



An
Bord
Pleanála

Inspector's Report ABP-320039-24

Development	Retention of single-storey garden room structure for use ancillary to the main dwelling.
Location	506 Carnlough Road, Cabra West, Dublin 7.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	WEB1453/24
Applicant(s)	Margaret Shodiya
Type of Application	RETENTION PERMISSION
Planning Authority Decision	Dublin City Council
Type of Appeal	First Party
Appellant(s)	Margaret Shodiya
Observer(s)	None
Date of Site Inspection	2 nd September 2024
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The subject site is located at 506 Carnlough Road, Dublin 7 which comprises an existing mid-terrace two storey dwelling.
- 1.2. The front area of the existing dwelling is paved which facilitates off street parking for one car. To the rear of the site is laid out with gravel with an existing single storey detached structure the subject of this appeal. The dwelling has an existing single storey rear extension.
- 1.3. The rear boundary walls comprise 1.8metre high block wall along the western boundary and a timber fence along the eastern boundary. There are mature leylandii trees along the boundary with TU Dublin Broombridge sport pitches to the immediate north.
- 1.4. The surrounding is urban and residential in character. To the west and east is a row of terraced two storey properties. The subject site is not a Protected Structure or within an Architectural Conservation Area (ACA).

2.0 Proposed Development

- 2.1. Permission is sought for *'Retention Permission of an existing single storey garden room structure for use ancillary to the main dwelling'*.
- 2.2. The structure would measure 4.5metres x 5.2metres with an overall height of 2.5metres and total floor area of 18sqm.

3.0 Planning Authority Decision

3.1. The Planning Authority REFUSED retention permission on the 11th June 2024 for the following reasons:

- 1) Having regard to the Z1 zoning objective for the site 'to protect, provide and improve residential amenities' of the Dublin City Development Plan 2022 to 2028, it is considered that the proposed development constitutes a case of haphazard and uncoordinated backland development, and would be overbearing to adjoining third party residential amenity, and as per the established floor plan would not be compliant with minimum recommended unit size and accommodation standards for 1Bed/2P dwellings as set out in the 2007 Quality Housing for Sustainable Community guidelines. The proposed development would, therefore, by itself and by reason of the undesirable precedent it would set for similar development in the area be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

Planning Reports

- The Planner's Report forms the basis for the decision to refuse permission; it includes an planning enforcement report indicating the structure has been listed on Air B&B; the proposal if had been presented as ancillary family accommodation would not meet the criteria outlining the Section 7 of Appendix 18 of the Development Plan; the structure is a standalone dwelling and would not comply with the Quality Housing for Sustainable Communities Best Practice Guidelines 2007.
- The report also provides a description of the site, indicates the planning history, identifies the land use zoning designation and associated policy context from the Dublin City Development Plan 2022-2028.
- No concerns with respect to AA or EIA.

Other Technical Reports

- **Engineering Department Drainage Division:** No report received

3.3. Prescribed Bodies

- **Transport Infrastructure Ireland (T.I.I):** No report received
- **Irish Water:** No report received
- **Irish Rail:** No report received

3.4. Third Party Observations

None

4.0 Planning History

There is no recent relevant planning history for this site.

An Enforcement Notice (E0140/24) is referenced stating that an alleged unauthorised residential use and Air B&B is being carried out from the existing structure.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dublin City Development Plan 2022 – 2028 is the relevant development Plan for the subject site.
- 5.1.2. The site is subject to land use zoning “Z1” – (Sustainable Residential Neighbourhoods) which has the objective “*to protect, provide and improve residential amenities*”.
- 5.1.3. Volume 2 of the Dublin City Development Plan 2022-2028 contains a number of appendices containing notes and standards for various development types. Appendix 18 (Ancillary Residential Accommodation) Section 2.0 (detached habitable rooms) states:
 - *Detached Habitable Rooms Detached habitable rooms refer to backland development within the curtilage of an existing dwelling that does not contain a separate vehicular access point. In this respect, access to the individual room to*

the rear of the existing dwelling will be provided by way of side passage/ access but with shared entranceway. 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

5.2.1. The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- South Dublin Bay and River Tolka Estuary SPA (0040240) to the east of the subject site. (c5.3km).
- North Bull Island SPA (004006) to the east of the site. (c5.3km).
- North Dublin Bay SAC (000206) to the east of the site. (c5.3km).
- Royal Canal Proposed Natural Heritage Area pNHA (002103) is 200metres to the north of the site.

5.3. EIA Screening

5.3.1. Refer to Appendix 1 – Form 1. Having regard to the proposed development, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first-party appeal has been lodged against the decision of Dublin City Council to refuse planning permission. The grounds of appeal can be summarised as follows:

- An alleged use of the structure for short-term letting should not constitute grounds for a retention permission refusal for a garden room.
- Matter can be addressed by way of a condition restricting use habitable purposes.
- Medical circumstances of the household allow for the extra space in the garden structure for respite and quiet study area.

6.2. **Planning Authority Response**

Response received dated 26th July 2024; indicating a payment of a section 48 development contribution condition should be attached in any final grant of permission.

6.3. **Observations**

None

7.0 **Assessment**

7.1. Introduction

- 7.1.1. I wish to draw the Board's attention to the planning history of the site and the nature of the use referred to in the planning authorities report. However, my assessment is confined to the development as described in the public notices. i.e. the Retention of a garden room for use ancillary to the main dwelling.
- 7.1.2. Having examined the application details and all other documentation on file, including the submission 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
 - Backland & Haphazard Development
 - Residential Amenity
 - Other matters

7.2. Principle of Development

- 7.2.1. The subject site is zoned “Z1” – (Sustainable Residential Neighbourhoods) as per the Dublin City Council Development Plan 2022 – 2028 which has a zoning objective *“to protect, provide and improve residential amenities”*. The subject site relates to an existing dwelling where extensions and garden structures can be considered.
- 7.2.2. Appendix 18 (Ancillary Residential Accommodation) of the Dublin City Plan 2022 – 2028 states, detached habitable rooms for the *“purpose to provide for additional space within the rear garden of an existing dwelling for study/ home office use or additional living/ children’s playroom”* can be accommodated in principle. These rooms are to be used as ancillary residential accommodation.
- 7.2.3. The reason for refusal by the Planning Authority indicated the structure would be used as a 1-bedroom unit and would not be compliant with the recommended unit size and accommodation standards as set out in the Quality Housing for Sustainable Community guidelines, 2007. I note the Planning Authorities concerns however I have regard to the development description before me that being the retention of a ‘garden room’ structure (18sqm) located to the rear of the existing property. The floor plans submitted indicate the use would be for a ‘home office’ ancillary to the main dwelling on site. It is my view that the use of the structure whilst giving the appearance of a self-contained unit, this could be addressed by way of an appropriate condition if the Board is of a mind to grant permission to be used ancillary to the main dwelling.
- 7.2.4. Therefore, having regard to the foregoing, it is my view the principle of the development is deemed acceptable, subject to normal planning considerations.

7.3. Backland & Haphazard Development

- 7.3.1. I note the reason for refusal by the Planning Authority related to the backland and haphazard nature of the development to be retained.
- 7.3.2. It is my view that the structure to be retained would not be an uncommon domestic structure in an urban setting. I note similar structures are sited to the rear garden areas of properties along Carnlough Road and as such I consider that the retention

of the structure by reason of the single storey nature of the development would be in keeping with the existing built environment and not detract from the established character of the area. I consider the structure is acceptable in that regard.

- 7.3.3. Having regard to the foregoing it is my view that the structure to be retained would not represent a haphazard form of development in this urban setting.

7.4. Residential Amenity

- 7.4.1. I note the reason for refusal by the Planning Authority included overbearing to adjoining third party properties and impact to residential amenity.
- 7.4.2. The existing structure is located to the rear garden area, is single storey in nature at 2.5metres in height and is set from the neighbouring boundaries all in which in my view are acceptable. I note that no third-party submissions were received during the planning application stage.
- 7.4.3. Having regard to foregoing, it is my view that the proposed development would not result in any undue overbearing to neighbouring properties. I consider this acceptable in that regard.

7.5. Other Matters

- 7.5.1. I note the medical circumstances of the household on file that allows for the extra space in the garden structure for respite and a quiet study area. I consider this acceptable in that regard.

8.0 Appropriate Assessment Screening

- 8.1. Refer to Appendix 2. Having regard to nature, scale, and location of the proposed development and nature of the receiving environment and proximity to the nearest 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.

9.0 Recommendation

- 9.1. I recommend that RETENTION PERMISSION should be GRANTED for the reasons and considerations as set out below.

10.0 Reasons and Considerations

Having regard to the nature, scale, location and design of the development to be retained, it is considered that, subject to compliance with the conditions set out below, the development to be retained would comply with the zoning objective for the site, as set out in the Dubin City Council Development Plan 2022 – 2028, would not constitute a haphazard and backland form of development, and would not seriously injure the residential amenity of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Condition(s)

1. The development shall be retained 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 and the development shall be retained in accordance with the agreed particulars.

Reason: **In the interest of clarity.**

2. The 'garden room' shall be for domestic related uses only, ancillary to the use of the existing dwelling on the application site. These uses shall be as indicated in the plans and particulars submitted to the planning authority at application stage (i.e. home office) and shall not be used for human habitation.

Reason: **In the interest of clarity and the proper planning and sustainable development of the area.**

3. The 'garden room' shall not be sold, let or otherwise transferred or conveyed, save as part of the existing dwelling on the site.

Reason: **In the interest of clarity and the proper planning and sustainable development of the area.**

4. 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.

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.**

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.

Gerard Kellett
Planning Inspector
30th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Retention of single-storey garden room structure for use ancillary to the main dwelling.		
Development Address	506 Carnlough Road, Cabra West, Dublin 7.		
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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	x		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)
No	x	N/A	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

AA Screening

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 Network, is the:

- South Dublin Bay and River Tolka Estuary SPA (0040240) to the east of the subject site. (c5.3km).
- North Bull Island SPA (004006) to the east of the site. (c5.3km).
- North Dublin Bay SAC (000206) to the east of the site. (c5.3km).
- Royal Canal Proposed Natural Heritage Area pNHA (002103) is 200metres to the north of the site.

The proposed development is located within a residential area and comprises the *Retention of single-storey garden room structure for use ancillary to the main dwelling.*

Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and domestic nature of the development
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.