of 100sqm of garden ground to the front of the dwelling. The garden ground to the rear of the dwelling would remain as existing. I consider that there would be a sufficient amount of private amenity space left to serve the dwelling and that the site would not be overdeveloped.

7.3.2. I note from my site inspection that there is room within the front garden to park at least three vehicles. The proposed detached habitable room would be used as ancillary space to the main dwelling and this would be controlled by condition. As such, I am satisfied that there would be no increase in parking demand associated with the proposed development.

7.4. Existing and Proposed Uses

- 7.4.1. Concerns have been raised by the appellants that the attic space of the parent dwelling and the ancillary extension (granny flat) are being used as rented accommodation and that this unauthorised use contributes to the overdevelopment of the site and the parking issues on the street. No evidence has been presented as part of the planning application or the appeal to demonstrate that a breach of planning control has occurred and it should be noted that enforcement and the ability to conduct an enforcement investigation, is the jurisdiction of Dublin City Council.
- 7.4.2. Further concerns have been raised that the proposed development may also be subjected to an unauthorised change of use in the future, either to be used as a physiotherapy clinic or as rented accommodation. Again, no evidence or substantive information has been presented as part of the appeal in this regard. Based on the information before me, the applicant has applied for a detached outbuilding/garden room, and I am fully satisfied that the use of this space can be controlled by way of an appropriately worded planning condition. Dublin City Council previously imposed a condition limiting the use of the space to those uses considered incidental to the enjoyment of the dwellinghouse. For clarity, this prevents using the space for human habitation or for the keeping of certain animals. Should the Board be minded to grant permission, it is important that this condition be applied to any consent issued.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, it is concluded that no appropriate assessment issues arise as 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 that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dublin City Development Plan 2022-2028 and the layout, location, nature, and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential, visual, or traffic amenities of the area or of property in the vicinity and would comply with the provisions of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses or for any use other than a use incidental to the enjoyment of the dwellinghouse.</p> <p>Reason: To restrict the use of the garden room in the interest of residential amenity.</p>
3.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, sustainable drainage measures and mitigation measures against flood risk, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours to</p>

	<p>1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity</p>
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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.

Terence McLellan

Senior Planning Inspector

11 July 2023