

Comhairle Chontae Atha Cliath Theas

PR/1364/22

Record of Executive Business and Chief Executive's Order

Reg. Reference: SD22B/0404 **Application Date:** 09-Sep-2022
Submission Type: New Application **Registration Date:** 09-Sep-2022
Correspondence Name and Address: Greachan O'Dunlaing 38, Walnut Close, Kingswood Heights, Dublin 24
Proposed Development: Permission for a new first floor extension with new roof and roof windows to shed at rear of site and all associated site works; Retention of all new shed walls at ground floor and first floor level only that are connected to existing shed at rear of site and all associated site works.
Location: 38, Walnut Close, Kingswood Heights, Dublin 24
Applicant Name: Greachan O'Dunlaing
Application Type: Permission and Retention

Description of Site and Surroundings:

Site Area:

Stated as 0.0203 Hectares.

Site Description:

The subject site is located within an established residential area at No. 38 Walnut Close, Kingswood Heights, Dublin 24 and contains a two storey semi-detached dwelling with an area of hardstanding for off-street car parking to the front and a rear garden which includes a single storey detached structure.

The site is bound to the northeast and southwest by residential dwellings, to the southeast by Walnut Close and to the northwest by Ballymount Road, the other side of which lies the rear of a part 2 No. to part 3 No. storey Apartment Block.

The surrounding streetscape is characterised by dwellings of a similar scale and architectural design, with a generally uniform building line.

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Proposal:

Retention permission is sought for the following:

- New walls to the northwestern and southwestern elevations of the single storey shed structure in the rear garden.

Permission is sought for the following:

- A first floor extension to the single storey shed structure providing additional storage space and the provision of a new flat roof with an approximate height of 5.26m and 2 No. rooflights.
- All ancillary site works above and below ground.

Zoning:

The site is located in an area that is zoned 'RES', where the stated objective is 'to protect and/or improve residential amenity' in the South Dublin County Development Plan 2022-2028.

Consultations:

Drainage and Water Services Department: No report received at time of writing.

Irish Water: No report received at time of writing.

Roads Department: No objection, subject to conditions.

Parks Department: No objection, subject to conditions.

Submissions/Observations /Representations

Final date for submissions/observations – 12th October 2022.

A number of submissions were received, the key points of which are summarised below:

- Unightly and not in keeping with the area.
- Too high for a rear garden shed.
- Infringes on public land not within the ownership of the Applicant.
- Currently the subject of an enforcement order requiring it to be re-instated to its original state.
- Photograph within photomontage provided by Applicant was taken without consent.
- Imposing structure, overlooking adjoining properties.
- Impact on daylight amenity of adjoining properties.
- Potential impact on underground water and wastewater infrastructure.
- The structure will devalue surrounding properties.
- A second egress is proposed from the shed structure.
- The Daylight/Sunlight Analysis provided with the Application was not carried out by an appropriately qualified Consultant.
- It is possible the structure will be used as a habitable structure (toilet included).

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In addition, a number of representations from Local County Councillors, the key points of which are summarised below:

- Unauthorised development on lands within the ownership of South Dublin County Council.
- Visually obtrusive and injures the amenity of Old Ballymount Road and surrounding areas.
- If unauthorised retention permission is granted, it will set a precedent.
- Out of character for the area.

A number of submissions received were supportive of the proposed development, noting that:

- The tree leaf effect applied to the elevation will mitigate against visual impact.
- The proposed height is not an issue as the adjacent apartment building is higher.

Relevant Planning History

Subject site

No valid Planning History for the subject site.

Adjacent Sites

No significant relevant Planning History in the vicinity of the subject site.

Relevant Enforcement History

S8965 – Erection of a structure to the rear of the property which would not be considered exempt under Class 3

A Section 154 Enforcement Notice was issued requiring the following steps to be taken by 7th September 2022:

- (a) Cease and discontinue the use of the shed in the rear garden and on public land.
- (a) Remove the shed from the entire site.
- (b) Reinstate the boundary wall, as far as practicable, to its state prior development. Reinstate boundary wall within property curtilage.
- (c) Remove all resultant debris to an approved landfill site.

According to the Cover Letter prepared by DraftCAD Limited Planning and Design dated 9th September 2022, the Applicant ceased building works upon receipt of correspondence from South Dublin County Council regarding Enforcement Ref.: S8965.

Pre-Planning Consultation

None was recorded for the subject scheme.

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SEA Sensitivity Screening

No overlap indicated with the relevant environmental layers.

Relevant Policy in South Dublin County Council Development Plan 2022-2028

Chapter 4 Green Infrastructure

Section 4.1 Methodology

GI1 Objective 4: To require development to incorporate GI as an integral part of the design and layout concept for all development in the County including but not restricted to residential, commercial and mixed use through the explicit identification of GI as part of a landscape plan, identifying environmental assets and including proposals which protect, manage and enhance GI resources providing links to local and countywide GI networks.

Section 4.2.1 Biodiversity

GI2 Objective 4: To integrate GI, and include areas to be managed for biodiversity, as an essential component of all new developments in accordance with the requirements set out in Chapter 12: Implementation and Monitoring and the policies and objectives of this chapter.

Section 4.2.2 Sustainable Water Management

GI4 Objective 1: To limit surface water run-off from new developments through the use of Sustainable Drainage Systems (SuDS) using surface water and nature-based solutions and ensure that SuDS is integrated into all new development in the County and designed in accordance with South Dublin County Council's Sustainable Drainage Explanatory Design and Evaluation Guide, 2022.

Section 6.8.2 Residential Extensions

Policy H14: Support the extension of existing dwellings subject to the protection of residential and visual amenities.

H14 Objective 1: To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 13 Implementation and Monitoring and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines).

Section 11.2.1 Sustainable Urban Drainage Systems (SuDS)

Policy IE3: Surface Water and Groundwater

Manage surface water and protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.

Chapter 12 Implementation and Monitoring

Section 13.5.8 Residential Consolidation

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Extensions

The design of residential extensions should have regard to the permitted pattern of development in the immediate area alongside the South Dublin County Council House Extension Guide (2010) or any superseding standards.

The South Dublin County Council House Extension Design Guide (2010)

The design of residential extensions should accord with the South Dublin County Council House Extension Design Guide (2010) or any superseding standards.

Elements of Good Extension Design:

- *'Respect the appearance and character of the house and local area;*
- *Provide comfortable internal space and useful outside space;*
- *Do not overlook, overshadow or have an overbearing affect on properties next door;*
- *Consider the type of extension that is appropriate and how to integrate it; and*
- *Incorporate energy efficient measures where possible'.*

Overbearing Impact

- *Locate extensions, particularly if higher than one storey, away from neighbouring property boundaries. As a rule of thumb, a separation distance of approximately 1m from a side boundary per 3m of height should be achieved.*
- *Use light coloured materials on elevations adjacent to neighbouring properties.*

Relevant Government Guidelines:

Project Ireland 2040 National Planning Framework, Government of Ireland (2018).

Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, Department of Housing, Planning and Local Government (2020).

Urban Design Manual, Department of the Environment, Heritage and Local Government, (2008).

Quality Housing for Sustainable Communities-Best Practice Guidelines, Department of the Environment, Heritage and Local Government (2007).

Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, Department of the Environment, Heritage and Local Government, (2009).

OPR Practice Note PN01 Appropriate Assessment Screening for Development Management (March 2021).

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Planning Note

There are a number of deficiencies and discrepancies with the information submitted by the Applicant:

- The proposed structure appears to extend beyond the ownership boundary of lands within the Applicant's control. No letter of consent has been provided for the portion of the proposed development on lands outside of the Applicant's control. In the absence of consent, the Planning Authority cannot grant permission for the proposed development.
- The Applicant has provided photographs taken from various positions as part of their Planning Application, along with what appears to be a Daylight and Sunlight Assessment. However, it is unclear from the document provided where exactly the photographs have been taken from and whether or not the Daylight and Sunlight Assessment has been undertaken by a suitably qualified Consultant.

Owing to the discrepancies and deficiencies in the information provided by the Applicant, it is difficult to provide a complete assessment of the proposed development.

Assessment

The main issues for the assessment are:

- Zoning and Council Policy.
- Visual and Residential Amenity.
- Roads.
- Parks.
- Drainage and Water Services.
- Green Infrastructure.
- Screening for Appropriate Assessment.
- Environmental Impact Assessment.

Zoning and Council Policy

The proposed development comprising the retention of a single storey structure and permission for a first floor extension to a single storey structure is consistent with zoning objective 'RES' – 'To protect and/or improve residential amenity'. As the shed structure is ancillary to the main residential use, it is considered to be permissible in principle under this zoning objective, subject to their being in accordance with the relevant provisions of the South Dublin County Council House Extension Design Guide 2010 and the South Dublin County Development Plan 2022-2028. It is incumbent on the Applicant to demonstrate that the shed structure would not have an adverse impact on the residential amenity of adjoining properties and the visual character of the surrounding streetscape.

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Visual and Residential Amenity

Amendments have been applied to a single storey shed structure with an approximate floor area of 21.3 sq.m in the rear garden of the existing dwelling, without the benefit of Planning Permission. New block walls appear to have been added to the structure in preparation for the addition of a first floor level and new roof and the structure appears to have been extended beyond the boundary of the subject site, encroaching on lands outside the ownership of the Applicant. It would appear that construction had begun on a first floor extension to the shed structure, but this was ceased upon receipt of correspondence from South Dublin County Council pertaining to Enforcement File Ref. S8965. The purpose of this Planning Application appears to be to seek Retention Permission for the addition of outer walls to the northwestern and southwestern elevations and permission for a first floor extension to the structure, to regularise its planning status.

The original structure has an approximate width of 5.38m and an approximate length of 3.97m. The original structure has a flat roof profile, with a parapet height of approximately 2.55m. There is 1 No. door and 2 No. windows in the front (southeastern) elevation facing towards the rear elevation of the existing dwelling on the subject site and 1 No. door in the northeastern (side) elevation. The proposed first floor extension would result in a two storey structure with a flat roof profile which has an approximate parapet height of 5.3m.

Private Amenity Space

As a result of the proposed development, it would appear from the drawings provided by the Applicant that the private amenity space for the existing dwelling would be reduced to approximately 42 sq.m. This would be below the minimum standards outlined in Table 3.20 of the South Dublin County Development Plan 2022-2028.

Impact on Adjacent Properties

The proposed structure directly adjoins the party boundary with No. 37 Walnut Close to the southwest and is located approximately 1.25m from the party boundary with No. 39 Walnut Close to the northeast. Having regard to the siting of the proposed structure and the approximate maximum overall height of 5.3m, it is considered that there is significant potential for the structure to have an adverse impact on the residential and visual amenity of adjoining properties.

In particular, concerns arise regarding the potential for the structure to have an overbearing and overshadowing impact on the rear amenity spaces of the residential dwellings directly adjoining the boundary of the subject site and the public realm along Ballymount Road. The Daylight and Sunlight Assessment provided by the Applicant, is significantly deficient in information regarding the potential impact of the proposed development on the vertical sky component (VSC), annual probable sunlight hours (APSH) and average daylight factor (ADF)

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of adjacent properties. In this regard, the Applicant has not provided an appropriately detailed Daylight, Sunlight and Shadow Analysis which provides an assessment based upon the most up to date guidelines. The Applicant has therefore failed to demonstrate that the proposed development would not have a significant impact in terms of overbearing and overshadowing. It is therefore considered that the proposed development would fail to protect the amenity of adjacent properties and would thus be in contravention of the 'RES' zoning objective of the subject site.

Visual Impact

Whilst the streetscape along the eastern edge of Ballymount Road is characterised by rear boundary walls of properties along Walnut Close and a number of shed structures, the 2 No. storey shed structure on the subject site is significantly higher than other similar structures and is visually prominent in both directions along Ballymount Road. Owing to the starkness of the visual impact of the structure, it is considered that it would have a significant impact on the character of the streetscape along Ballymount Road.

A number of submissions in relation to the proposed development are supportive, noting that the tree leaf effect applied to the elevation will mitigate against visual impact. No such elevational treatment appears to be shown on the drawings provided by the Applicant.

Intended use of Structure

The Application does not state that the 2 No. storey shed structure shall be operated separately to the main dwelling. According to the floorplans provided with the Planning Application, the structure contains storage at the existing ground floor level and at the proposed new first floor level. These uses would appear to be ancillary to the main dwelling. However, it is noted that there is a toilet shown on the floor plan and the structure could potentially have access that would be independent of the main dwelling, owing to the 2 No. doors and proximity to the rear garden gateway onto Ballymount Road. Having regard to this, a concern arises that the structure could potentially operate as independent to the existing dwelling on the subject site. Although it is recommended that permission be **REFUSED** for the proposed development, should the Planning Authority be minded to Grant Permission for the proposed development a **CONDITION** should be attached ensuring that the structure cannot be operated, leased or sold separately to the main dwelling and that the shed shall not be operated for commercial purposes.

Summary

Overall, it is considered that the 2 No. storey shed structure is out of character for the receiving context of the subject site, would have a significant visual impact on the streetscape and properties adjoining the subject site and has potential to have an overbearing and

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overshadowing impact on adjacent properties. In this regard, it is recommended that permission be **REFUSED** for the proposed development.

Roads

The Report of the Roads Department noted no amendments are proposed to the principal vehicular access and car parking arrangements. As such the Roads Department indicated no objection, subject to conditions.

Parks and Public Realm

A report received from the Parks and Public Realm Department indicates that they have no objection to the proposed development, subject to the following **CONDITION**:

'The applicant is to ensure the protection of the existing street tree to be retained through the installation of suitable tree protection fencing in order to protect the existing tree during any construction works. Commencement of development should not be permitted without adequate protective fencing being in place in line with BS 5837. This fencing, enclosing the tree protection area must be installed prior to any plant, vehicle or machinery access on site. Fencing must be clearly signed 'Tree Protection Area – No Construction Access'. No Excavation, plant vehicle movement, materials or soil storage is to be permitted within the fenced tree protection areas indicated on plan. NCBH11 Objective 3'.

Although it is recommended that permission be **REFUSED** for the proposed development, should the Planning Authority be minded to Grant Permission for the proposed development the above outlined condition should be attached.

Drainage and Water Services

The Irish Water Network map appears to indicate that the subject site is serviced by a public mains and sewer.

The information shown on the drawings provided by the Applicant is insufficient to determine whether the single storey structure is connected to the drainage and water services network servicing the subject site. Although it is recommended that permission be **REFUSED** for the proposed development, should the Planning Authority be minded to Grant Permission for the proposed development, it is considered appropriate that standard drainage **CONDITIONS** should be attached pertaining to water supply, surface water and foul water drainage infrastructure.

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Green Infrastructure

The subject site is not located within a Primary or Secondary GI Corridor as identified in the Green Infrastructure Strategy Map (Figure 4.4 of the County Development Plan 2022 – 2028).

Having regard to the nature and extent of the existing single storey structure i.e., an approximate 21.3 sq.m of floorplate, the development will not result in a significant loss of any grassland or permeable surfaces. In this regard, there would be little impact to the existing green infrastructure network and a limited impact in terms of additional runoff from the site.

Screening for Appropriate Assessment

The subject site is not located within nor within close proximity to a European site. The proposed development is located within an established residential area and comprises retention permission for walls of a single storey detached structure in the rear garden and permission for a first floor extension to the same structure.

Having regard to:

- the small scale and domestic nature of the development,
- the location of the development in a serviced urban area, and
- the consequent absence of a pathway to the European site,

it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and pursuant to Schedule 5 of the Planning and Development Regulations 2001 (as amended), the proposal is not a class of development for which a mandatory Environmental Impact Assessment Report is required. Additionally, having regard to the distance of the site from nearby sensitive receptors, the need for environmental impact assessment can therefore be excluded at the preliminary examination and a screening determination is not required.

Conclusion

It is considered that the proposed development of a 2 No. storey shed structure along Ballymount Road would be out of character for the area and would represent a haphazard form of development which would have a significant visual impact on the receiving context, including the introduction of a visually prominent structure along Ballymount Road and the potential for an overbearing and overshadowing impact to the adjacent residential properties resulting in an impact on their residential amenity which would amount to a contravention of the 'RES' zoning objective outlined in the South Dublin County Development Plan 2022-2028.

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Furthermore, it is noted that the proposed development would encroach on lands outside of the ownership of the Applicant and no evidence of consent has been provided from the relevant landowner. Having regard, to the nature and scale of the proposal and the resultant impact on the adjoining residential properties and the surrounding streetscape, it is considered that it would not accord with the proper planning and sustainable development of the area and, as such, permission should be Refused.

Recommendation

I recommend that a decision to Refuse Permission & Refuse Retention be made under the Planning & Development Act, 2000 (as amended) for the reasons set out in the Schedule ere to:-

SCHEDULE

REASON(S)

1. Having regard to the requirements of the South Dublin County Development Plan 2022-2028, it is considered that the proposed 2 No. storey shed structure would, by reason of the overall height, building line and the proposed relationship with the surrounding development, is considered to result in an unacceptable visual impact on the adjoining streets, create haphazard, disorderly and piecemeal development and would be seriously injurious to the visual amenities of the area. The proposed development would therefore be contrary to contrary to Section 12.6.8 of the South Dublin County Development Plan 2022-2028 and if permitted would set an undesirable precedent contrary to the proper planning and sustainable development of this location.

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REG. REF. SD22B/0404

LOCATION: 38, Walnut Close, Kingswood Heights, Dublin 24



Colm Harte,
Senior Executive Planner

ORDER: A decision pursuant to Section 34(1) of the Planning & Development Act 2000 (as amended) to Refuse Permission & Refuse Retention for the above proposal for the reasons set out above is hereby made.

Date: 28/10/22



Gormla O'Corrain, Senior Planner