



An
Bord
Pleanála

Inspector's Report

ABP-318139-23

Development

- (i) Retention permission for partially constructed shed to rear of dwelling
- (ii) Permission to rectify and complete shed to comply with building regulations, and all associated site works.

Location

97 Annamoe Drive, Cabra, Dublin 7
D07 W4A7

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

WEB1580/23

Applicants

Li Cong Zhang

Type of Application

Permission and Retention Permission

Planning Authority Decision

Grant Permission and Retention
Permission

Type of Appeal

Third Party

Appellant(s)

Catherine Gorman and Others

Observer(s)

None

Date of Site Inspection

7th May 2024

Inspector

John Duffy

1.0 Site Location and Description

- 1.1.** The site consists of the curtilage of a two-storey mid-terraced house with single storey rear extension in a suburban part of Dublin city characterised by similar houses from the middle of the last century. The site has a stated area of 174 sqm and is rectangular in configuration.
- 1.2.** The rear garden has a south-eastern orientation and contains an unfinished shed structure with a hipped tiled roof approximately 4.4 metres in height and external walls clad in plywood. The shed structure is built on the recently constructed boundary wall (which is up to approximately two metres in height) with the adjoining property to the north-east, No. 99 Annamoe Drive.
- 1.3.** The rear garden slopes downwards from the front to the rear resulting in the floor level of the shed being lower than the house but higher than the rear laneway which bounds the site to the south-east. The laneway, known as Annamoe Parade provides rear access to the appeal site along with rear access to other houses on Annamoe Drive, North Circular Road and Chareleville Road.

2.0 Proposed Development

- Retention permission is sought for the partially constructed shed, while permission is sought to rectify and complete the shed structure to comply with current building regulations, and all associated site works.
- The shed (32 sqm) is to accommodate a store, home office and gym in two rooms. The shed also contains a WC and shower.
- The dimensions of the structure as set out in the proposed plans are as follows:
 - Depth is 10.14m
 - Width ranges from 3.07m to 3.47m
 - Roof ridge height ranges from 3.5m to 4m due to varying ground levels across the site
- Provision for one door each on the rear (south-east) and front (north-west) elevations. A door and window proposed on the side (south-west) elevation.
- The structure is set off the side (south-western) and rear (south-eastern) boundaries by approximately one metre and 2.9 metres respectively.
- Site Plan indicates availability of 40 sqm private amenity space post completion / construction.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to grant permission and retention permission on the 8th of September 2023, subject to 8 no. conditions.

Relevant conditions

Condition 2:

The structure hereby permitted shall be used only for purposes ancillary to the use of the main house on the site as a single dwelling unit. It shall not be used as sleeping accommodation or for any commercial purpose, or for the keeping of pigs, poultry, pigeons, horses or ponies, and shall not be separated from the main house either permanently or temporarily by way of sale or lease.

REASON: In the interests of residential amenity and the proper planning and sustainable development of the area.

Condition 3:

The structure shall be single storey and the mezzanine level shall be omitted. Within six months of this grant of permission the applicant shall submit revised sectional and elevational drawings showing the shed as having a hipped roof, with the highest point of the roof (which shall be in the centre of the roof) to be no more than 3.8m above finished floor level and the height thereafter reducing to an eaves height (or parapet height if one is provided) of no more than 3m above finished floor level. The applicant shall receive the written agreement of the planning authority in relation to the submitted drawings, and the structure shall thereafter be constructed in accordance with the approved plans.

REASON: In the interests of visual amenity.

Condition 4:

No part of the structure, including gutters or eaves, shall oversail any lands in separate ownership or impact on the common boundary wall, unless with the written agreement of the adjoining owner(s). Failing such agreement, the structure shall be set fully within the site boundary.

REASON: In the interests of orderly development.

Condition 5:

The external finish of the structure shall consist of a sand and cement render finish in a colour which harmonises with the finish of the main house.

REASON: In the interests of visual amenity.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning Officer's report outlined, inter alia, the nature of the proposal, relevant Development Plan policy, relevant enforcement history, and the grounds of the third-party submissions received in respect of the proposal. It notes there is no objection in principle to construction of a rear garden shed for purposes ancillary to the main use of the house as a single dwelling unit. Concern is raised in relation to the height and visual impact of the structure. In order to address this issue and to ensure the structure is ancillary in scale to the main house it is recommended that the mezzanine level should be omitted by condition.

3.2.2. Other Technical Reports

Drainage Division - No objection indicated; conditions provided.

3.3. Prescribed Bodies

The Planning Authority issued copies of the planning application to Uisce Éireann, Irish Rail and the National Transport Authority; no submissions were received from these bodies.

A submission was received from Transport Infrastructure Ireland (TII) noting that the proposed development falls within an area set out in a Section 49 Levy scheme for Light Rail. It requests inclusion of a condition requiring payment of a contribution, if appropriate, in the event the proposal is granted permission.

3.4. Third Party Observations

The Planning Officer's report refers to ten submissions having been received in relation to the planning application. A summary of the main issues raised in the submissions is as follows;

Design, scale and use

- Excessive height and scale of shed structure which takes up more than 50% of the rear garden
- Two storey design is a cause for concern in this rear garden location

- The structure is built on the boundary wall without consent
- Wood panelling finish is a fire hazard; this finish is out of character with existing properties in the area
- Potentially dangerous wiring protruding from the structure
- Questions the use of the structure and whether it is for commercial or personal use
- Questions the size of the shed

Visual Impact

- Highly visible development which detracts from the area

Impact on Residential Amenity

- Loss of light to adjoining properties

Other matters

- Applicants did not follow appropriate procedures and did not obtain permission before construction
- Neighbours not consulted
- Questions whether the structure meets fire regulations
- Concerns raised in relation to drainage / additional loading on sewage system from the development
- Drawings/photos submitted with the application are inconsistent with the actual development
- Questions internal changes made to No. 97 Annamoe Drive and reference made to potential structural damage to adjoining house given these changes
- Traffic impacts from the proposed development
- Structure is the subject of an enforcement notice

4.0 Planning History

While there is no recent or relevant planning history relating to the appeal site or adjoining sites, a planning enforcement case relating to the development of the shed structure has been opened by the local authority (File No. E1075/22 refers) .

5.0 Policy Context

5.1. Development Plan

5.1.1. The proposal was considered by the Planning Authority under the Dublin City Development Plan 2022-2028.

5.1.2. According to the relevant land-use zoning map (Map E of the Development Plan) the site is zoned Z1 – Sustainable Residential Neighbourhoods, with the objective ‘To protect, provide and improve residential amenities.’

5.1.3. Appendix 18 titled ‘Ancillary Residential Accommodation’ of the Dublin City Development Plan 2022 - 2028 is relevant to the proposal.

‘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 play room. These rooms shall only be used as ancillary residential accommodation.

All planning applications for detached habitable rooms will be subject to a condition to restrict the use of the room as ancillary living space to the main dwelling. The room may not be sold or rented separately from the main dwelling unit.’

5.2. Natural Heritage Designations

The proposal is not located within or immediately adjacent to any European site. The nearest European site is South Dublin Bay and River Tolka Estuary SPA located c 3.6 km east of the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposal 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

This is a third-party appeal lodged by Catherine Gorman of 95 Annamoe Drive and neighbouring residents at Nos. 91, 93, 99 and 101 Annamoe Drive against the Planning Authority's decision to grant permission for the proposal. The grounds for appeal can be summarised as follows;

- No planning permission was sought for the structure initially; an application for retention permission was made in July 2023.
- The rear boundary railing between Nos. 97 and 99 was removed along with garden shrubs without consent; a new boundary wall was constructed in its place with part of the shed structure constructed thereon.
- Some of the photos submitted as part of the retention application did not relate to the subject property.
- Inaccuracy of plans submitted with the planning application. The new structure is indicated on the plans as being set back from the boundary with No. 99 Annamoe Drive, however this is not the case. Furthermore, the submitted side elevational drawings are inaccurate in terms of the number of openings.
- Concern raised in relation to the impact the structure may have on sewage / drainage infrastructure which were constructed in the 1920s or 1930s along with the dwellings.
- Unclear how much garden area will remain post development.
- The new boundary wall with No. 99 upon which the shed is constructed, is not supported by columns. This is potentially dangerous.

The appeal submission includes the following Appendices:

Appendix A – Acknowledgement letters from the Planning Authority which issued to the appellants

Appendix B – Correspondence from Dublin City Council Enforcement Section dated 16th January 23 and 20th March 2023

Appendix C – Listing of third party observations submitted (from Dublin City Council's website)

Appendix D – Copy of the Planning Authority's decision and associated conditions

Appendix E – Copy of the submission made to the Planning Authority by Catherine Gorman (appellant) along with photos of the shed under construction

Appendix F – Photos of different building / site which were submitted with the planning application

Appendix G – Copy of the plans / drawings submitted with planning application

Appendix H – Photos of building as viewed from No. 99 Annamoe Drive.

6.2. Planning Authority Response

None.

6.3. Applicant Response

- Planning permission was applied for upon realising that permission was required.
- The height of the shed has been reduced to 4 m at its highest point.
- Rear open space of 40 sqm will remain after completion of the shed.
- The submitted existing ground floor plan accurately represents the on-site situation.
- The applicant's husband built the shed and has extensive building experience and knowledge of the construction business.
- The number of occupants at the application address remains the same and therefore there will be no additional pressure on the drainage system.

The response includes:

- (i) Reference letter for Xiamen Zhu (the applicant's husband) from his employer (SMG Formwork Ltd).
- (ii) Two photographs of the shed

6.4. Observations

None received.

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, the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider the substantive issues in this appeal to be considered are as follows:

- Visual Impact
- Impact on the Residential Amenity of the area
- Other issues
- Appropriate Assessment

7.2. Visual Impact

7.2.1. During the site inspection I observed that the existing partially completed shed structure is visually very prominent, particularly when viewed from the rear gardens of the terrace of houses of which the property forms part and also from the adjoining rear laneway.

7.2.2. The section drawings relating to the existing structure as built along with photographs submitted with the planning application show that there is a mezzanine level within the shed, with an internal height of 2 metres. I note that the proposed plans omit the mezzanine level and lower the overall roof ridge height to between 3.5m and 4m. The existing plans show the height of the shed as constructed ranges between 3.85 m and 4.35m.

7.2.3. Condition 3 of the Planning Authority's decision to grant permission requires the highest point of the hipped roof to be no more than 3.8m above finished floor level and the eaves height / parapet height to be no more than 3m above finished floor level. In

my opinion insertion of this condition is appropriate given that it would reduce the height and bulk of the structure, lessen its visual impact when viewed from adjoining properties and the rear laneway and also ensure that the structure accords with the character of the area in terms of the design of rear garden sheds in the area which are mainly of single storey. In my view the shed structure would read as a domestic extension from outside the site and it would be significantly less prominent than the existing structure in the rear garden. As such I recommend inclusion of a similarly worded condition to Condition No. 3 as referred to above if the Board is minded to grant permission for the proposal. I also recommend insertion of an appropriate condition requiring a render finish for the shed which harmonises in colour with the finish of the house in the interest of the visual amenity of the area.

7.3. Impact on the Residential Amenity of the area

- 7.3.1. The existing partially built shed is constructed on the garden boundary wall with the adjoining property at No. 99 Annamoe Drive. From my site inspection I consider that the existing structure by reason of its height, scale and position has an overbearing impact on the rear private amenity space associated with No. 99 Annamoe Drive.
- 7.3.2. I note however the proposed plans indicate that the shed would be constructed within the curtilage of the applicant's rear garden and not on the boundary wall with No. 99 Annamoe Drive. This, coupled with the reduced height of the shed as referenced under Section 7.2 above would, in my view, satisfactorily address the overbearing nature of the shed on the adjoining neighbour's rear garden area and as such would be acceptable.
- 7.3.3. Similarly, the reduced height of the shed, which would be of single storey design, with a maximum eaves' height of 3m and a maximum hipped roof ridge height of 3.8m above finished floor level would appropriately ameliorate overshadowing impacts on adjoining property.
- 7.3.4. In conclusion I consider that the proposal, subject to conditions, would not cause undue overbearing or overshadowing impacts on adjoining properties and would therefore not seriously injure the residential amenities of the area. The proposal would accord with the Z1 zoning objective which pertains to the appeal site and the wider area.

7.4. Other issues

7.4.1. Use of shed structure and impacts on traffic

The stated uses of the shed are for storage provision, in addition to a home office and gym. These uses are acceptable in principle provided they are for purposes ancillary to the main use of the house as a single dwelling unit. I recommend inclusion of an appropriately worded condition in this regard, should the Board decide to grant permission for the proposal.

Given that the proposed uses are ancillary to the main dwelling, I do not foresee that the proposal would generate any additional traffic.

7.4.2. Rear garden area

The submitted site plan indicates that two areas of private open space remain post development. The first area is located beyond the kitchen extension to the front of the shed, while the second smaller area is to the rear of the shed. I consider this quantum of private amenity space sufficient to serve the dwelling.

7.4.3. Drainage infrastructure

Concerns are raised in the appeal that the proposal would impact on the foul drainage infrastructure serving the area. I note a WC is proposed in the shed. Given that the shed is ancillary to the main use of the house as a single dwelling unit I do not anticipate any additional loading on the foul drainage infrastructure arising from the proposal. If the Board is minded to grant permission, I recommend inclusion of a condition requiring the developer to enter into water and / or wastewater connection agreements with Uisce Éireann.

7.4.4. Compliance with other codes

Concern is expressed in a number of submissions on file relating to compliance with other codes including Building Regulations. The development description as reflected in the public notices submitted with the application notes it is proposed to 'rectify and complete' the shed to fully comply with current building regulations. In

this context Section 7.8 of the Development Management Guidelines for Planning Authorities (2007) titled 'Conditions relating to other codes' notes that it is inappropriate in development management to deal with other matters which are the subject of other controls unless there are good reasons for doing so, e.g., there is good reason to believe the matter cannot be effectively dealt with by other means. Notwithstanding any grant of permission, it is the case that there is an onus on the applicant to comply with all relevant codes including building regulations.

7.4.5. Internal alterations to house

A number of the third party submissions raise concerns regarding internal alterations to the existing house on the appeal site. The planning application and the subsequent appeal relate to the shed structure only; the issues raised fall outside the scope of the appeal and cannot therefore be considered in this appeal.

7.4.6. Section 49 contribution

The appeal site is situated within the boundary of Luas Cross City Supplementary Development Contribution Scheme Map. Section 11 of the Scheme identifies domestic extensions as a category of development which is exempt from the requirement to pay development contributions. Given that the shed is to be used as ancillary to the main use of the house for the purposes outlined above, the structure is akin to a domestic extension and is not liable for the levy.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature of the proposal, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposal would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 Recommendation

Having regard to the assessment above it is recommended that retention permission and permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the established residential use on the site, the prevailing pattern and character of development in the area, and the nature of the proposal, it is considered that, subject to compliance with the conditions set out below, the proposal would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would not negatively impact on the foul water drainage infrastructure in the area. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained, 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 shed structure shall not be used for human habitation or for any other purpose other than for purposes ancillary to the use of the main house on the site as a single dwelling unit. The structure shall not be separated from the main house either temporarily or permanently by way of sale or lease.</p>

	<p>Reason: In the interest of orderly development.</p>
3.	<p>The structure shall be single storey and the mezzanine level shall be omitted. The developer shall submit revised section and elevation drawings which show the following within three months of the date of this order:</p> <p>(a) The highest point of the hipped roof (which shall be in the centre of the roof) shall be no more than 3.8m above the finished floor level.</p> <p>(b) The eaves height (or parapet height if one is provided) shall be no more than 3m above the finished floor level.</p> <p>(c) Upon receipt of the written agreement of the Planning Authority in relation to the revised drawings, the works required to the shed structure shall be concluded within 6 months.</p> <p>Reason: In the interests of clarity, orderly development and residential amenity.</p>
4.	<p>The external wall finish of the structure shall comprise a sand and cement render finish which harmonises in colour with that of the main house.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>No part of the structure including gutters and eaves shall over sail any lands in separate ownership or impact on the common boundary wall, unless with the written agreement of the adjoining owner(s).</p> <p>Reason: In the interests of clarity and orderly development.</p>
6.	<p>The developer shall comply with the requirements set out in the Code of Practice from the Drainage Division, the Transportation Planning Division and the Noise and Air Pollution Section of the Planning Authority.</p> <p>Reason: To ensure a satisfactory standard of development.</p>

7.	<p>The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 0700 to 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 amenities of property in the vicinity.</p>

John Duffy
Planning Inspector

9th May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318139-23		
Proposed Development Summary	Retention permission for partially constructed shed in rear garden and permission to rectify and complete the shed to comply with building regulations.		
Development Address	97 Annamoe Drive, Cabra, Dublin 7 D07W4A7		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	X		
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required