



An
Coimisiún
Pleanála

Inspector's Report

Reference 322416-25

Development	Retention of: alteration of approved North East boundary to extend the site to include additional land acquired. A single storey detached habitable building containing a plantroom/external store and a garden room. Alteration of the approved common South boundary with the adjoining property Craiglea, to incorporate change of use of the original detached garage/workshop to residential use as a family/granny flat and alterations to the approved front entrance porch in the front elevation of the main house.		
Location	San Marco, Gordon Avenue, Foxrock, Dublin 18, D18 RK80.		
Planning Authority Ref.	D25A/0093/WEB.		
Applicant(s)	Peter & Rita Heuston.		
Type of Application	Permission for Retention	PA Decision	Split Decision.
Type of Appeal	First Party	Appellant	Peter & Rita Heuston
Observer(s)	None		
Date of Site Inspection	24.06.2025	Inspector	Des Johnson

Context

Site Location and Description.

1.1 The site is located to the north eastern side of Gordon Avenue, and approximately 0.4km to the south east of its junction with Westminster Road, in Foxrock, Dublin 18.

1.2 The site is accessed from a private laneway off Gordon Avenue. The avenue is gated at the Gordon Avenue end. The laneway also serves another dwelling, Sandwood, at its northern end. The subject site has two vehicular accesses on to the laneway, one at its south western corner, and another adjacent to the northern corner of the site.

1.3 There is a large detached, two-storey dwelling and mature garden on the site. To the front (north elevation) there is a single storey detached garden building, used as a home office and store. In the south eastern corner of the site is a sizeable single storey garage fronting on to the mature garden area; this is fitted out for residential use but appeared unoccupied at the time of inspection. It has a paved area to the front. It is set back from the mature eastern site boundary.

2. Description of development.

2.1 The proposal is for the retention of alteration to approved boundary, a single-storey detached habitable building containing a plantroom/external store and a garden room, and change of use of original detached garage/workshop to residential use as a family/granny flat, and alterations to the approved front entrance porch in the front elevation of the main house.

2.2 The change of use of the garage/workshop/games room to residential use is to be ancillary to the use of the main house for intermittent accommodation.

2.3 The gross floor area is stated to be 413.26sqm, the gross floor area for retention is 106.06sqm, the number of car parking spaces is 4, and the site area is 0.137ha.

2.4 Services are provided utilising the existing connection on the site.

3. Planning History

3.1 D05A/1200 – permission granted for a two-storey house to the rear of existing house, together with a new entrance gateway, driveway, and associated site development works and also a new separate access gateway from Gordon Avenue to 'Craiglea'.

3.1.1 D07A/0088 – Permission refused for conversion and extension of existing single-storey detached garage at rear of ‘Craiglea’ to provide additional accommodation for family members. Development will be within the curtilage of the new house under construction at the rear of ‘Craiglea’.

The Reason for Refusal refers to the size of development and its distance to adjoining boundaries in a backland location, and states that the proposal would materially contravene the 2004 Development Plan in relation to family flats and backland development, would represent overdevelopment of the site, would be out of character with adjacent development, and would seriously injure the residential amenities of property in the vicinity.

3.2 The grounds of appeal refer to other cases – D12A/0369, D17A/0871 (both Victoria Lodge, Westminster Road), D15A/0429 (Saval Park Road), D21A/0331 (Dun Laoghaire), D00B/0139 (Monkstown), 29N.238610 (Dublin 7).

4. Planning Policy

4.1 The site is in an area zoned ‘A’ with the objective *to provide residential development and improve residential amenity while protecting the existing residential amenities*.

4.2 Section 12 refers to Development Management. Section 12.3.7.3. states that A ‘family’ or ‘granny’ flat refers to a temporary subdivision of a single dwelling - often by adding an extension to the dwelling or converting an attached garage which is linked to the main dwelling - for a subsidiary element, for use by a member of the immediate family (e.g. elderly parent), but not as a fully independent dwelling. These will be assessed against the criteria applied to ‘normal’ domestic extensions.

The Plan requires that proposals for granny/family flats should be interlinked with the primary dwelling and capable of being readily subsumed back into same. The Planning Authority will determine if there is valid justification for the proposal in use terms. Where permission is granted, it will normally be on condition that the flat can be subsumed back into the main dwelling when it is no longer required, and that the granny/family flat shall not be let or sold, other than as an intrinsic part of the overall property.

5. Natural Heritage Designations

- Rockabill to Dalkey Islands SAC – c.5.37km to East
- Dalkey Islands SPA & pNHA – c. 5.37km to East
- South Dublin Bay SAC – c.3.7km to North
- South Dublin Bay & River Tolka Estuary SPA & nNHA – c. 3.7km to North

Development, Decision and Grounds of Appeal

6. PA Decision.

6.1 By Order P/0572/25, dated 2nd April 2025 the Board issued a Split Decision.

6.1.1 Permission granted for the retention of boundary alteration, modification to the main dwelling and detached garden room subject to 8 conditions. The conditions relate to the following:

1. Standard compliance
2. Entire dwelling to be used as a single dwelling unit
3. External finishes
4. Surface water requirements
5. Financial contribution – water services
6. Financial contribution – Transport Infrastructure
7. Financial contribution – community and parks facilities
8. Payment of development contributions.

6.1.2 Permission refused for the retention of granny flat. There was 1 reason for refusal relating to detracting to the character of the surrounding area, material contravention of Development Plan provisions, inconsistent with adjacent pattern of development, seriously injurious to residential, amenities, and undesirable precedent.

6.2 The Planner's Report notes that the site is zoned 'A' with the objective *to provide residential development and improve residential amenity while protecting the existing residential amenities*. Extensions to existing dwellings are permitted in principle. Alteration to the boundaries would not have an adverse impact on residential amenities, and visual impact is acceptable. The garden room, due to its location, height and scale, and location of windows, would not have an adverse impact on residential amenities, and would be consistent with the Development Plan. A condition should be imposed excluding its use for habitable purposes, and requiring it to be ancillary to the main dwelling. The front entrance porch and bay window are acceptable. No justification is given for the granny flat, and it is not interlinked with the main dwelling. It is contrary to Development Plan requirements. A Split decision is recommended.

6.2.1 Transportation Department have no objection.

6.2.2 Drainage Department have no objection subject to conditions.

6.2.3 Environmental Enforcement – no objection subject to condition.

7. First Party Appeal.

7.1 The grounds of appeal may be summarised as follows:

- The 1st Party is satisfied with the terms and conditions of the Grant, save for conditions 5, 6, and 7 relating to financial contributions
- The retention of the use as a family flat is disappointing as the structure has been continuously used by the family since mid 1990's, except for a period of 2 years when it accommodated a Ukrainian refugee family. The structure was constructed 40 years ago and was used as a garage/workshop for classic car storage and maintenance
- The structure was converted to a high standard to private accommodation in 2007 when parents developed chronic health issues until they moved to nursing home accommodation
- The structure is now unoccupied, save for storage. An elderly sister will soon need living support and the 1st Party would like to be able to offer the accommodation to her.
- The 1st Party are in their 70s and would like to downsize in the future, with one of their children and family residing in the main dwelling. They would also wish to regularise the situation now
- The pattern of development in the area is varied, and the subject family flat forms part of the pattern. The structure pre-dates the main dwelling by over 20 years
- There would be no injury to adjoining residential amenities by way of overlooking. The family flat has never been the source of complaint and is not subject to enforcement
- The repurposing of the structure and use as a family flat linked to the primary dwelling, and subsidiary in size and scale, is sound planning practice, and sets a desirable precedent
- The planning authority have taken a very narrow interpretation of Section 12.3.7.3 of the Development Plan
- The 1st Party are advised that they could sub-divide this portion of their garden to provide a completely separate dwelling on a permanent basis, but they do not wish to sub-divide their home and garden
- The structure was originally constructed in the rear garden of Craiglea prior to the site's sub-division many years ago. It is hard to see how this is backlands development; this is not a proposal for an independent dwelling

- The family flat will remain vacant until the matter is resolved
- The grounds of appeal list 7 other cases where permission was granted for similar type dwellings
- Financial contributions are not applicable as the garden room is under 40sqm Financial contributions were paid previously under an earlier permission for their home

8. PA Response

8.1 The grounds of appeal do not raise any new matter which would justify a change of attitude towards the proposed development..

9. EIA Screening

Having regard to the nature and scale of development for retention (which constituted construction of a garden building and garage), and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10. Assessment

10.1 The proposal is for retention of the following:

- Alteration of the north eastern site boundary to include land acquired
- Garden building which is now used as a small home office and store
- Alteration of the southern site boundary with Craiglea, enlarging the site which was granted permission under Ref:05A/1200
- Change of use of the single storey garage on the enlarged site to residential use as a family/granny flat
- Alteration to the front porch of the main house

10.2 The Planning Authority issued a 'Split' decision, granting permission for the retention of the boundary alterations, modification of the front porch, and retention of the garden room. Permission was refused for the retention of the granny/family flat for reason relating to detracting to the character of the surrounding area, material contravention of Development Plan provisions, inconsistent with adjacent pattern of development, seriously injurious to residential, amenities, and undesirable precedent.

10.3 The 1st Party has appealed the decision to refuse retention permission for the granny/family flat, and also 3 financial contribution conditions attached to the grant of retention permission.

10.4 I consider that the key issues to be addressed are as follows:

- Policy
- Residential amenity
- Pattern of development and character of the area
- Precedent
- Financial contributions
- Appropriate Assessment

Policy

10.5 The site is in an area zoned 'A' with the objective *to provide residential development and improve residential amenity while protecting existing residential amenities*. In principle, the development is consistent with the zoning objective.

10.5.1 The Development Plan requires that granny/family flats be interlinked with the primary dwelling and capable of being subsumed back into same. The converted single-storey garage structure, which is converted to residential use as a granny/family flat, is physically separated from the main dwelling, but is connected to the public services serving the primary dwelling. It is converted to residential use, and has been so used up to recently, but this conversion was without planning permission and should not be an influential factor in deciding the current appeal.

10.5.2 The retention of the use of the converted garage structure is stated to be for a family member. It is subsidiary in size and scale to the primary dwelling, and would remain part of the overall site. It is linked to the principal house through the connection to public services, and does not have its own connection to such services. It is proposed for use by a family member connected to the occupants of the principal residence. In these circumstances, and subject to a condition restricting the occupation of the structure to family use, I conclude that the development, while not physically interlinked

with the principal dwelling, would not materially contravene the terms of the current County Development Plan.

10.5.3 The Government has examined the exempted development regulations, and put forward the possibility of extending exemption to the conversion of garden structures to residential use to provide housing for older people within the boundary of a primary dwelling. While this may provide an indication to Government thinking on the matter, it is not Government policy, and no such exemption exists at present.

Residential Amenity

10.6 The alterations to the site boundaries compared with those indicated on Ref:05A/1200 are acceptable and do not adversely impact of the adjoining residential amenities. Similarly, the garden building in the northern section of the site, and the modifications to the primary dwelling are acceptable.

10.6.1 The garage structure proposed for retention for use as a granny/family flat, faces into the mature garden attached to the primary dwelling. It has no overlooking windows to the rear. It is single storey, and set back from the eastern site boundary. Visually, the structure is acceptable.

Pattern of development and character of the area

10.7 The pattern of development is one of large detached houses on large sites. The subject dwelling, and the adjacent Sandwood, are served by a gated private access, set back from Gordon Avenue, and are not open to public view from the Avenue. The garden building, alteration of site boundaries, and modifications to the primary dwelling, do not have any adverse impact on the surrounding pattern of development or the character of the area. The converted original garage for which retention of change use to residential as a granny/family flat is sought, is contained within the site of the primary dwelling and does not have any adverse impact on the pattern of surrounding development or the character of the area.

10.7.1 The reason for refusal refers to backland location. I submit that the location is within the site boundary for the primary dwelling. Having regard to the intended use of the structure for family members associated with the primary dwelling, I conclude that this is not a backland location.

Precedent

10.8 The reason for refusal states that the granny/family flat (if permitted) would set an undesirable precedent. I consider that each case must be considered on its own merits, and that, having regard to the nature of the intended residential use associated with the primary dwelling in this case, permission for retention would not set an undesirable precedent.

Financial contributions

10.9 The grounds of appeal state that the garden room does not attract a financial contribution. The Dun Laoghaire Rathdown County Council Development Contribution Scheme 2023-2028 became effective on or after 1st November 2023. It applies to buildings defined as 'a building, structure or erection (whether permanent or temporary) of any kind'. The Scheme applies a rate for Community & Parks Facilities & Recreation Facilities, Transport Facilities, and Surface Water Facilities. The grounds of appeal contend that Financial Contributions should not have been applied as the Garden Building is under 40sqm. In the event of the Board deciding that permission may be granted for the proposed granny/family flat, I conclude that the totality of development for retention exceeds 40 sqm and that a Financial Contribution is applicable. There is provision for flexibility in the Scheme and different rates apply to different types of development. I recommend a Condition requiring the payment of a Financial Contribution in respect of public infrastructure and facilities in respect of the total development for retention, with reference to the Board if there is further dispute on the amount to be paid.

Appropriate Assessment

10.10 I have considered the permitted development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in an established residential area, separated from designated European sites as detailed in Section 5 of this report. The proposed development for retention consists of the alteration of site boundaries, garden building, modifications to primary dwelling, and use of existing structure as a granny/family flat. No nature conservation concerns are raised. Having regard to the nature and scale of development, location in an existing residential area, and separation from and absence of connectivity to European sites, 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

Recommendation

I recommend that permission for the retention of development be granted.

Reasons & Considerations

Having regard to the nature, scale, design and siting of the development proposed for retention, to the residential zoning as set out in the current Dun Laoghaire-Rathdown Development Plan, the proposed use of the granny/family flat in association with the primary dwelling, and to the existing pattern of development in the area, it is considered that the development, subject to the following conditions, would not be in material contravention of the Dun Laoghaire Development Plan, would not be out of character

with surrounding development, would not be injurious to the residential amenities of adjacent development or set an undesirable precedent, and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained in its entirety in accordance with the plans, particulars and specifications lodged with the application, save as required by the other conditions attached hereto.

Reason: In the interest of clarity

2. The granny/family flat shall be used solely by family members associated with the primary dwelling, and shall not be sub-divided from that property by way of sale, or letting or otherwise. When no longer in use by family members, the residential use of the granny/family flat shall cease, and the structure shall revert to its original use as a garage.

Reason: To clarify the use of the original garage structure hereby permitted.

3. Surface water drainage shall be to the requirements of the planning authority.

Reason: In the interests of public health, and the proper planning and sustainable development of the area.

4. Prior to the residential use of the granny/family flat commencing, 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 use of the granny/family flat 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.

Des Johnson

Planning Inspector

Date

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.

Form 1
EIA Pre-Screening

An Bord Pleanála	322416-25		
Case Reference			
Proposed Development Summary	Retention of alterations to extend site, a garden room, and a single storey detached building with change of use as a family/granny flat.		
Development Address	San Marco, Gordon Avenue, Foxrock, Dublin 18, D18 RK80.		
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	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			
No	No		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No			
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			

5. Has Schedule 7A information been submitted?		
No		
Yes		

Inspector: _____ Date: _____