Our Case Number: ABP-314837-22

Planning Authority Reference Number: SD22B/0346

An Bord Pleanála

South Dublin County Council
Planning Department
County Hall
Tallaght
Dublin 24

Land Use Planning & Transportation

17 OCT 2022

South Dublin County Council

Date: 14 October 2022

Re: Retention of garden/games room and retention for house extension.
5 Willington Court, Templeogue, Dublin 6W

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, **within a period of 2 weeks beginning on the date of this letter, the following documents:-**

(i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,

(ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,

(iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,

(iv) a copy of the notification of decision given to the applicant,

(v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,

(vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure,

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(vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,

(viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,

(ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,

(x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,

(xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:- Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

a) Certified Manager's Order,

b) the site location, site layout maps, all plans and

c) particulars and all internal reports.

d) details of any extensions of time given in respect of previous decisions.

Copies of I-plan sheets are not adequate.

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a **period of 4 weeks beginning** on the date of this letter. Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

Contingency Submission

5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. In particular, your authority may wish to comment on appropriate conditions which might be attached to a permission in accordance with section 48 and/or 49 of the 2000 Planning Act (Development / Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act. Any such contingency submission, in circumstances which your

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Niall Jones & Associates
Planning Consultants

AN BORD PLEANÁLA
LDG- 057287-22
ABP-
12 OCT 2022
Fee: € 660.00 Type: Chq
Time: 12:55 By: hand

The Secretary
An Bord Pleanala
64 Marlborough Street
Dublin 1

Date: 11th October 2022

Job Ref: 22/281

PLANNING APPEAL SUBMISSION

Appeal Re: Retention Permission for previously constructed detached single storey pitched roof garden/games room structure across end of rear garden (77.70sq.m) with ridge height at 3.380m above ground level, Retention also sought for single storey pitched roof open plan extension to rear of existing house (39.83sq.m) with ridge height at 3.955m above ground level complete with new velux roof-lights over, internal alterations & associated site works at 5 Willington Court, Templeogue, Dublin 6w (Reg Ref: SD22B/0346)

A Cara,

We have been instructed by our clients Pat & Therese Monks of 5 Willington Court, Templeogue, Dublin 6w to appeal part of the decision of the planning authority, specifically to Refuse retention for the previously constructed garden/games room at the end of their rear garden, while granting retention for a recently constructed single storey pitched roof extension to the rear of their house, under decision order no. 1194 of 21st September 2022.

We would submit to the board that the local authority (South Dublin County Council) have not given the proper consideration to the length of time the shell of the structure (shed/garden room) has been in place, the full extent of the additional lands previously added to the rear of our site / each of the 4 adjoining properties 3,5,7 & 9 Willington Court, the proximity of the rear boundary wall(s) to the existing River Poddle running across the rear of the site(s) & the flood prevention measures that are in place & annually carried out by the local authority to this section of the River.

Reason for refusal:
1. The garden room for retention was built within a riparian Corridor – Secondary GI Link L13 River Poddle as identified in the Green Infrastructure Strategy Map (South Dublin County Development Plan 2022-2028) and is therefore not consistent with GI3 Objective 3 of the South Dublin County Council Development Plan 2022-2028. To promote and protect native riparian vegetation along all watercourses and ensure that minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site. The proposed garden

room for retention is therefore contrary to the proper planning and sustainable development of the area.
The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Site History:
The retention application was submitted following correspondence from the planning department to the Owner/Occupier (Pat & Therese Monks) regarding a potential unauthorized development existing on the lands comprising of: **an extension to the rear which may require planning permission.**

From my initial discussion with Pat & Therese over the phone, they were under the impression that if the proposed floor area of a new extension was under the 40.0sq.m & was positioned to the rear of the property than would be exempt of planning.

Following a site visit and discussion with the Monks it became apparent that the house had been previously extended by way of a ground floor garage conversion to the side & first floor bedroom/bathroom extension over with dormer to the front (photo 1). This previous extension was granted planning back in July1999 under Reg Ref: S99B/199 and was constructed later that year. The areas of this work once calculated gave an additional 12.81sq.m. at ground floor & 22.13sq.m. at first floor level, resulting in an overall increase in floor area to the original house of 34.94sq.m.

The new extension to the rear of the property measures 39.83sq.m. & on its own would have been exempt of planning, however when added to the previous extension, exceeds the 40.0sq.m. exemption.

Purchase of additional land:
The overall site had been extended back in 2003, when the original builder/developer (Mr Philip O' Sullivian) failed to obtain permission for an additional dwelling within the remaining land behind the rear of the houses (no.'s 3-9 Willington Court). The land was then divided up into 4 strips by extending the side boundary lines down to meet the existing Poddle river to the rear & sold to each of the adjoining neighbours. This resulted in the overall site of no.5 Willington Court being extended by approximately 21.135m in length / (201.64sq.m.) & as a result increased the overall site area by 74.7% from 269.78sq.m. to 471.42sq.m.

Within the Planners Report PR/1194/22 it was suggested that in order to construct the garden room *'the applicants (Mr & Mrs Monks) had removed a stretch of indigenous hedgerow along the river Poddle in order to facilitate the development'.*

This however is not the case. The developers original site ran up to & along the top of the riverbank, which is approximately 1.5m from the edge of the river. When the land was divided up & sold to each of the home owners, the 4no. new sites created were each surveyed & registered with the Property Registration Authority, as per the attached PRA Map. The 4 Folios in question 'F923, A7V33, GF61 & A44YG' all indicate their rear boundaries along the face of the river / top of the bank. Once the separate folios were registered (July 2003) the neighbours organized a builder to

construct new 100mm thick x 1600mm high blockwork garden walls along each side boundary, which were returned across the end of each site at a stepped back distance of 1.60m from the top of the river bank / 3.10m from the edge of the river, all in order to keep outside the line of any existing riverbank vegetation /hedgerow, & the resulting extended sites were left as grassed lawns (photo no.4)

At the same time the neighbours also engaged the same builder/block layer to continue on & build the shells of 3no. new storage sheds / garden rooms to the rear of no.'s 5, 7 & 9, which were each constructed as far as completing the foundations, perimeter blockwork walls up to roof level & new poured concrete floors, & left to each owner to complete the construction themselves, however due to financial constraints the remaining of the work was put on hold. Only the owners of no. 9 completed the construction of their shed a few years later with a tiled pitched roof over, which is now in place approximately 15 years (photos no.3)

As previously noted within the retention submission, 'as their family of three grown sons (twins of 22 & their eldest of 27) are still living at home & as a result of covid restrictions with more time being spent working & studying from the house, it was decided to complete the detached garden/games room back in March 2021. (photo no.2).

It was assumed by Pat & Therese, that the fact that this work had started back in the early 2000's and was a detached structure, away from the original property/house, which maintained a large rear private open space (measured at 152.43sq.m.) which was far in excess of the minimum requirement of 25sq.m, that it would have been exempt of Planning, however as the detached structure is over the maximum allowed 25.0sq.m , we also included this structure within the retention permission application.

It has been conditioned (No.4) within the grant of planning to remove an access gate from the rear of the site onto the river, as follows:

4. 'Access Gate' The rear access gate opening from the applicant's site onto the River Poddle shall be removed in its entirety and omitted from all plans associated with the proposed Development for retention. The rear boundary wall shall not include any gate access to the river.

As per the on-line copy of the Land Registry / Folio Map (as attached), their registered site runs all the way to the face of the river / top of the river bank.
The door in question is located in the rear elevation of the constructed garden room, and opens out onto the remaining 1500mm deep area within their site & is not on the rear site boundary giving access out onto the riverbank as suggested. The perimeter fencing surrounding this final area was stopped short of the full width of their site to retain the existing tree within the back Eastern corner.

The original rear elevation of the garden room was fitted with 2no. windows & a door opening out onto this final 1500mm strip for additional light, & had been boarded up while waiting to be completed. When the room was being finished it was decided to block up the windows for security reasons & leave the door opening to access the remaining 1500mm portion of the site, which when completed, was then finished with paving slabs and used as a rear patio area as shown (photos 5 & 6)

There has also been a condition included for our clients to produce a landscape plan to show what trees & hedgerows were removed from the river bank, as follows.

5. Replanting Schedule
The applicant shall confirm what trees and indigenous hedgerows were removed from the River Poddle bank within 6 months of the date of final grant of permission and the applicant shall submit the following:
- A landscape plan and associated planting plan to the Planning Authority. The Landscape Plan shall include details of any trees and hedgerow removed. The landscape Plan shall be implemented in full, within the first planting season following completion of the development. The Landscaping Plan shall include a detailed Planting Schedule stating species/varieties, indicative quantities, sizes, rootball presentation and spacings. Planting mixes should contain pollinator-friendly native species (in accordance with the All-Ireland Pollinator Plan 2015-2020

The Planning Officer who assessed the retention application would not appear to be aware of the local flood prevention measures that are repeatedly carried out on this stretch of the Poddle River.

There are two considerable bends within the river at each end of the run of the extended gardens to the rear of 3-9 Willington Court, which create a build-up of debris / rubbish & over time restricts the flow of the water locally.
Following a previous period of heavy rain fall the river burst its banks locally back in 2013 and as a result the Local Authority Parks Department carry out flood prevention measures bi-annually to mitigate against this reoccurring.

The Council's Parks Department level the river bed locally & cut back / strip, away the existing hedgerow & vegitation along the incoming Park / river walk to the West (photos 8, 11, 12 &13), continue through the two bends & across the rear of all 4-5 gardens to the North of the site (photos 10, 14 & 15) & follow on down the river to the East (photos 16, 17 & 18). The most recent of these flood prevention clean-ups was being completed on (6th October 2022), on the day of our site visit/meeting.

We would put it to the Bord, that it is the continuous flood prevention measures that are being carried out bi-annually by the Council themselves that have subsequently stripped the banks of the '*indigenous hedgerow*' and not our client or their neighbours when they previously realigned their site boundaries.

Please see the attached copy of our existing Survey drawing 22/281-S.01 which indicate the existing overall floor plans, & drawing S.02 which show the existing overall front rear & side elevations of the property/site. I have detailed the extension to the house within drawings 22/281-RP.03 to RP.07, the detached garden/games room within drawings RP.08 & RP.09, and the overall Site Block Plan/Drainage Layout within drawing RP.10.
We have expanded part of the site block plan at the rear, to include the part & fully completed sheds/garden rooms within the adjoining properties, the full extent of the River Poddle as it passes across the rear of the site including the river bank & the council's slopped access down to the river, the property boundaries to rear of 30-44 Limekiln Road including existing blockwork garden walls & sheds that have been built on the edge of the river, all on Drawing 22/281-RP.11.

We are aware of the Councils policy on Riparian Corridors & the need to protect the native vegetation & hedgerows along watercourses, however we are also aware that no two sites are the same and that each application is dealt with on its own merits.

We are hoping that we have shown the Bord within our response that our applicant had completed the construction of their garden room in good faith, have not built outside their existing site boundary, & not cleared or disturbed the existing riparian corridor associated with the River Poddle that runs across the rear of their site, all of which the council has based the reason for their refusal.
It is however this specific section of the river (which bends around the rear of our site, & has a recent history of flooding) that has forced the Council themselves to clear/remove this section of Riparian Corridor at the rear of our site.

Trusting all enclosed documentation is in order, we look forward to receiving a favorable response and a full grant of planning for both areas of building work which we have applied for Retention Permission

Yours Sincerely,

Niall J. Jones.

***Niall J Jones** Dip.Tech.Eng. MIEI*
Director

Enclosed:
1 x OSI Planning Pack Maps 3327-25,
1 x Site Location Maps DN-022,
1 x set of drawings 22/281- S.01, S.02, RP.03, RP.04, RP.05, RP.06, RP.07, RP.08, RP.09, RP.10 & RP.11
1 x copy of Property Registration Map (confirming folios & extent of site boundaries)
1x Cheque.

Cc: Pat & Therese Monks