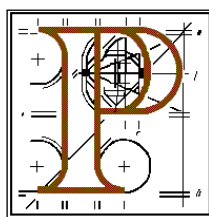


An Bord Pleanála Ref.: PL06F.244433

An Bord Pleanála



Inspector's Report

Development: Construction of four bedroom house at Rockport, Streamstown Lane, Streamstown, Malahide, Co. Dublin

Planning Application

Planning Authority: Fingal County Council

Planning Authority Reg. Ref.: FW14A/0376

Applicant: Erika Deeter

Type of Application: Permission

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Erika Deeter

Type of Appeal: 1st Party

Observers: None

Date of Site Inspection: 20.03.2015

Inspector: Fiona Fair

Appendices: Photographs, Site location Map

1.0 SITE DESCRIPTION (see photographs and location map)

The appeal site, with a stated site area of 0.2 ha, is located to the south west of Malahide Village at Rockport, Streamstown Lane, Streamstown, Malahide.

The appeal site forms part of a larger site (circa 1.5 acres / 0.60 hectares) currently owned by the applicants mother Mrs. Georgina Deeter. The site of the proposed house is situated to the rear (east) of the existing single storey dwelling known as 'Rockport House' (identified on drawings submitted as 'House 1') and to the east side of a larger two storey dwelling permitted on foot of Reg. Ref. F09A/0236 ('House No. 2'). From information contained on file it appears that 'House No. 2' located to the west of Rockport House, was constructed by the applicant's brother, Karl Deeter.

There are currently no site boundaries on the ground, in the location of the proposed dwelling boundary, from my site visit and perusal of the drawings submitted it appears it is sited partially within the 'Orchard' area / grounds associated with 'House No. 1' and partially within a paddock adjoining 2 small out houses / sheds. There is no boundary in place to the east of 'House No. 2' where it abuts 'House No. 1'. A timber post fence which runs in a north south direction separates the host dwelling 'House No. 1' and the 'Orchard' from the paddock and sheds to its rear.

Both the existing houses (House 1 & House 2) and the appeal site are accessed via a private shared vehicular entrance and driveway east off Streamstown Lane. Streamstown lane has a 50 Km/hr speed limit, it has a narrow carriageway and is tree lined, it forms a junction with the Malahide Road (R107) a short distance to the south east of the appeal site.

2.0 PROPOSAL:

It is proposed to construct a new dormer bungalow with stated GFA of 189 sq. m with septic tank and percolation area and associated site development works.

The proposed dwelling comprises a pitched roof dormer bungalow with north south orientation and a ridge height of 7.5m. A pitched roof porch projection is positioned to the front elevation. Glazing is proposed on all elevations incl. first floor level. 3 no. dormer windows are proposed on the front elevation and one dormer is positioned on the rear elevation. Materials are indicated as compromising painted render, brick coursing and concrete roof tiles.

A letter of consent to make a planning application for the proposed development, by the applicants mother Mrs Georgina Deeter, is enclosed. A letter is also enclosed, from Mrs Georgina Deeter, indicating a right of way access over the driveway to the appeal lands.

3.0 PLANNING AUTHORITY'S DECISION

Following a further information request with respect to (i) foul sewer, surface water and water supply and (ii) visibility sightlines at the entrance; Fingal County Council granted planning permission subject to 9 no. fairly standard conditions, of note to this appeal is Condition 2, which states:

'The window at first floor level on the west elevation serving 'Bedroom 1 shall be omitted. Reason: To prevent overlooking'.

4.0 TECHNICAL REPORTS

4.1 The Planners report recommends a grant of planning permission in line with the decision. It is concluded that the further information request has been adequately addressed and it is considered that the proposed development would not have a negative impact on the residential amenity of the area subject to condition.

The planners report did comment on the window at first floor level on the western elevation serving bedroom 1 and recommended that it be omitted in order to prevent overlooking of adjoining property and its private amenity space.

4.2 Water and Drainage Department: Initial Report requested additional information with respect to foul sewer and surface water. Report subsequent to further information indicates no objection subject to condition.

4.3 Irish Water (IW): Initial Report requested additional information. Report subsequent to further information indicates no objection subject to condition.

4.4 Transportation Department: Initial Report requested additional information. Report subsequent to further information indicates no objection subject to condition.

4.5 Objections/Submissions

None on file.

5.0 APPEAL GROUNDS

A first party appeal has been lodged by O'Dwyer & Associates Architects on behalf of Erika Deeter. The grounds of appeal are summarised as follows:

- Appeal against Condition No. 2 and the reason for same
- The area to be viewed from this window is an orchard which belongs to house no. 1. The basis for the layout of the overall site was to enclose the orchard and provide the existing 2 no. houses and the proposed house with a pleasant view of same.
- The orchard does not constitute private open space to the original house.
- House no. 2 has a view of the orchard from its eastern elevation at both ground and 1st floor levels, for which planning permission was granted by Fingal County Council. Applicant is now looking to provide a similar situation at the proposed house
- The applicants had originally proposed a balcony at first floor on the western elevation serving bedroom no. 1 and whilst they were advised

at pre planning stage to omit the balcony no comment was received in respect of the subject window.

- The request for additional information did not refer to the window. Had the concern been raised the design concept could have been explained and the necessity to appeal this condition and prevent necessary delays could have been avoided.
- The window is needed for light and enjoyment of Bedroom No. 1
- It is proposed to enclose the orchard as a common facility.
- Appeal accompanied with:
 - Notification of decision to grant planning permission F14A/0376
 - Photographs
 - Request, acknowledgement and response to further information
 - Details of preplanning

6.0 RESPONSES

A response has been received from the Planning Authority. It is summarised as follows:

- The provision of glazing at first floor would diminish the privacy of the private open space of the adjoining property in contravention of Objective OS35 of the Fingal County Development Plan 2011 – 2017
- Request that An Bord Pleanala uphold the decision of the planning authority
- Requests that Condition 9 – re: financial contribution be reattached to any decision to grant planning permission.

7.0 PLANNING HISTORY

7.1 Reg. Ref. F09A/0236 Planning Permission Granted for a two storey dwelling with GFA of 350 sq. m and septic tank to the north west of existing dwelling known as Rockport House, applicant Karl Deeter.

7.2 Preplanning

The planners report indicates that pre planning discussions took place and the proposed dwelling was considered acceptable in principle.

8.0 DEVELOPMENT PLAN

The current statutory Development Plans for the area are the Fingal County Development Plan 2011 – 2017 and The Streamstown LAP 2009 (which has been extended to 2019)

The site is zoned 'RA', with the objective: *'Provide for new residential communities in accordance with approved local area plans and subject to provision of the necessary social and physical infrastructure'*.

The application site is identified within the LAP as a 'consolidation area'. There is a specific Objective on the lands to 'provide for residential development at a density of 10 units per hectare'.

The relevant sections of the Fingal County Development Plan as they apply to this development are as follows;

Overlooking and Overshadowing

Objective OS35

Objective OS36

Open Space Provision

Objective OS38

9.0 ASSESSMENT

This is a first party appeal solely against Condition 2 attached to grant of planning permission, Reg. Ref. F14A/0376, which states as follows:

'The window at first floor level on the west elevation serving 'Bedroom 1 shall be omitted. Reason: To prevent overlooking'.

Given the foregoing and having regard to section 139 (1) of the Planning and Development Act, 2000, as amended, I consider that a 'de novo' consideration of the development is not warranted in this instance. The applicant has appealed, only, one condition of the decision and therefore the assessment will be confined to evaluation of whether the first floor window on the western gable elevation serving bedroom 1 is acceptable.

I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. I consider that the main issue in this case relates to:

- Privacy / Overlooking / Protection of residential amenity

It is the opinion of the planning authority that the provision of glazing at first floor level at this location would diminish the privacy of the private amenity space of the adjoining property in contravention of Objective OS35. It is submitted that this condition, requiring the omission of the window at first floor is considered necessary in order to prevent direct overlooking of an area of private amenity space.

I highlight that objective OS35 of the Fingal County Development Plan 2011 – 2017 states:

'Ensure all areas of private open space have an adequate level of privacy for residents through the minimisation of overlooking and the provision of screening arrangements. In this regard, a minimum standard of 22 metres

between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 2 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs'.

The first party argues that the area the window overlooks is an 'orchard' which does not constitute private open space of the original house, ('House 1' Rockport House).

From my site visit it is clear that the appeal site is somewhat atypical in that this is the third family dwelling to be located within the landholding owned by the applicant's mother. The existing dwellings, indicated on the plans and drawings submitted as 'House No. 1' and 'House No. 2' are laid out in a somewhat irregular manner with no definitive on the ground site boundaries (with the exception of a low stone boundary wall to the front (south) of 'House No. 2').

The proposed dwelling has a north south orientation and is proposed to be situated to the east / rear of 'House No. 1', 'Rockport House', which is a single storey dwelling of east west orientation. I tend to agree with the argument put forward by the first party that the private amenity space associated with 'Dwelling No. 1' is to its east and not to its north. Given the layout proposed and the orientation, layout and design of the existing dwellings within the landholding I do not agree with the planning authority that the first floor window on the western gable elevation serving bedroom 1 would contravene objective OS35. Cognisance is had to the first floor east facing windows on 'House No. 2' permitted on foot of Reg. Ref. F09A/0236 which directly overlook the 'Orchard' / northern grounds of 'House No. 1'.

It is my opinion given the layout and relationship between the single storey nature of 'House No. 1' and the proposed window at first floor serving bedroom 1 that the window would not give rise to overlooking of private amenity space or impact upon the residential amenity of 'House No. 1'. Regard is had to the north south orientation of the proposed dwelling, set

back in line with the northern gable of the host dwelling. I do not consider that the first floor window on the western gable elevation serving bedroom 1 would negatively impact on the existing levels of privacy afforded to the adjacent private gardens, or would result in so significant additional overlooking resulting as to warrant its omission.

The applicant is proposing to erect a dormer dwelling on the site in an area which is zoned 'RA' and is identified as being within the 'consolidation area' in the Streamstown LAP. Regard is had that this site which is large and enjoys a rural setting is developing incrementally. Each of the three dwellings permitted / proposed on this landholding are for family members and are of individual design. This I consider is in line with a number of large detached dwellings of differing design styles along Streamstown Lane.

9.1 Appropriate Assessment

It is considered that the proposed development would not give rise to any significant adverse direct, indirect or secondary impacts on the integrity of any nearby Natura 2000 sites having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

10.0 CONCLUSION AND RECOMMENDATIONS

Having read the submissions on file had due regard to the provisions of the Development Plan and the Streamstown LAP and all other matters arising. I recommend that the planning authority be directed under section 139 (1) of the Planning and Development Act, 2000, as amended, to Omit condition 2.

11.0 REASONS AND CONSIDERATIONS

Having regard to-

- (a) The Fingal County Development Plan 2011 – 2017
- (b) The Streamstown Local Area Plan (LAP)
- (c) The east west orientation of 'House No. 1' 'Rockport House' with the private open space associated with that dwelling to its rear / east.
- (d) The north south orientation of the proposed dwelling and its layout relative to 'House No. 1' and
- (e) The first floor windows on the east elevation of 'House No. 2' permitted on foot of Reg. Ref. F09A/0236.

The Board considered that Condition 2 should be omitted.

Fiona Fair
Planning Inspector
26/03/2015