



An
Bord
Pleanála

Inspector's Report

ABP-321975-25

Development	<i>Retention of a two storey 100sq.m. rear extension, with change of roof profile and all associated site works</i>		
Location	<i>265 South Circular Road, Dublin 8, D08VW6N</i>		
Planning Authority Ref.	<i>WEB/2595/24</i>		
Applicant(s)	<i>Joe McDonagh</i>		
Type of Application	<i>Retention</i>	PA Decision	<i>Refuse Permission</i>
Type of Appeal	<i>First</i>	Appellant	<i>Joe McDonagh</i>
Observer(s)	<i>Aideen Collard & Others</i>		
Date of Site Inspection	<i>11th April 2025</i>	Inspector	<i>Andrew Hersey</i>

1. Site Location/ and Description.

The site is located on the South Circular Road in Dublin 8 and comprises of a single storey mid terrace dwelling with long front garden and pedestrian entrance to the same.

The site contains a single storey period dwelling with first floor extension to the rear roof profile and a modern single storey extension to the rear with ancillary buildings and areas of private open space. There is no external access to the rear of the house.

2. Proposed development. The proposed development comprises of retention permission for :

- A ground floor rear extension with a flat roof for the purposes of two bedrooms, and ensuite, and a kitchen living room,
- A detached garden shed with a floorspace of 23.2sq.m.
- Alterations to the existing building comprising of a first floor extension with modifications to the roof to form a second floor which includes for four windows which face towards the rear garden. The purpose of this extension is for that of a home office and playroom
- The stated site area is 0.036ha (360sq.m)

3. PA's Decision Refuse Permission for the following reason:

The development proposed for retention by reason of its design, scale and mass would be an inappropriate form of development at this location, would be inconsistent with Policy BHA9 and Section 11.5.3 of the Dublin City Development Plan 2022-2028, which seeks to protect the special interest and character of lands Zoned Z2. Furthermore it does not comply with Sections 1.7, 4.0 and 5.0 of Appendix 18 (Ancillary Residential Accommodation) of the Dublin City Development Plan 2022-2028, and would seriously injure the amenities of the area and of the property in the vicinity. The development would therefore, be contrary to the proper planning and sustainable development of the area.

3.1 Submissions: There is one submission on file from a Aideen Collard and David McLoughlin of Brooklyn, Dolphin Avenue SCR D08KT5X which raises the following issues:

- That the building is used for rental purposes
- Non-compliance with enforcement notice
- The application does not address the reasons for refusal as set out in the previous application.
- The application is contrary to BHA9 of the Dublin City Development Plan 2022-2028 (DCDP)

- A ground floor study has been converted to a bedroom
- There has been no attempt to address overdevelopment of the site and is therefore contrary to Sections 1.1.1.2 and 1.7 of Appendix 18 of DCDP
- That the first floor attic space is still be used for rental accommodation even though house is being presented as a family home

3.2 Internal Reports.

- Drainage Division Report received 16th December 2024 – no objection

4. Planning History

- Planning Reg. Ref. WEB1651/22 in the name of the same applicant granted retention permission by Dublin City Councillor for a two storey 100sq.m. rear extension and change to roof profile. This was appealed by third party to the Board under ABP314747-22 whom refused retention for two reasons as follows:
 1. *The Bord considered that the nature, scale and mass of the development proposed for Retention, if permitted, would be inconsistent with policy BHA9 and section 11.5.3 of the Dublin City Development Plan 2022-2028 which seeks to protect the special interest and character of lands Zoned Z2 and which has a stated objective 'to protect and/ or improve the amenity of the residential conservation areas', which include period buildings that positively contribute to their built heritage, integrity, character and sense of place. In such cases, a precautionary approach to any alterations and extensions is preferred; including seeking their retention, reuse and sympathetic adaptation as well as extension. The development proposed for retention would not accord with the policy outlined above and would, therefore, be contrary to the proper planning and sustainable development of the area.*
 2. *It is considered that the development proposed for Retention by reason of its design and its inadequate provision of private open space for the occupants of the dwelling, would be an inappropriate form of development at this location and would represent significant overdevelopment to the rear of this constrained site. The part single and part two storey structure*

together with the quantum of development to the rear of the site would be contrary to Sections 1.1, 1.2 and 1.7 of Appendix 18 of the DCC Development Plan 2022-2028 in relation to residential extensions and would seriously injure the amenities of the area and of the property in the vicinity and would, therefore, be contrary to the proper Planning and sustainable development of the area.

5. National/Regional/Local Planning Policy

5.1 The Dublin City Development Plan 2022-2028

- The site is zoned 'Z2 Conservation Area the objective of which is 'To protect and/or improve the amenities of residential conservation areas.
- The Z8 Georgian Conservation Areas and Z2 Residential Conservation Areas are extensive throughout the city. Whilst these areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application.
- Policy BHA9 sets out policy with respect to conservation area and seeks to;

 'To protect the special interest and character of all Dublin's Conservation Areas identified under Z8 and Z2 zoning objectives. Development within or affecting conservation areas must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement opportunities may include:
 1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
 2. Re-instatement of missing architectural detail or important features.
 3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.
 4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.

5. The repair and retention of shop and pub fronts of architectural interest.
6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.
7. The return of buildings to residential use.

Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability

- Section 11.5.3 refers to Built Heritage Assets of the City and states that;
- Built Heritage Assets of the City

These include heritage assets such as conservation area land use zonings, mews structures, vernacular buildings, 20th century heritage, industrial heritage and street furniture, which may not be protected structures, but which contribute significantly to the streetscape and to the character of the city

- Appendix 18 Ancillary Residential Accommodation

Section 1.1 General Design Principles.

Not have an adverse impact on the scale and character of the existing dwelling

Section 1.2 Extensions to Rear

Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries.

Section 1.7 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

5.2 Sustainable Residential Development and Compact Settlements (SRDCS)

- SPPR2 Private Open Space minimum thresholds – 40sq.m. for 3 bedroomed house

5.2 Natural Heritage Designations

The nearest designated site is;

- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is located 5.3km to the east
- North Dublin Bay SAC (Site Code 000210) is located 5.3km to the east

6. The Appeal

6.1 A third party appeal was lodged by Joe McDonagh on the 26th February 2025

The appeal in summary raises the following issues;

- That permission was granted before on the 18/08/2022 subject to two conditions the first related to non-habitable space at first floor and the second related to a financial contribution. This was appealed by a third party and refused by the Board.
- That the first floor has been remodelled to ensure its not for habitable purposes.
- There is 75sq.m. of private open space to the rear
- The appellant refers to other developments in the area as follows:
 - Between 233 and 235 South Circular Road (Planning Reg. Ref. 3130/23
 - No 60 Clanbrassil Street
 - No 53 Lombard Street
 - No. 6 Mountshannon Road
- Photographs of the above are included in the appeal

6.2 P.A. Response Dublin County Council responded to this appeal by letter dated the 14th March 2024. The following issues were raised;

- That regard should be made to the previous planners report
- That in the event permission is granted that a S48 Development Contribution be imposed

6.3 Observations One Observation was received as follows:

- Aideen Collard and David McLoughlin of Brooklyn, Dolphin Avenue SCR D08KT5X. (received 26th March 2025) states that;
 - The application is being made on frivolous and vexatious grounds and it purely a delay tactic so that the applicant can maximise rental income from the property
 - The observation is in all other respects identical to the submission the observers made to the Planning Authority as detailed under Section 3.1 above

7. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

8. AA Screening

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

The subject site is located 5.3km to the east of South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and 5.3km to the east of North Dublin Bay SAC (Site Code 000210)

The proposed development comprises of the retention of a domestic extension in an urban area. No nature conservation concerns were raised in the planning appeal.

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 effect on a European Site

The reason for this conclusion is as follows:

- The relatively small scale nature of the works proposed

- The extensive distances to the nearest Natura 2000 sites and the absence of any hydrological connect from the site to the same and
- Having regard to the screening report/determination carried out by the Planning Authority

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required

9.0 Assessment

9.1 Introduction

9.1.1 I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.

9.1.2 I refer to the observation received and its contents therein and in particular the assertion that the application is being made on frivolous and vexatious grounds and it purely a delay tactic so that the applicant can maximise rental income from the property

9.1.3 Legislation with respect to appeals lodged on frivolous and vexatious are set out under Section 138 of the Act which states under S138 (1) that;

The Board shall have an absolute discretion to dismiss an appeal or referral (a) where, having considered the grounds of appeal or referral, the Board is of the opinion that the appeal or referral—

(i) is vexatious, frivolous or without substance or foundation, or

(ii) is made with the sole intention of delaying the development or the intention of securing the payment of money, gifts, consideration or other inducement

by any person,

9.1.4 While the same is noted, the appellant has raised valid planning matters in the grounds of appeal and on no substantive proof has been submitted to show that the appellant is using the appeals process to delay a planning enforcement order on the property and as such I recommend to the Board that S138 be not enacted in this circumstance

9.1.3 I am satisfied the substantive issues arising from the grounds of this first party appeal relate to the following matters

- Principle of Development
- Development Plan Policy/Design
- Private Open Space
- Appellants reference to precedence.

9.2 Principle of Development

9.2.1 The site and the building subject to this appeal is located on lands zoned as 'Z2 Conservation Area' in the Dublin City Development Plan 2022-2028, the objective of which is 'To protect, provide and improve the amenities of residential conservation areas'

9.2.2 Retention permission is being sought for alterations and additions to No. 265 South Circular Road which can be summarised as consisting of the provision of 100m² extension through the change in the roof profile and extending by way of a single storey extension to the rear together with all associated works. The site is zoned residential conservation area under the applicable Development Plan (Note: 'Z2').

9.2.3 The land use zoning objective for 'Z2' zoned land is: *'to protect and/or improve the amenities of residential conservation areas'*. Residential development is considered to be generally acceptable development in principle within this land use category within the statutory development plan serving the area.

9.2.4 On this basis the principle of the proposed extension for retention is accepted subject to compliance with other development plan policy with respect to development in Z2 zoned lands (and in particular Policy BHA9 as discussed below and subject to the proposed development not impacting upon the residential amenities of adjoining properties.

9.3 Development Plan Policy/Design

9.3.2 Policy BHA9 of the DCDP2022-2028 sets out policy with respect to development in residential conservation areas and seeks to *protect the special interest and character of all Dublin's Conservation Areas identified under Z8 and Z2 zoning objectives. Development within or affecting conservation areas must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible*

9.3.3 The proposed development site comprises of a mid-terrace period building which forms part of a terrace of 3 houses at this location all with ample front gardens with pedestrian gates, cast iron rails with paths flanked by lawn leading up to the front door of the houses. The three buildings cumulatively form an attractive composition of period architecture as viewed from the street, the South Circular Road. Any development to the rear of these buildings while not visible from the South Circular Road is partially visible from Dolphin Avenue to the west.

9.3.4 The proposed development is located to the rear of the house and is not visible from the street.

9.3.5 The proposed development comprises of the retention of a number of elements all which result in a an increase of floorspace of 100sq.m. from the original building on site as follows:

- A flat roofed dormer in the rear slope of the original building which almost encompass the entire slope of the roof and the profile of the roof has changed from a traditional pitch to an almost flat roof. The drawings show for a home office and a playroom each of which lead off a central landing. Each room has two windows

facing towards the rear of the site. Head heights within these rooms are stated as being 2.350 and are therefore not habitable rooms as per the Building Regulations. The floorspace associated with this first floor extension is 51sq.m.

- A flat roof ground floor extension 14.950 metres long x 7.69 metres wide at the widest point which comprises of a kitchen/dining area with two bedrooms and storage area and an ensuite
- A flat roofed shed to the rear 4.25m x 5.68m and a bin store each with its own door
- An area of private open space roughly 72sq.m. in size.

9.3.6 The pertinent issue here is as to whether the proposal accords with Policy BHA9 as cited above.

9.3.7 With respect to the proposed first floor extension for retention I refer to Section 5 of Appendix 18 of the DCDP2022 -2028 which seeks that attic conversions/dormer windows;

- Be visually subordinate to the roof slope, enabling a large proportion of the original roof to remain visible and to
- Avoid dormer windows that are over dominant in appearance or give the impression of a flat roof.

9.3.8 The first floor extension comprises of a box type dormer facing out over the rear garden. The dormer extension takes up almost the entire slope of the roof and alters the roof to that of an almost flat roof and comprises of 4 windows of two different sizes facing out over the rear garden. While it is currently clad with a timber effect cladding, the drawings show that this is to be a nap plaster finish. The said extension is visible from Dolphin Avenue.

9.3.9 I find the extension to be incongruous in terms of design and finishes and detracts from the building and the overall conservation area. In this respect, I would consider that this aspect of the proposal fails to comply with Policy BHA9 and zoning objective

Z2 for residential conservation areas and does not accord with Section 5 of Appendix 18 of the DCDP2022-2028.

9.3.10 With respect to overlooking, I would consider that there are no opposing windows in the vicinity and in any respect the rear garden where the flat roof single storey extension is sited is almost 22 metres long. Any opposing windows if present therefore will be more than 22 metres distance away which is in excess of the minimum threshold as set out in the SRCDS, policy SPPR1 which states that there should be at a minimum 16 metres from opposing first floor windows.

9.3.11 With respect to the ground floor extension to the rear of the house – this is a flat roofed building with what appears to be a torch-on asphalt roof finish and with plastic fascia board. In general this element of the extension is not readily visible in the wider area including from Dolphin Avenue and while the finishes are somewhat inadequate in a conservation area they are no different to material finishes of adjacent properties. With respect to the same, I consider that the proposed ground floor extension is not inappropriate in this context as it is not visible in the wider area and therefore does not detract from the visual amenities of the area.

9.3.12 Similarly, this can be said for the proposed shed and bin store which is located to the rear of the extension

9.3.13 In conclusion, while I would consider the retention of the ground floor to be acceptable in this context, I do not consider that the first floor extension to be appropriate. Furthermore, I do not consider that there is scope to issue a split decision in this instance as the development description does not allow for the same.

9.4 Private Open Space

9.4.1 The site layout plan shows that there is 70sq.m. of private open space to the rear of the house.

9.4.2 Development Plan standards states that private open space provision is generally at a minimum standard of 10sq.m. per bedspace . Two double and one single bedrooms are proposed so in this respect there are 5 bedspaces and consequently 50sq.m. of private open space is required to serve the building.

9.4.3 The SRDCS under Policy SPPR2 states that 40sq.m. is sufficient for a 3 bed unit. With respect to the same, 70sq.m. is provided and therefore this level of space is sufficient to meet the needs of the residents.

10. Recommendation

10.1 I recommend that permission be refused for the following reason:

- 1. The proposed development for retention by reason of the scale, design and material finishes of the first floor extension would be an inappropriate form of development in this area which is zoned in the Dublin City Development Plan 2022-2029 as Z2 which has a stated objective 'to protect and/ or improve the amenity of the residential conservation areas', which include period buildings that positively contribute to their built heritage, integrity, character and sense of place. In such cases, a precautionary approach to any alterations and extensions is preferred; including seeking their retention, reuse and sympathetic adaptation as well as extension. The development proposed for retention would not accord with this zoning objective and would, therefore, be contrary to the proper planning and sustainable development of the area.*

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.

Name: Andrew Hersey

Planning Inspector

Date: 3rd June 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP321975-25		
Proposed Development Summary	<i>Retention of a two storey 100sq.m. rear extension, with change of roof profile and all associated site works</i>		
Development Address	265 South Circular Road, Dublin 8, D08VW6N		
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)?			
Yes	Tick/or leave blank	State the Class here.	
No	Tick or leave blank		√
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No		Screening determination remains as above (Q1 to Q4)	

Yes		Screening Determination required
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Inspector: _____ **Date:** _____