



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323534-25

### Development

Demolition of existing garage structure (38sqm) and replacement with a ground plus mezzanine level studio/live/work structure, ancillary to the main house, extending to a total of 79sqm.

### Location

285 Clontarf Road, Clontarf, Dublin D03N7E5.

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

WEB2376/25

### Applicant(s)

Paschal Mahoney & Rachel Dowling

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

First Party

### Appellant(s)

Paschal Mahoney & Rachel Dowling

### Observer(s)

Martin Walsh

### Date of Site Inspection

25<sup>th</sup> October 2025.

**Inspector**

Colin McBride

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## Appendix 1 – Form 1: EIA Pre-Screening

### 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.414ha, is located on the northern side of Clontarf Road and to the west of Dublin City Centre. The site is occupied by no.

285 Clontarf Road, which is a two-storey dwelling part of a terrace of four similar dwellings. The site has access from a laneway, Seafield Close running to the rear of the properties fronting Clontarf Road and there is an existing single-storey garage structure where the site adjoins Seafield Close.

## **2.0 Proposed Development**

Permission is sought for the demolition of existing garage structure (38sqm) and replacement with a ground plus mezzanine level studio/live/work structure, ancillary to the main house, extending to a total of 79sqm. The accommodation will include, ground level kitchen and toilet, mezzanine level open plan studio/live/work space, mezzanine level bathroom and storage. The structure will have a gate access onto Seafield Close, rooflight, pv panels, heat pump and will include all associated site works as well as soft and hard landscape. The structure will feature pitched roof and ridge height of 6.218m

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 10 conditions. Of note is the following condition.

Condition no. 3: The proposed garden room structure shall not be used for human habitation or for keeping of pigs, poultry, pigeons, ponies or horses or for any use other than as a use incidental to the enjoyment of the dwelling house as such, unless authorised by a prior grant of Planning Permission.

Reason In the interest of clarity.

#### **3.1.1. Conditions**

Condition no. 3

3. The proposed garden room structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses or for any use other than as a use incidental to the enjoyment of the dwelling house as such, unless authorised by a prior grant of Planning permission.

Reason: In the interests of clarity.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Report (31/07/25)**

- The design and scale of the extension was considered satisfactory and in accordance with the proper planning and sustainable development of the area. A grant of permission was recommended subject to the conditions outlined above.

#### **3.2.2. Other Technical Reports**

Drainage Division (30/07/25)

- No objection subject to conditions.

Transportation Planning Division (18/07/25)

- No objection subject to conditions.

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

None.

## **4.0 Planning History**

None on the application site.

## **5.0 Policy Context**

### **5.1 Development Plan**

The relevant Development Plan is Dublin City Development Plan 2022-2028. The appeal site is zoned Sustainable Residential Neighbourhoods with a stated objective 'to protect, provide and improve residential amenities'.

## Appendix 18: Ancillary Residential Accommodation

### 2.0 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 playroom. 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been lodged by Manahan Planners on behalf of the applicant, Paschal Mahoney & Rachel Dowling. The grounds of appeal are as follows:

- The appeal is against the terms of condition no. 3 restricting the development from human habitation.
- The description of the development proposed was clearly set out with the intention for a painters/writer's studio, home gym and guest room and further down the line as a granny flat. No issues were raised regarding the design and scale, and it was considered the proposal was acceptable in terms of proper planning and sustainable development.

- The imposition of condition no. 3 is in direct contravention of the application as applied for. The appellants request that the restriction on human habitation be removed and that the restriction on keeping animals is a superfluous imposition. The appellants request that the condition in its entirety be removed.

## 6.2. Planning Authority Response

Response from Dublin City Council.

- The PA highlight that the applicant did not submit an application for a separate living unit or ancillary family accommodation and the proposal is for a detached structure ancillary to the main dwelling. Under the Development Plan ancillary family accommodation should be contained within the existing unit or provided as an extension (Appendix 18, Section 7). A separate application would be required for the garden structure to be used as ancillary family accommodation. The PA consider that condition no. 3 should still apply.

## 6.3. Observations

Observation by Foundation Management Consultants Ltd on behalf of Martin Walsh.

- The proposal has the potential to generate material additional pressure on services. The observer highlights that they have recently installed new underground services beneath Seafield Close to the rear of the property and adjoining the proposed including a separate foul and stormwater sewer and such are in private ownership with connection to such requiring consent from the observer.
- The observer highlights condition no. 5 of the grant of permission and in particular part 5(II) that the development is to be drained on a separate foul and surface water system. The observer wishes the condition to be modified to reflect the need to seek for consent to the private services installed in the laneway to the rear.

#### 6.4. Applicants Response

Response lodged by Manahan Planners on behalf of the applicant, Paschal Mahoney & Rachel Dowling.

- The applicants reiterate the fact that the development description sought a development for the purposes of live/work use ancillary to the existing dwelling.
- It is noted that the DCC Planning Report is supportive of the development. It is noted that the Planning Report assessed the proposal as sought in the description and that any confusion regarding the nature of the proposal is on the Planning Authority's side as the development was clearly described in the public notices and application form.
- The applicant reiterate that Condition no. 3 is unnecessary and contradictory.

#### 7.0 Assessment

- 7.1. At the outset, I wish to point out that following consideration of the documentation on the appeal file and the site location and context, I am satisfied consideration of the proposal on a de novo basis, (that is as if the application had been made to the Board in the first instance), is unwarranted and that it is appropriate to determine the appeal in accordance with the provisions of Section 139 of the Planning and Development Act, 2000 as amended. Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Condition no. 3

- 7.2 Condition no. 3

- 7.2.1 Condition no. 3 states the following:

3. The proposed garden room structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses or for any use other than as a use incidental to the enjoyment of the dwelling house as such, unless authorised by a prior grant of planning permission.

Reason: In the interests of clarity.



The proposal entails the demolition of an existing garage to the rear of an existing dwelling and the construction of a dormer style structure described as a ground plus mezzanine level open plan studio/live/workspace. The information on file indicates that the structure is to be used as painters/writer's studio, a gym and guest accommodation with the possibility of use as granny flat in the future. The Planning Authority's assessment considered that the proposal was satisfactory in the context of the nature of use, overall design and scale and was considered to be in accordance with Development Plan policy and the proper planning and sustainable development of the area.

7.2.2 The current City Development Plan does include policy under Appendix 18 for Ancillary Residential Accommodation and specifically under Section 2.0 of such, Detached Habitable Rooms (refer to Planning Policy Section above). The proposed development is in compliance with Development Plan policy regarding Detached Habitable Rooms. This section also makes clear that such detached habitable rooms will be subject to a condition to restrict 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. I would consider that condition no. 3 is overly restrictive and that the development as proposed is for the purposes of additional habitable accommodation ancillary to the existing dwelling and provision is made for such circumstances under Development Plan policy. In this regard, I would recommend that the wording of condition no. 3 is amended as follows:

The proposed development shall be used for purposes ancillary to the existing dwelling on site and shall not be sold, let or otherwise conveyed as an independent living unit.

Reason: To restrict the use of the extension in the interest of residential amenity

7.2.3 A third party observation has raised concern regarding the terms of condition no. 5 and specifically 5(II), which requires the proposal to serve by a sperate foul and waste connection. The observer highlights that they have recently installed new underground services beneath Seafield Close to the rear of the property and adjoining the proposed development including a separate foul and stormwater sewer

and such are in private ownership with connect to such requiring consent form the observer. The observer wishes condition no. 5 to be amended to reflect the need for consent to implement Condition no. 5(ii). As noted above the first party appeal concerns condition no. 3. On this issue I would note that if the applicant/appellant wishes to connect to such services, the onus is on them to ensure they have appropriate consent, and in this regard I do not consider there is a need to amend condition no. 5.

## **8.0 Recommendation**

8.1. I recommend that condition no. 3 be amended as follows:

3. The proposed development shall be used for purposes ancillary to the existing dwelling on site and shall not be sold, let or otherwise conveyed as an independent living unit.

Reason: To restrict the use of the extension in the interest of residential amenity.

I would recommend a Board Order as follows:

### **DECISION**

Having regard to the nature of the condition subject of the appeal, the Commission is satisfied that the determination by the Commission of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 as amended to AMEND Condition no. 3 and the reasons therefor.

3. The proposed development shall be used for purposes ancillary to the existing dwelling on site and shall not be sold, let or otherwise conveyed as an independent living unit.

Reason: To restrict the use of the extension in the interest of residential amenity.

## 9.0 Reasons and Considerations

(a) Having regard to the nature and scale of the proposed development and to fact that it is located within the curtilage of an existing dwelling and subject to the provisions of the Dublin City Development Plan 2022-2028, specifically in relation to Appendix 18: Ancillary Residential Accommodation, Section 2.0, Detached Habitable Rooms, it is consider that any condition restricting use should not restrict the structure from human habitation ancillary to the existing dwelling, but restrict the use of the room as ancillary living space to the main dwelling and ensure such may not be sold or rented separately from the main dwelling unit as per Development Plan policy.

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.

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Colin McBride  
Senior Planning Inspector

28<sup>th</sup> October 2025

### Appendix 1 - Form 1

#### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>			
<b>Development Address</b>			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>	<b>Yes X</b>	Tick if relevant and	

(that is involving construction works, demolition, or interventions in the natural surroundings)				proceed to Q2.
			<b>No</b>	Tick if relevant. No further action required
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>				
<b>Yes</b>	Tick/or leave blank	State the Class here.	Proceed to Q3.	
<b>No</b>	<b>X</b>		Tick if relevant. No further action required	
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>				
<b>Yes</b>	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required	
<b>No</b>	Tick/or leave blank		Proceed to Q4	
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>				
<b>Yes</b>	Tick/or leave blank	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)	

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	Tick/or leave blank	<b>Screening determination remains as above (Q1 to Q4)</b>
<b>Yes</b>	Tick/or leave blank	<b>Screening Determination required</b>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

