



An
Bord
Pleanála

Inspector's Report

ABP-320168-24

Development	Protected Structure: Retention of rear garden shed/playhouse, privacy screens and front garden bin store. Permission for boundary screen.
Location	217 Rathmines Road Upper, Rathmines, Dublin 6, D06 E8N1
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3154/24.
Applicant(s)	Carol Ann Casey.
Type of Application	Permission and Retention Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party.
Appellant(s)	Pamela Nicell.
Observer(s)	None.
Date of Site Inspection	12 th September 2024.
Inspector	Ciarán Daly

1.0 Site Location and Description

- 1.1. The subject consists of a mid-terraced two storey over raised basement Georgian type dwelling, a protected structure (RPS no. 7343 – only the exterior of the building is protected). The house is accessed via a set of steps that lead up to the front door of the raised ground floor level from a path to one side of the front garden which includes a timber panelled bin store adjacent to it and the boundary with no. 215. Beside the steps there are a smaller set of steps which lead down to the basement side entrance to the dwelling. The front of the dwelling consists of brick finish over basement render finish.
- 1.2. To the rear of the dwelling there is a three storey single bay flat roof return element of modest depth and there is a paved patio area adjacent which leads to the rear garden which is accessed by steps as it is located at a higher level above the basement level. The rear garden, mainly a flat grassed area bordered by a variety of plants, some of which offer some screening from the adjacent gardens, is just over 21m long and is bounded by boundary walls of modest height with the adjacent rear gardens located to the north and south. The adjacent rear garden to the north of no.219 is on broadly the same level as the subject rear garden and the rear gardens of no.s 215 and 219a to the south are on a lower level.
- 1.3. At the end of the rear garden there is a detached single storey flat roof timber structure (14.7 sq.m.) which consists of a small shed at the northern end and a playhouse type area of c. 9.2sq.m with separate access. There is a timber screen located along the boundary for a short distance adjacent and to the front side of the shed. To the rear of the subject site behind a high wall with some small openings is located what appeared to be an overgrown vacant site.
- 1.4. Adjacent to the south side is a house of similar design to the subject dwelling and adjacent to the north is a two-storey red brick terraced house of differing design and later period. The subject site is located a short distance to the north of the junction

with Highfield Road and there is on-street parking provision on both sides of the public road to the front of the dwelling.

2.0 Proposed Development

2.1. The proposed development, in the grounds of a protected structure, consists of the following:

- Retention for a detached single storey rear garden shed/playhouse, front garden bin store and 6.5m length privacy screen to a section of the northern boundary of the rear garden.
- Permission to extend the privacy timber screen on the northern rear garden boundary a further 13.5m towards the main house.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council initially requested further information in relation to concerns regarding the boundary screening with a more sensitive design solution sought given the conservation status of the dwelling, measures to ensure the playhouse structure windows do not overlook adjoining rear gardens and a suggested relocation of the refuse store to the external front sunken area to limit its visibility in the context of the special architectural character of the front garden.
- 3.1.2. Subsequently, the Council decided to grant permission and grant retention permission for the proposed development subject to 8 no. conditions.
- 3.1.3. Conditions to note of particular relevance are:
- Condition no. 2 required the use of the playhouse structure to be used only for purposes incidental to the use of the main house with habitable or any commercial use or the keeping of animals use not permitted.
 - Condition no. 3 includes a requirement for a 1.5m high evergreen tree to be planted in front of the refuse enclosure.

- Condition no. 4 requires the employment of a conservation officer to supervise the works and ensure best conservation practice is observed.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The Dublin City Council Planning Reports form the basis of the decision. The assessment of the first report, having regard to the Conservation Report, considered that the proposed screens were visually obtrusive and out of keeping with the character of the protected structure.
- 3.2.2. The report noted adequate separation distances in relation to the windows of no. 215 and that any overlooking from the southern window could be dealt with by condition requiring obscure glazing but further information was requested in relation to the overlooking concerns of the Conservation Officer.
- 3.2.3. The second Planner's Report found the soft screening proposed by the applicant at F.I. stage to be acceptable in principle subject to the submission of further details. The fitting of permanent opaque glass to the southern window was considered to address the overlooking concerns. The proposal to use a tree to screen the bin store was accepted by the Conservation Officer and in the report.

Other Technical Reports

- Drainage Report: Advised no objection.
- Transportation Report: No report received.
- Conservation Report: 1st report: Refusal of permission recommended. F.I. report: recommended permission be granted subject to conditions.

The first Conservation Officer report expressed concerns on the visual impact of the playhouse structure on the setting of the protected structure and recommended refusing permission. Further information was suggested to include a request for soft plant screening to screen the playhouse structure. In relation to the front bin structure, the Conservation Report expresses

concern in relation to its location and suggests it be located in the sunken area to the front of the house and also suggests it be screened by soft landscaping. The screening of the bins from view was welcomed in principle.

The second Conservation report was satisfied with the soft screening proposals as shown on the submitted site plan. It found the opaque glass acceptable as it prevented overlooking. The planting of an evergreen tree to screen the bin store was found to be acceptable.

3.3. Prescribed Bodies

- Uisce Éireann: No report received.
- An Taisce: No report received.
- Department of Housing, Local Government and Heritage: No report received.
- Heritage Council: No report received.
- Fáilte Ireland: No report received.
- An Chomhairle Ealaíon: No report received.

3.4. Third Party Observations

3.4.1. A total of 3 no. observations were received from third parties. The issues raised within the observations that have not been raised in the appeal can be summarised as follows:

- No impact on privacy or overlooking issues arise.
- The history in relation to the other shed in another garden adjacent to no. 219a does not mean that there is no issue with this structure.
- A similar fence to the one for the north is required for the side southern boundary to protect residential amenities and privacy.
- Surface water drainage should be through the combined sewer due to difference in ground levels.
- Problems outlined with the system of retention permission.

- There are significant overlooking issues into the adjacent property at no. 215 including into the kitchen, bedrooms and patio areas and into the garden with the raised level of the structure noted and raising of the garden level.

4.0 Planning History

4.1. Appeal Site

E1044/23: Enforcement file referenced in the Planner's Report in relation to a garden house erected to the rear of no. 217 Rathmines Road.

3357/13: Permission granted by the Planning Authority for Retention: 1. Excavation of part of rear garden to provide a terrace at Lower Ground Floor level, 2.

Underpinning of rear return walls & boundary wall to No. 219, 3. Removal of Lower Ground Floor rear window & extending of the ope for doors to Rear Terrace.

Permission also granted for: Replacement timber sash windows, 2. timber double glazed double doors to rear LG ope, 3. leaded glass fanlight to front door, 4. cast iron railings & handrail to external steps to front, 5. stone faced retaining walls with granite capping, steps, gravel & granite paving, stepped planters, rendered blockwork wall with granite capping all to rear terrace, 6. Base of walls to return to be rendered, 7. Associated site works.

2999/12: Permission refused by the Planning Authority for PROTECTED STRUCTURE: change of use of existing house from residential dwelling to childcare facility comprising minor internal alterations.

Reasons for refusal:

1. The noise and disturbance associated with such a use and as such would be contrary to the Z2 zoning objective for the area and residential amenities.
2. The proposal is contrary to the provisions of Appendix 20 of the Dublin City Development Plan which requires that such premises remain primarily residential.

4.2. Site Surrounds

2553/13: Permission refused by the Planning Authority and on appeal by An Bord Pleanála (ref. PL 29S 242225) at 219 Rathmines Road Upper (Protected Structure) to widen the existing gateway to 2.6m to provide for vehicular access together with all associated site works. Reason for refusal related to the serious impact on the character protected structure and the precedent this would set.

2373/13: Permission granted by the Planning Authority at 213 Rathmines Road Upper for retention of the replacement front windows with double-glazed timber windows (retaining stained glass), demolition of single storey lean to structure to the rear and replacement with new single storey extension, replacement of rear sliding sash windows with new double glazed timber sliding sash windows.

3985/09: Permission refused by the Planning Authority at 215-217 Rathmines Road Upper for two storey mews dwelling for reasons related to scale and design being out of keeping with the area, traffic hazard on a laneway and undesirable precedent.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

Under the Dublin City Development Plan 2022-2028 (the CDP), the subject site is zoned under Objective Z2 '*To protect and/or improve the amenities of residential conservation areas*'. Chapter 11 of the CDP deals with Built Heritage and Archaeology and Chapter 15 relates to Development Standards.

Policy BHA2 provides detailed policy in relation to the development of protected structures.

Policy BHA9 relates to the protection of the special interest and character of all Dublin's Conservation Areas and sets out detailed policy on this.

Appendix 18 (Ancillary Residential Accommodation) Section 2.0 relates to policy on detached habitable rooms.

5.2. Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, and the documentation on file, I note that the relevant Section 28 Ministerial Guidelines are:

- Architectural Heritage Protection Guidelines for Planning Authorities (2011).

5.3. Natural Heritage Designations

The nearest designated site is c.1.8km south of the Grand Canal Proposed Natural Heritage Area (PNHA) (site code 002104), c.3.9km west of the South Dublin Bay Special Area of Conservation (SAC) and PNHA (site code 000210) and from c.3.9km the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (site code 004024).

5.4. EIA Screening

See Form 1 appended to this report. The proposed development is not a class of development specified in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended. Therefore, screening for EIA is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been prepared on behalf of the appellant. The main points can be summarised as follows:

- Issues of overlooking of the rear garden of no. 219a arise due to the raised garden level and close proximity of window to adjacent garden. Photos and section submitted in support.
- The playhouse structure is overbearing despite the deciduous planting to its south and permission should be refused.
- If permission is granted, the side window should be omitted, pleached trees should be planted per revised drawing and the height of the structure reduced by condition.

6.2. Applicant Response

None.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the reports of the Local Authority, and having inspected the site, and having regard to the City Development Plan, I consider that the substantive issues in this appeal and application to be considered are as follows:

- Overlooking Impacts.
- Visual Impact and Built Heritage.
- Bin Store.

7.2. Overlooking Impacts

7.2.1. As part of the Applicant's response at F.I. stage, the significant separation distances of the playhouse structure from the rear of the dwelling were noted with photos included and which also showed boundary line screening between adjacent properties to the north and south. It was noted that permanent opaque glass for the southern window had been ordered. The appeal primarily raises the issue of overlooking of the adjacent garden of no. 219a from the windows of the playhouse structure located in the rear garden of no. 217. Of particular concern is the impact from the south side facing window on to the lower garden level to the south.

7.2.2. From my site visit, I observed that this window had obscure glazing which prevented any overlooking from the window. I also observed significant screening from planting

located on the other side of the adjacent southern boundary. Having regard to the lower garden level to the south, I consider that the conditioning of the glazing in the southern window to be obscure glass is sufficient to prevent any significant overlooking of the adjacent private open space to the south.

- 7.2.3. The east facing windows of the structure are located at an acute angle to the adjacent rear gardens and properties to the south and south-east such that no issues of significant direct overlooking arise despite the lower garden levels to the south. In relation to potential overlooking of residences in the vicinity, due to the angles of the windows and significant separation distances (for example 16m to 18m to the rear elevations of no. 215 and in excess of 22m from the rear elevation of no.219), I consider that no significant overlooking issues arise from the front facing windows of the playhouse structure.
- 7.2.4. On these issues, I note also that due to the relatively small scale of the playhouse/shed structure that no undue overshadowing arises and conclude that no significant impacts on adjacent residential amenities arise and that should permission be granted, that a condition be included to require permanent obscure glass for the southern side window of the playhouse to prevent undue overlooking to the south.
- 7.2.5. I have no significant concerns in relation to the three no. rear facing small square windows which, in the main, face an old stone wall which bounds a vacant site to the rear. While there are a number of holes in the walls, these can be readily screened if required and I have no significant concerns in relation to overlooking to the rear.

7.3. Visual Impact and Built Heritage

- 7.3.1. The F.I. response offered to remove the existing screening and replace it with half standard pleached evergreen trees and that this would be extended to meet the existing mature trees to a total length of 12m and also offered to plant the same trees on the southern boundary for a length of 3m.
- 7.3.2. Noting the relatively modest scale of the playhouse structure and shed, in the rear garden setting of a protected structure, with long garden and notwithstanding the

higher level than the adjacent gardens to the south and disregarding the existing screening to the south, I do not consider that any significant overbearing visual impacts arise in relation to the adjacent gardens to the south and north, particularly noting the limited depth of 3m of the structure and its height at 2.7m, having regard to its somewhat raised position.

7.3.3. In relation to impacts on the setting of the protected structure, having visited the site and observed the surrounds and noting the submitted photos and drawings, I note the sensitive design of the garden playhouse/shed and the attractive wooden painted finishes. I also note the existing planting in the rear garden area, the retention of the traditional stone walls and that the setting has not been significantly altered. While having regard to the reports of the Conservation Officer, I consider that the modest scale of the structure located at a significant remove from the dwelling gives rise to no significant concerns in relation to excessive visually obtrusive impacts or in relation to being incongruous in the rear garden setting of the protected structure. Having regard to Policy BHA2 (Development of Protected Structures) of the CDP, I consider that the playhouse structure development does not adversely impact on the curtilage or the special architectural character of the protected structure and its setting.

7.3.4. In relation to the 6.5m long timber privacy screen located inside the northern boundary of the rear garden and adjacent to the playhouse structure and the proposed northern boundary timber private screen, these structures were omitted at F.I. stage such that no assessment of these elements is required. I recommend that retention of the playhouse/shed structure be granted permission subject to standard SUDS related drainage conditions and with no significant adverse impact noted.

7.4. Bin Store

7.4.1. In relation to the bin store, it was suggested by the applicant at F.I. stage that it is not feasible or safe to locate the bins down the front steps and a 1.5m high evergreen tree to be located in front of the bin store was offered. It was noted that there are a number of bin enclosures found not only on this road but all over Georgian and Victorian Dublin to screen bins and that the bin structure is more aesthetically pleasing than leaving the bins exposed in the front garden.

7.4.2. In relation to the evergreen tree screening (1.5m in height) included at F.I. stage and recommended for the front of the detached bin store to the front garden, having visited the site and the street and noting the pattern of development in the area, I consider that the bin store is of such a modest design, with timber type external finishes, that it comfortably integrates with the front garden setting and I do not share the concerns of the Conservation Officer in this regard. I also agree with the Planner's Report that such a structure is preferable to the bins being stored individually in the front garden. The bin structure is visually unobtrusive, is reversible in nature and has a negligible visual impact on the front garden setting of the structure such that I do not consider that Condition no. 3 of the Council's decision is required. I recommend that permission be granted for the bin store.

7.5. Other Matters Arising

7.5.1. To note, given that the developments are mostly in place, should permission be granted, I do not consider that the retention of a Conservation specialist should be required by condition as required by the Council.

8.0 AA Screening

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

8.2. The subject site is located in an urban area remote from any European site. The nearest such site is located 3.9km west of the South Dublin Bay Special Area of Conservation (SAC) (site code 000210) and is c.3.9km the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (site code 004024).

8.3. The proposed development comprises retention of a rear garden shed/playhouse, privacy screens and front garden bin store and permission for boundary screen in the grounds of a protected structure. Having considered the nature, scale and location of the project, 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:

- the small scale and domestic nature of the development,

- the location of the development in a serviced urban area, at a significant distance from European Sites and the urban nature of intervening habitats, and absence of ecological pathways to any European Site,
- taking into account the screening determination by the Planning Authority.

8.4. 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.

9.0 Recommendation

Following the assessments above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the zoning for the site, to the nature and scale of the proposed development, and to the provisions of the Dublin City Development Plan 2022-2028 and the Architectural Heritage Protection Guidelines for Planning Authorities (2011), it is considered that subject to compliance with the conditions below, the proposed development would respect the architectural setting and character of the dwelling, a protected structure, and its gardens, would respect the character and setting of the area and would not seriously injure the residential amenities of the area or of property in the vicinity. The development and proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 24th day of May 2024, 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.

Reason: In the interest of clarity.

2. The development shall be amended as follows:

- (a) The glazing within the southern side facing window of the playhouse/shed structure shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

Reason: In the interests of residential amenity.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the playhouse/structures shall be restricted to use only for purposes ancillary to the use of the main house as a single dwelling unit. It shall not be used for habitable (i.e. sleeping) accommodation, for any commercial purpose or for the keeping of animals, birds or poultry. It shall not be separated from the main house by way of sale or lease, unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity and to clarify the scope of the permission granted.

4. The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services., The developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority within three months of the final grant of permission.

Reason: In the interest of public health.

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.

Ciaran Daly
Planning Inspector

10th October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Protected Structure: Retention of rear garden shed/playhouse, privacy screens and front garden bin store. Permission for boundary screen		
Development Address	217 Rathmines Road Upper, Rathmines, Dublin 6, D06 E8N1		
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	No further action required
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		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:** _____