



An
Bord
Pleanála

Inspector's Report

ABP-318826-24

Development	Retention of change of use of shed to granny flat and extension. Widening of pedestrian entrance with all associated site works
Location	17 Brookwood Heights, Artane, Dublin 5
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4282/23
Applicant(s)	Dong Lin
Type of Application	Retention Permission and Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeal
Appellant(s)	Nollaig Mac Cárthaigh, Angela Reynolds and Karen Garbutt and Paul Nolan
Observer(s)	None
Date of Site Inspection	18 th February 2024
Inspector	Susan Clarke

1.0 Site Location and Description

- 1.1. The appeal site is located on Brookwood Heights in Artane and comprises a mid-terrace two storey house (3 bedrooms) with a stated floor area of 98 sq. metres. There are three outbuildings to the rear of the property collectively measuring 36 sq m, in addition to a WC (2.5 sq m). The property has also a dormer/attic extension to the rear.
- 1.2. The house is located in a mature residential area comprising similar two storey residential development. Harmonstown railway station is located approximately 390 metres to the southeast.
- 1.3. The site has pedestrian access to a laneway that runs to the rear and there is a pedestrian access to the front garden. The dwelling which comprises a terrace of four units, is the only dwelling which does not have a vehicular access in the front garden.
- 1.4. The stated area of the site is 208 sq. metres.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - retention permission for a 2.5 sq m flat roof building (bathroom) to rear of the dwelling,
 - planning permission for (1) conversion of existing sheds/out buildings to granny flat, (2) works to include a flat roof extension to link existing dwelling to proposed granny flat, (3) widen the existing pedestrian entrance to create a vehicular access/driveway and (4) all associated site works.

The Local Authority issued a Request for Further Information on 4th October 2023 in relation to the use of the granny flat and a street tree in close proximity to the proposed vehicular driveway. There were no material amendments made to the scheme as part of the RFI Response.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Retention Permission subject to 10 no. conditions which include the following:

Condition No.4 restricts the maximum width of the vehicular entrance to 2.8 metres.

- 3.1.1. Condition No. 5 restricts the use of the proposed development including *inter alia* that the main dwelling and the ancillary family accommodation shall be used a single family dwelling and shall not be divided or subdivided by means of sales, lease or otherwise; and not used for short term letting without a prior grant of planning permission. The ancillary family accommodation shall be occupied by a member of the immediate family of the occupiers of the main house only and shall not be divided or subdivided from the main house by means of sales, lease or otherwise without a prior grant of planning permission.

3.2. Planning Authority Reports

Planning Reports (4th October 2023 and 6th December 2023)

The reports of the Planning officer notes the content of the third party observation received and the internal reports. The Officer stated that the the proposed extension by reason of its scale should have no adverse impact on the scale and character of the dwelling and have no unacceptable effect on the amenities enjoyed by the occupants of the adjacent buildings in terms of privacy and access to daylight and sunlight, and would be consistent with the Development Plan. Furthermore, it was considered that the proposed ancillary family accommodation granny flat is largely consistent with Section 7 Ancillary Family Accommodation of the Development Plan. The Applicant has demonstrated a 'familial' relationship to the proposed occupier of the ancillary family accommodation the proposal. The latter report concludes by recommending permission is granted as per the conditions attached to the Notification of Decision to Grant Retention Permission.

- 3.2.1. Other Technical Reports

Drainage Division – No objection subject to compliance with the code of practice.

Transportation Department - Report recommends that the width of the vehicular access be restricted to 2.8 metres.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

- 3.4.1. Three third party observations were submitted to the planning authority during its determination of the planning application. The substantive issues raised in these submissions have also been raised in the Third Party's ground of appeal submitted to the Board.

4.0 **Planning History**

- 4.1.1. No relevant planning applications relating to the site identified.
- 4.1.2. The Local Authority's Planner's Report highlights that there is an enforcement file pertaining to the subdivision of the dwelling for rental purposes and development of a bathroom (Ref. E0418/23).

5.0 **Policy Context**

5.1. **Dublin City Development Plan 2022-2028**

The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028.

The site is located on lands that are zoned Z1 (Sustainable Residential Neighbourhoods) *To protect, provide and improve residential amenities.*

Chapter 5 of the Development Plan relates to Quality Housing and Sustainable Neighbourhoods.

Appendix 18 of the Development Plan relates to Ancillary Residential Accommodation. Section 1.0 outlines the key considerations for residential extensions including *inter alia*:

General Design Principles

Applications for extensions to existing residential units should:

- *Not have an adverse impact on the scale and character of the existing dwelling*
- *Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight and sunlight*
- *Achieve a high quality of design*
- *Make a positive contribution to the streetscape (front extensions)*

There is a general presumption against front extensions that significantly break the building line, unless it can be justified in design terms and demonstrated that such a proposal would have no adverse impact on the character of the area or the visual/residential amenities of directly adjoining dwellings.

Extensions To Rear

In determining applications for first floor extensions, the following factors will be considered:

- *Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries*
- *Remaining rear private open space, its orientation and usability*
- *Degree of set-back from mutual side boundaries*
- *External finishes and design, which shall generally be in harmony with existing.*

Privacy And Amenity

Extensions should not result in any significant loss of privacy to the residents of adjoining properties. Generally, windows overlooking adjoining properties (such as in a side wall) should be avoided.

Separation Distances

In cases where the backs of dwellings face each other or where the side of one dwelling faces the rear of a neighbouring property, a certain degree of separation is required to avoid any overbearing effect of one dwelling upon the other. With the emphasis on increased residential densities and the consequent incorporation of a

variety of unit types and sizes in schemes, the requirement for 22 metre separation in such cases may no longer be applicable in certain instances.

Daylight And Sunlight

Consideration should be given to the proportion of extensions, height and design of roofs as well as taking account of the position of windows including rooms they serve to adjacent or adjoining dwellings.

Appearance And Materials

The extension should not dominate the existing building and should normally be of an overall scale and size to harmonise with the existing house and adjoining buildings; the appearance of the existing structure should be the reference point for any consideration of change that may be proposed. The materials used should complement those used on the existing building; features such as windows and doors on the new extension should relate to those on the original building in terms of proportion and use of materials.

Appendix 18 – Section 7.0 Ancillary Family Accommodation

Ancillary family accommodation refers to a subdivision or extension of a single family dwelling unit to accommodate an immediate family member for a temporary period (e.g. elderly parent) or where an immediate relative with a disability illness or specific temporary housing need may need to live in close proximity to their family.

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.

Conditions will be attached to the permission limiting the use of the accommodation for ancillary family use only on a temporary basis.

Appendix 5 – Transport and Mobility provides that: Dimensions and Surfacing Vehicular entrances shall be designed to avoid creation of a traffic hazard for passing traffic and conflict with pedestrians. Where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the impact on on-street parking provision (formal or informal), the traffic conditions on the road and available sightlines. For a single residential dwelling, the vehicular opening proposed shall be at least 2.5 metres or at most 3 metres in width and shall not have outward opening gates. Where a shared entrance for two residential dwellings is proposed, this width may increase to a maximum of 4 metres.

5.2. **Natural Heritage Designations**

- 5.2.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

5.3. **EIA Screening**

- 5.3.1. Having regard to the scale and nature of the proposed development 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

A collective Third-Party Appeal from Nollaig Mac Cárthaigh, Angela Reynolds and Karen Garbutt and Paul Nolan, all residents of Brookwood Heights, was lodged with the Board on 11th January 2024. The grounds of appeal can be summarised as follows:

- Need for a Granny Flat: Mr Lin has not named the persons for whom the Granny Flat is being proposed, which would indicate that there is no-one in mind. The main house could accommodate occasional visitors. Suggests that the main house is let out to tenants. No justification provided for the granny flat.
- Division of the Building into Three Separate Units: Despite the Planning Officer's comments in relation to the independent external doorways be replaced by windows, this was not conditioned. The proposed design facilitates a change of use to accommodate three separate units thereby increasing the number of dwellers who could reside at the property.
- Rules and Regulations: The Applicant has told planning permission was required for the bathroom. Part of a roof that the Applicant was instructed to remove has been reinstated. The buildings to the rear of the main house have already been used to accommodate visitors. The attic area does not have planning permission and does not conform to Fire Regulations. Concerns the Applicant would not fully comply with planning conditions in the future.
- Retention of Bathroom: Granting retention permission for the bathroom would further facilitate the letting of the Granny Flat as separate units to non-family members.
- Bathroom Finish: the bathroom finish is ugly and not consistent with the finish on the adjoining buildings.
- Building Standards: Concerns that the development is not in compliance with building standards.

6.2. Applicant Response

The Applicant submitted a response to the Board on 6th February 2024 in relation to the Third-Party Appeal. The key points raised include:

- The 'Granny Flat' will be used by Mr. Lin's parents.
- As shown on the existing plans, the individual doors to each room of shed are existing.
- As part of application retention permission was granted for new bathroom which now forms part of Granny Flat.
- Mr. Lin is happy to address any issue regarding finishes.
- Mr. Lin lives in the main house with his family. The house is not sub-divided as implied.

6.3. Planning Authority Response

The Local Authority confirmed to the Board on 7th February 2024 that it has no comments to make in respect of the appeal.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Justification for Proposed Development
- Ancillary Family Accommodation

- Impact on Residential Amenity
- Building Standards
- Enforcement.

Each of these issues is addressed in turn below.

7.2. Justification for Proposed Development

- 7.2.1. The Appellants state that the Applicant has not named the persons for whom the Granny Flat is being proposed. This was confirmed by the Applicant to the Board on 6th February 2024 (i.e. the proposed granny flat is to be used by his parents). I consider this to be acceptable and is consistent with Appendix 18 – Section 7.0 Ancillary Family Accommodation. I recommend that should the Board be minded to grant permission for the proposal that the use of the flat is conditioned similar to Condition No. 5 attached to the Notification of Decision to Grant Retention Permission. This is standard practice for development of this nature limiting the use of the flat to immediate family members and that it shall not be sold or let independently from the main house.

7.3. Ancillary Family Accommodation

- 7.3.1. The Appellants highlight that whilst the Planning Officer noted that the independent external doorways be replaced by windows, this was not conditioned. There are concerns that the design could facilitate independent living units.
- 7.3.2. As illustrated on Dwg. No. PA02, the proposed development, whilst accessible from the rear service laneway, will be directly connected to the main house. The kitchen and proposed living room have an open-plan design. There will be three doors from the granny flat providing direct access to the rear garden in addition to a shared access with the main dwelling from the utility room.
- 7.3.3. Should the Board be minded to granted permission, the proposed development will be restricted as per the plans and particulars (i.e. a one-bedroomed granny flat for use by immediate family members). Furthermore, as outlined above, I recommend a bespoke condition is attached to any grant of permission to clearly stipulate that the use of the granny flat be restricted and not sold or let independently of the main house. Notwithstanding these recommended conditions, I concur the Planning Officer suggestion that the three external doors on the outbuildings be replaced with windows. The flat will be connected to the main dwelling via the utility room, which in turn

provides access to the rear garden. As such, I do not consider that the three existing doors are warranted. Furthermore, in my view, their omission would improve the visual impact of the proposed development. Prior to the commencement of the development, these details could be submitted and agreed with the Local Authority.

7.4. Impact on Neighbouring Residential Amenity

7.4.1. I consider that the proposed use is consistent with the site's land use zoning policy and the established residential character of the area. Having regard to the scale of the proposed development (i.e. conversion of single storey outbuildings) and the size of the rear garden, I do not consider that the proposed development is excessive. Furthermore, having regard to its design, scale, and position in relation to neighbouring properties and their respective boundary treatments, it will not result in adverse overlooking, or loss of daylight/sunlight. I note the Appellants' concerns in relation to the visual impact of the bathroom. However, having regard to its scale and position between the outbuildings and main house, I do not consider that it would have a significant visual impact on the neighbouring property. Should the Board be minded to grant permission for the proposal. I recommend that the building materials be agreed with the Local Authority prior to the commencement of the development. In summary, I am satisfied that the proposed development can be accommodated on the site, without undue impact on neighbouring residential properties.

7.5. Unauthorised Development and Procedural Matters

7.5.1. Issues raised by the Appellants in relation to potential previous unauthorised development are matters for the Local Authority to consider. Furthermore issues relating to compliance with non-planning regulations, including *inter alia* Building Regulations, Fire Safety Certificate, etc. will be evaluated under separate legal codes, and as such in my opinion, need not concern the Board for the purposes of this Appeal.

8.0 Appropriate Assessment

8.1.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a

significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the pattern and character of existing development in the area, the design and scale of the development proposed, and the provisions of the Dublin City Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, and would not seriously injure the residential amenity of surrounding properties and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars submitted to the Local Authority on 10th November 2023, 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 the 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>
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2.	<p>The proposed granny flat shall be used solely for that purpose, and shall revert to use as part of the main dwelling on the cessation of such use.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
3.	<p>The granny flat accommodation shall not be separated from the main house. It shall not be sold or let independently of the main house and, when no longer required for use as a granny flat, use of that part shall revert to use as part of the main house.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>The three existing doors along the eastern elevation of the outbuildings shall be replaced by windows. The details of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>The proposed development shall adhere to the following:</p> <ul style="list-style-type: none"> a. Prior to the commencement of development, revised drawings shall be submitted to the Planning Authority indicating the provision of a 2.8metre wide pedestrian/vehicular entrance as agreed with the Parks, Biodiversity and Landscape Services Department on the 6th November 2023. b. No gates shall open across the public footpath. c. Footpath and kerb to be dished and new entrance provided to the requirements of the Area Engineer, Roads Maintenance Division, without impact on the existing street tree, unless otherwise agreed with the Parks, Biodiversity and Landscape Service Department. A financial contribution to compensate for any damage to or loss of the street tree shall be determined

	<p>by and payable to the Parks, Biodiversity and Landscape Services Department if required.</p> <p>d. All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.</p> <p>e. The developer shall be obliged to comply with the requirements set out in the Code of Practice.</p> <p>Reason: To ensure that the street tree is not damaged or otherwise adversely affected by building operations.</p>
7.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>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>
9.	<p>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> <p>Reason: In the interest of public health.</p>
10.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.</p> <p>This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures</p>

	<p>including noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

Susan Clarke
Senior Planning Inspector

18th February 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318826		
Proposed Development Summary	Retention of change of use of shed to granny flat and extension. Widening of pedestrian entrance with all associated site works		
Development Address	17 Brookwood Heights Artane Dublin 5		
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	
		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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
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)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: Susan Clarke Date: 18th February 2024