



An
Bord
Pleanála

Inspector's Report ABP318159-23

Development

Garden studio and associated site works.

Location

10 Foxborough Crescent, Lucan, Co. Dublin.

Planning Authority

South Dublin County Council.

Planning Authority Reg. Ref.

SD23B/0308.

Applicants

Adrian Moughty.

Type of Application

Permission

Planning Authority Decision

Permission with conditions.

Type of Appeal

First Party

Appellant

Adrian Moughty.

Observer(s)

None.

Date of Site Inspection

14th December 2023.

Inspector

Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located in an established residential estate in the suburb of Lucan in the west of County Dublin. On the site which is a corner site which is roughly triangular in configuration is a two storied semi-detached dwelling with a front, rear and side garden area with frontage onto Foxborough Crescent to the north east to which the front elevation has the principal road frontage, part of Foxborough Manor which defines the eastern boundary and Foxborough Avenue which defines the site's southern boundary. The area is overwhelmingly residential with semi-detached housing with some local retail provision. There are two garden sheds in the side garden and the side garden boundary at the roadside junction is defined by a well screened fence and hedgerow.

2.0 Proposed Development

- 2.1. The proposal provides for the construction of a garden studio and associated site works. The structure is singled storied with a maximum height of 2.9 metres with a flat roof and is of modern design and construction. The internal space provides for an office, games room and bathroom. The structure is proposed to be located in the southwestern corner of the site in the rear garden area.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning permission subject to three conditions.

Conditions 2 and 3 are of note in the planning authority decision. Condition no.2 limits the use of the structure and that it is ancillary to the dwelling and condition no 3 which omits the bathroom and all associated infrastructure.

3.2. Planning Authority Reports

- 3.2.1. The planning report refers to the provisions of the County Development Plan (CDP) are outlined in particular section 6.8.2 Residential Extensions. Reference is made to the recent planning history of similar type development in the area.

The main issues for assessment are identified as zoning and council policy; residential and visual amenity; drainage; Appropriate Assessment and Environmental Impact Assessment.

The principle of the development is considered acceptable and that shall also be a condition that the bathroom and associated infrastructure is omitted from the development.

- 3.2.2. The roads report dated the 15th August 2023 indicates no objections.

- 3.2.3. Water Services report dated 1st September 2023 indicates no objections.

4.0 Planning History

No relevant site history. The grounds of appeal refers to precedent in relation to similar type developments.

5.0 Policy and Context

5.1. Development Plan

The relevant statutory development plan is the South Dublin County Development Plan 2022-2023.

The site is located within the RES zoning with the objective to provide and improve residential amenities.

Section 6.8.2 refers to Residential Extensions and indicates that domestic extensions allow for the sustainable adaptation of the County's existing housing stock. The South Dublin County Council House Extension Design Guide (2010) supplements the policies and guidance of the Development Plan.

Policy and objectives in relation to extensions are;

Policy H14: Residential Extensions Support the extension of existing dwellings subject to the protection of residential and visual amenities.

H14 Objective 1: To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 12: Implementation and Monitoring.

5.2. Natural Heritage Designations

Not relevant

5.3. EIA Screening

5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage

6.0 The Appeal

6.1. Grounds of Appeal

The appellant who is also the applicant has appealed condition 3 of the planning authority's decision to grant permission and had not raised any issues in relation to the remainder of the planning authority condition.

Condition 3 indicates that

Amendments. Prior to the commencement of development, the applicant, owner or developer shall submit the following for the written agreement within 6 months to the Planning Authority: Revised plans that incorporate all of the following amendments- (a) Omission of the bathroom and all associated infrastructure. Reason: To protect the amenities of the area and in the interests of the proper planning and sustainable development of the area.

In summary the grounds of appeal refers to;

- The proposed development is a non-habitable garden room and the WC is complementary to the proposed office and garden room and is necessary for

the function of the space and its omission would be ruinous to the level of residential amenity for the ancillary office and games room.

- There are numerous precedents for set for garden rooms that contain a WC and these precedents are outlined in the grounds with no issue raised in relation to such a provision.
- The development is consistent with the site's zoning and also in relation to stated provisions of the CDP referring to section 6.8.2 residential extensions and section 12.5.8 residential consolidation.
- The home office would not be functional without a WC.

6.2. Planning Authority Response.

The planning authority in a response indicate that the issues raised in the grounds of appeal are addressed in the Chief Executives Order and confirms its decision to refuse permission.

7.0 Assessment

- 7.1. The main issues in this appeal are largely those raised in the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Principle of the development.
- Condition no 3 and the grounds of appeal specific to this condition.
- Appropriate Assessment

7.2. Principle of the development

- 7.2.1. The site is located within a residential area with a residential zoning. The proposed development is therefore acceptable in principle.

7.3. Condition no 3 and the grounds of appeal specific to this condition.

- 7.3.1. Central to this appeal is the grounds of appeal where the appellant has specifically appealed condition 3 of the planning authority's decision and has raised no issues in relation to the remaining conditions of the Planning Authority decision.

- 7.3.2. Having reviewed the documentation submitted both in relation to the details submitted in the course of the assessment by the planning authority and the appeal submission I am satisfied that no issues arise other than those presented in the grounds of appeal and the consideration of Condition no.3 generally and that this appeal can be considered under the provisions of section 139 of the Planning and Development Act 2000 as amended.
- 7.3.3. The grounds of appeal are specific to condition 3 of the planning authority's decision to grant permission which provides for the omission of the bathroom and all associated infrastructure. No specific reason is indicated for the inclusion of this condition but it may relate to a concern about the provision of a separate dwelling unit on the property. I would however note that condition no 2 of the planning clearly indicates that the structure is solely for purposes incidental to the dwelling and shall not be used for habitation or carrying out of any trade or business or sublet or sold other than as part of the dwelling.
- 7.3.4. The appellant indicates that the proposed development is a non-habitable garden room and the WC is complementary to the proposed office and garden room and is necessary for the function of the space and its omission would be ruinous to the level of residential amenity for the ancillary office and games room.
- 7.3.5. I would have no objection to the provision of the bathroom and associated infrastructure and consider that condition no 2 of the planning authority's decision is very clear in relation to setting out the nature of the proposed structure as ancillary to the dwelling and limitations on its future use.
- 7.3.6. I would therefore consider that condition no 3 should be omitted in a grant of planning permission.

7.4. Appropriate Assessment Screening

- 7.5. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

- 8.1. For the reasons already stated I consider that the appeal can be addressed under section 139 of the Planning and Development Act 2000 as amended and I recommend permission be granted subject to the omission of conditions 3 of the Planning Authority's decision to grant planning permission.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the matters raised in the grounds of appeal it is considered that the proposed development accords with the proper planning and sustainable development of the area and would not adversely impact or detract from the visual and residential amenities of the area.

10.0 Conditions

- 10.1. Condition no .3 be omitted.

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.

Derek Daly
Planning Inspector

22nd December 2023