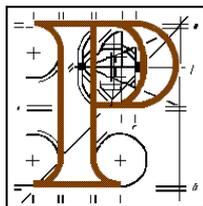


**An Bord Pleanála**



**Inspector's Report**

**Development:** House at 143 St Declans Road,  
Marino, Dublin 3.

**Planning Application**

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref. 3190/14  
Applicant: M & F Lavin  
Type of Application: Permission  
Planning Authority Decision: Refuse

**Planning Appeal**

Appellant(s): M & F Lavin  
Type of Appeal: First Party  
Observers: Fiona Gilroy  
Date of Inspection: 10<sup>th</sup> December 2014

**Inspector:** Aisling Dineen

## **1. SITE LOCATION AND DESCRIPTION**

The appeal site with a stated area of 300 sq. m is situated on the northern side of St Declan's Road and comprises a two storey end of terrace dwelling (90sqm) located within the wider planned Marino Estate. The appeal site has a sizable side garden and is bounded to the west, north and rear by a pedestrian lane shared with the houses on Turlough Parade, St Declan's Road and Griffith Avenue to the north. The immediate area is characterised by dwellings of similar character and scale. Croydon Gardens is positioned opposite the appeal site which gives significant amenity value to the area.

## **2. THE PROPOSED DEVELOPMENT**

The proposed development comprises of the construction of a detached dwelling adjacent to an existing end of terrace dwelling, on a corner site, with a stated area of 300 square metres. It is proposed to accommodate a living area and a kitchen/dining area at ground floor level. At first floor level a bedroom, bathroom, study and store area is proposed. Private open space for the proposed and existing dwellings is 51 and 62 square metres respectively.

## **3. THE PLANNING AUTHORITY'S DECISION**

The planning authority decided to refuse permission for the proposed development for the following reason:

The proposed development would be incompatible with the established layout design and house type, and would adversely impact on neighbouring property contrary to paragraph 17.9.6 (Corner/Side Garden Sites) of the Dublin City Development Plan 2011-2017. Therefore the proposed development would be seriously injurious to the amenity of the existing residents, would depreciate the value of property in the vicinity and would set precedent for development which would be incompatible with the established character of the area. The proposal is contrary to the proper planning and sustainable development of the area and contrary to the zoning objective Z2 'to protect and/or improve the amenities of residential conservation areas'.

## **4. DEPARTMENTAL REPORTS**

Drainage Division, Engineering Department.

No objections subject to conditions.

## 5. PLANNING HISTORY

PL 29N244000 pertains to the grant of permission for the removal of an existing shed and the construction of a two storey extension to the side of the existing dwelling on the appeal site. This permission was granted subject to 7 conditions, which were standard conditions say except for condition No 3, which specified the following:

The first floor window to the side serving the master bedroom shall be omitted.

**Reason:** To protect existing amenities.

## 6. NATIONAL POLICY

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, DoEHLG, December 2008.

These Guidelines encourage increased densities in appropriate zoned residential land within inner suburban areas of cities, proximate to existing and due to be improved public transport corridors. In relation to historic buildings it recognises that the main issues likely to arise in the context of residential development relate to the potential impacts on either the protected structures (including curtilages) or architectural conservation areas.

Urban Design Manual – A Best Practice Guide, A Companion Document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DoEHLG, December, 2008

This companion design manual add emphasis to previous DoEHLG guidelines and provisions that stride to achieve decent levels of amenity, privacy, security and energy efficiency from new homes and states that “privacy and amenity are extremely basic human needs”. Such matters are particularly important in higher density schemes where good space standards, sound insulation and access to private open space can make the difference between acceptable urban living and a poor living environment”. In relation to useable private outdoor space it indicates that all homes should have access to an area of outside space where the residents can comfortably site without being directly overlooked, that the area should be adequate size proportionate to the size of the home and ideally these spaces should be located immediately adjacent to the main living area of the home so that they can function as outside living rooms.

## 7. LOCAL POLICY

The appeal site is governed by the policies and provisions contained in the Dublin City Development Plan, 2011-2017. The indicative land use zoning objective for the site under the City Development Plan is 'Z2': "*to protect and/or improve the amenities of residential conservation areas*".

Section 17.9.6 of the plan refers to corner/side garden sites.

## 8. GROUNDS OF APPEAL

The grounds of the appeal by the first party may be synthesised as follows:

- It is considered that the planning authority has exaggerated the potential impact of the proposal on the character of the area and on adjoining residential amenity.
- At 300 square metres the property is unusually large compared with other properties in the area.
- The planning authority has granted permission for a two storey extension in the side garden in roughly the same area as the proposed dwelling.
- The special character and setting of Marino is acknowledged however it is submitted that there is detached housing in the area, the development of the proposed dwelling at this location does not have any impact on the adjoining dwellings or on the character of the area.
- The proposed density is very low. The proposed site coverage is only 22% and the plot ratio is 0.45.
- The proposed dwelling is finished to match the existing dwellings in the area.
- The proposed dwelling is separated from the existing dwelling by 1 metre and from the dwelling to the west by 1.9 metres. The dwelling has a setback of 3.7 metres to the rear wall of the dwelling to the west.
- The setback may be increased to 1.5 metres from the existing dwelling.
- It is submitted that the proposed dwelling is positioned at 17 metres, the same building line, as the adjoining dwellings.
- It is submitted that the rear room is a study and is not a habitable room and therefore the assessment is unfair given the existing context and character of the area.
- The applicant is happy to revise the first floor internal layout of the proposed dwelling and replace the study with the WC and make the WC into a walk in wardrobe for the bedroom. Side and rear windows would be opaque and this would ensure that there is no overlooking or any impact on residential amenity of adjoining properties.
- The submission by the planning authority that the study could be converted into a bedroom is rejected and it is submitted that the planning authority has exaggerated the impact on the adjoining dwellings by way of overlooking.

- The proposed dwelling provides an excellent standard of residential amenity without impacting on the existing residential amenity.
- Car parking is proposed to the front garden of the proposed dwelling. The existing dwelling can provide 2 car parking spaces to the front garden.
- The following conditions are recommended; that any gates in the boundary wall shall not open out onto the public footpath and footpath and kerb shall be dished and the new dropped crossing shall be constructed to the satisfaction of Dublin City Council.
- The proposal has 51 square metres of private open space to the rear, which exceeds the development plan requirements for a 1 bedroom dwelling.
- The site has existing foul and surface water drainage infrastructure available.

## **9.0 LOCAL AUTHORITY'S RESPONSE TO APPEAL**

No response submitted.

## **10.0 OBSERVATIONS**

Fiona Gilroy, 2 Turlough Parade, Marino, Dublin 3.

- With regard to the applicants assertion that detached housing at 100A and 105 A provide a precedent for the area, it is submitted that they were granted permission in 2004/2005 which was prior to the rezoning of Marino into a Z2 area, the purpose of which was to put a stop to inappropriate development that would have a negative impact on the attractive layout of house type in Marino.
- The proposal does not represent a positive addition to the neighbourhood.
- The proposal would be seriously injurious to the amenity of existing residents and would depreciate the value of property in the area.

## **11.0 ASSESSMENT**

Having inspected the site, considered the file documentation and the prevailing local and national policies, I consider that the key planning issues arising from the proposed development are:-

- Principle of Development;
- Impact on Visual/Residential Amenities;
- Design/compatibility with adjoining dwellings.

## 11.1 Principle of Development

The site and its flanking properties are affected by the 'Z2' land use zoning category, under which the objective is "*to protect and or improve the amenities of residential conservation areas*". Accordingly, I am of the viewpoint that the principle of the proposed residential development is acceptable subject to a planning assessment with particular emphasis on residential amenities and prescribed development standards with particular regard for quality of the existing and proposed development.

## 11.2 Impact on Residential/Visual Amenities

On the onset it is noteworthy that the permitted extension on the appeal site was permitted in roughly the same area as the currently proposed dwelling, however the footprint of the permitted development provided for a separation distance of 2.4 metres to the west site boundary and a distance of 4.5 metres to the rear site boundary. The permitted development is relatively sizable considering that it provides for a domestic extension measuring 86 square metres on a dwelling with an existing floor area of 77 square metres.

The current proposal must take account of the provision of an additional dwelling unit into this space and the requirement to meet the prescribed minimum distances, which provide for an adequate level of private residential amenity for potential future occupants and also of adjacent properties.

The proposed dwelling is to be a one bedroom dwelling, which also provides for an upstairs study, a bathroom and a store area. The floor area of the proposed dwelling is to be 60 square metres, which exceeds the development plan requirement for a single unit, which requires a minimum floor area of 55 sq. m. for a one bedroom unit.

The proposed private open spaces for the existing and proposed dwellings are 62 square metres and 51 square metres, respectively. The planning authority in their adjudication of private open space standards refer in their report that while the private open space for the existing and proposed dwelling meets the minimum standards of 15 sq. m. per bed space, it noted that there is potential to convert the proposed study to a bedroom.

In response to the latter issue the appellant submits to the appeal that in order to allay any concerns with respect of the possibility of converting the study to a bedroom that it is suggested that the proposed study could be converted into a WC and the proposed WC can be converted into a walk in wardrobe for the bedroom. It is submitted that both the rear and side windows would then be of opaque glass. In this regard, I consider this solution would be a two-fold solution as it would allay the planning authority's concerns about the possibility of introducing an additional bedroom and increasing the private open space requirements for the

proposed dwelling and opaque glass on the rear and side windows would also negate the potential of direct overlooking of the adjacent properties.

The proposed rear building line follows the same building line as the rear of the terraced dwellings along this section of St Declan's Road and the separation distance between directly opposing first floor windows in this instance is 17 metres. While this falls shy of minimum requirements, it is a continuum of the established pattern of development that has existed for years in this area. I consider that the proposal to provide the WC at this space in lieu of a study, which will provide an opaque glass window, provides an adequate mitigation measure for this purpose. To this end, I note that the plan refers that standards may be relaxed where amenity and privacy of adjacent occupiers can be preserved.

With respect of separation distances the plan refers that 1.5 metres shall be provided between dwellings for the full length of the flanks in all developments. While there is a separation distance of 1.9 metres from the proposed dwelling to the west boundary wall, there is only a separation distance of 1 metre from the proposed dwelling to the existing dwelling and accordingly this falls short of minimum requirements. I am of the viewpoint that, in the event that the Board is mindful of a favourable decision, that this shortfall can be addressed by way of condition which would stipulate that 1.5 metres separation distance be achieved at each of the side boundaries.

With respect of overshadowing and loss of daylight I am of the opinion that the potential for overshadowing the property at No 141 St Declan's Road has been reduced as the previously permitted extension actually protruded northwards from the rear building line, albeit that it would have had minimal impacts. The current proposal actually maintains the rear building line, with what is already established. While the footprint of the proposed dwelling has been moved slightly northwest from the footprint of the permitted extension, given the orientation of the proposed dwelling with respect of adjoining properties, I consider that additional impacts would also be marginal. Therefore, I yet concur with the previous inspector's report where she referred '*I am satisfied, given the distance of adjoining dwellings, the orientation of the extension and established typology of the area that the scheme will not result in any significant over shadowing of adjoining properties and will not therefore result in unreasonable loss of natural light to neighbouring residential properties*'

### **11.3 Design/Compatibility with Adjoining Dwellings**

Two of the stipulated criteria referring to development of corner/garden sites, in the development plan, refer to *'the character of the street' and compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion heights, parapet levels and materials of adjoining buildings'* .

With respect of the character of the area, I note that while terraced houses predominate there is a considerable mix of style incorporated into such a terraced housing pattern. In addition I note the existence of a few sporadic detached dwellings. I do not consider that the inclusion of a detached dwelling in this space would radically alter or detract from the established character of the area.

While I note the observation to the appeal where it is referred that there is a big difference in permitting an extension to an existing house and inserting a new dwelling into the same space, I also consider that given the modest nature of the proposed dwelling as set against the permitted extension that additional impacts will be marginal given the overall ground area of this corner site.

However, with respect of the proposed design, the roofline of any structure is one of its most dominant features, and in this instance the roof profile is a pitched roof, which has been altered from the dominant roof profile type of the area and that permitted under the recent extension permission, which is a horizontal ridge profile. Otherwise the materials and finishes proposed are compatible with those established in the area.

I am of the viewpoint that in the event that the Board is mindful of a favourable decision, that the roof should be modified to reflect the established roof profile in the area. I consider that this alteration of design will make a substantial improvement to the proposals' overall design and compatibility with adjacent structures.

### **CONCLUSION**

I conclude that the principle of the proposed development is acceptable and I also consider that the proposed development would not have a negative material impact on the character of the area or be visually injurious to the area.

## RECOMMENDATION

Having regard to the documentation on file, the grounds of appeal, a site inspection and the assessment carried out above, I recommend that permission be granted for the proposed development for the following reasons and considerations and subject to conditions set out hereunder.

## REASONS AND CONSIDERATIONS

Having regard to the nature, scale and design of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the appeal, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Revised plans and elevations, showing the following modifications, shall be submitted to the planning authority for written agreement prior to the commencement of development;
  - (a) The first floor study shall be a WC and the WC shall be a walk-in-wardrobe.
  - (b) The first floor rear and side windows shall be constructed with obscure glass.
  - (c) The pitch roof profile shall be replaced with a horizontal ridge profile in keeping with adjacent roof profiles.
  - (d) A separation distance of 1.5 metres shall be provided on either side of the proposed dwelling.

**Reason:** To prevent overlooking of adjoining residential property and in the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working; measures to prevent spillage on the public road network; noise management measures; and, off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

7. 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. The contribution shall be paid prior to the commencement of development 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Aisling Dineen  
Planning Inspector  
17<sup>th</sup> December 2014