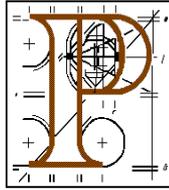


An Bord Pleanála



Inspector's Report

PL06F.245296

Proposed Development:

Alterations and additions to House Type E, on Plot No. 6 as part of previously approved parent grant of permission P.A. Reg. Ref. No. F06A/1576 and subsequent permission P.A. Reg. Ref. No. F08/0313, at Plot No. 6, Streamstown Wood, Malahide, County Dublin.

Planning Application

Planning Authority: Fingal County Council
Planning Authority Reg. Ref.: F15A/0155
Applicants: Dave & Niamh Cummins
Planning Authority Decision: Grant with conditions

Planning Appeal

Appellants: Brian & Maria Byrne
Type of Appeal: 3rd Party-v-Grant
Observers: None
Date of Site Inspection: 20th day of October, 2015
Inspector: Patricia M. Young

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site has a stated site area of 0.08-hectares and it lies on the southern side of a small low density residential development (Streamstown Wood) of substantial three and a half storeys in height detached properties that address a small access road that provides connection to the restricted in width and poor in alignment Streamstown Lane and its circular loop that bounds a high quality soft landscaped communal landscaped area which contains passive and recreational amenity space.
- 1.2 The majority of the plots within this residential scheme have been recently developed and are either close to completion or now occupied. Plot No. 6 is bound on its western and eastern side by completed detached dwelling units. The rear boundary of the site backs onto Park Avenue which contains a number of detached dwellings set on substantial garden plots.
- 1.3 At the time of my site inspection the roadside boundary contained security fencing and the main site area contained building materials. No significant works have begun on the detached dwelling house approved on this plot under P.A. Reg. Ref. No. F06A/1576 and as subsequently by the grant of permission P.A. Reg. Ref. No. F08/0313.
- 1.4 Streamstown Wood lies circa 1.8-kilometers to the south of Malahide's town centre and Streamstown Lane lies circa 0.5-kilometers to the west of the R107 (Dublin Road). The surrounding area is characterised by low density mature residential development as well as pockets of agricultural land.

2.0 PROPOSED DEVELOPMENT

- 2.1 Alterations and additions to House Type E, on Plot No. 6 as part of previously approved parent grant of permission P.A. Reg. Ref. No. F06A/1576 and subsequent permission P.A. Reg. Ref. No. F08/0313, at Plot No. 6. The alterations and additions consist of: 1) the omission of the basement floor area; 2) the omission of the attic level living accommodation; 3) the inclusion of part attic area and stairs for access purposes to attic storage area (non-habitable floor area); 4) new single storey extended living to the rear of the property; 5) Modifications to the

external elevations including windows, materials alterations and extended area to the rear of the property and associated site works.

- 2.2 On the 18th day of June, 2015, the Planning Authority received the applicant's response to their further information request. This response resulted in minor changes to the site layout plan and ground floor plan. As such this response in essence clarified a number of discrepancies in the original suite of drawings.

3.0 PLANNING HISTORY

3.1 Appeal Site:

- **P.A. Reg. Ref. No. F06A/1576:** Planning permission was **granted** subject to generally standard in nature and scope conditions for a development described as the demolition of the existing derelict outbuilding on site and the construction of 22 detached residential units together with all associated site development works and services.
- **P.A. Reg. Ref. No. F08A/0313:** Planning permission was **granted** subject to standard in nature and scope conditions for a development described as alterations to previously approved development (P.A. Reg. Ref. No. F06A/1576). The alterations amount to: (1) the inclusion of windows to house types A, B, and, E, at basement level; (2) new obscured glazed windows to the first floor bathroom/en-suite and en-suites at attic level to house types B, C, D and E; (3) removal of the existing single window to the first floor master bedroom of house type F1 to be replaced with 2 no. full length windows.

4.0 PLANNING AUTHORITY DECISION

- 4.1 **Planning:** The **initial Planning Officer's report** summarises the nature of the development sought; it sets out the applicable local planning policy provisions, the planning history of the site; it summarises the four submissions received during the course of its determination objecting to the proposed development; and, it provides an examination of the proposed development against a number of specific planning considerations.

The Planning Officer noted that this plot benefitted from a grant of permission for a detached five bedroom three and a half storey detached dwelling and by way of this application the applicant proposes the omission of the basement and attic levels which would reduce the dwelling to a three bedroom residential unit with a gross floor area of 306-sq.m. They noted that the revised design proposes additional windows in the side elevations above first floor level which would serve en-suites, wardrobes and landing areas.

The Planning Officer raised no serious concerns in relation to the alterations and additions sought considering that the proposed development would result in a detached dwelling house consistent with its setting and would be a type of development that would not negatively impact on the amenities of the surrounding area. Moreover, they considered that the overshadowing and loss of outlook from adjoining properties resulting from the proposed development would not be excessive.

However, the Planning Officer considered that there was a number of discrepancies in the submitted documentation relating to the vehicular path/access route proposed that would require clarification by way of further information. Accordingly, this report concludes with a recommendation for further information.

The **final Planning Officers report** having considered the applicants further information response considered that the applicant had addressed to their satisfaction all outstanding issues with the revised boundaries now corresponding more accurately to common boundaries and with the ground floor plan of the previously approved dwelling house on this plot. They concluded that the proposed development is acceptable and is consistent with the proper planning and sustainable development of the area subject to safeguards. Accordingly, the Planning Officer recommended a grant of permission.

4.2 Interdepartmental Reports:

- **The final Planning & Strategic Infrastructure Department – Transportation Planning Section Report:** No objection.
- **The Planning & Strategic Infrastructure Department – Water Services Section Report** raised no objection to the proposed

development subject to the inclusion of standard in nature and scope conditions in the event of a grant of permission. A copy of this report and recommended conditions thereon is attached to file.

4.3 Submissions: During the course of the Planning Authority's determination of this application they received four letters of objection to the development sought. I have read the concerns raised in these letters and I consider that they raise similar amenity concerns as those raised by the 3rd Party appellants in their appeal submissions to the Board. Copies of these submissions are attached to file.

4.4 Planning Authority Decision: The Planning Authority decided to grant permission for the proposed development subject to 15 no. mainly standard in nature conditions.

5.0 GROUNDS OF APPEAL

5.1 The grounds of appeal may be summarised as follows:-

- Contrary to the notification of decision by the Planning Authority it is contended that the proposed development would significantly affect the residential amenities presently enjoyed by the appellants and it is further considered that the proposed development represents an inappropriate design change in a developing residential area.
- The appellants have no objection to a similar house to their own on this plot but they are unhappy with the design and scale of the proposed development which they consider would not just impact adversely on their residential amenities but would also impact on the value of their and neighbouring properties.
- The design, orientation and juxtaposition of the houses in Streamswood together with their private open space provision is very much an integral part of the estates overall design. On this point it is considered that this layout defines the character and pattern of development present in this area.
- The high roofed single storey extension to the rear will create a huge negative impact on the immediate neighbours by way of overshadowing and overbearing.
- A carefully designed and modest extension to the rear could also have been done without creating a serious precedent which would

affect the character and pattern of development already in the area and the amenities of other residents.

- The proposed development does not attempt to meet reasonable standards for residential developments normally provided for in statutory Development Plans.
- The proposed development would establish an undesirable precedent for the development of large extensions to the rear of other houses in the immediate area.
- Central to the overall layout of Streamstown Wood is the manner in which privacy and the residential amenity of residents is carefully protected from overlooking, overshadowing and overbearing. This is done by ensuring that the rear building line is consistent throughout the estate. Unless an extension is carefully articulated and planned it could be visually discordant ruining the ambience and quality of the overall development or be a bad neighbour development. In this instance the proposed extension would create huge impacts through overshadowing and overbearing. These significant negative impacts can only be mitigated by refusing permission.
- This application fails to provide rear contiguous elevations and is therefore contrary to Article 23(d) of the Planning and Development Regulations, 2001, as amended.
- The proposed development contravenes the general policies for residential development as set out in Residential Guidelines and the Development Plan.
- The proposed development is inappropriate, out of character, unsympathetic and will cause a serious diminution to the quality of residential amenity currently enjoyed by our clients and will seriously erode the desirability and saleability of properties in the area.

6.0 RESPONSES

6.1 The 1st Party's response may be summarised as follows:

- The proposed scale, proportions and materials proposed are in keeping with the style and team of the existing dwellings in this development.
- The rear projection is an integral part of the design of the dwelling and the site. The site elongates to the side where the extension is

placed and maximises the south facing light into the extension. Within this development there are other examples of similar rear extensions, most prominently on Plot No. 19 which was granted permission under P.A. Reg. Ref. No. F14A/0053. It is considered that this application is no different.

- The proposed extension to the rear of this dwelling would not have a negative impact on the adjoining dwellings nor on the established residential amenities of the area.
- The proposed alterations to this house are congruous with the overall development and the materials of red brick, render, stone and red roof tiles proposed to be used are completely in keeping with the existing house types and the surrounding houses in this development.
- The floor area of the proposed altered and extended dwelling on this plot is much less than the floor area and scale of adjoining dwellings.
- The site is residential zoned and the proposed alterations and additions is consistent the types of developments permissible on such zoned land.
- The subject site and the adjoining plots are all south facing to the rear and have direct sunlight for most of the day. There is over 6-meters of separation between houses and therefore blocking sunlight and overshadowing is not an issue.
- The appellant raises issues with the windows overlooking their properties; however, these windows form part of the parent application and the proposed alterations to the side elevations are minimal. All properties within this scheme have side facing windows and therefore they overlook one another.
- It is not the 1st Party's intention to overlook neighbours as they want to maintain their privacy.
- The proposed alterations and addition are modest as well as are in keeping with their site context.

6.2 The **Planning Authority** response requests the Board to uphold their decision and in the event that their decision is upheld that Condition No. 15 of their notification to grant permission be included.

7.0 POLICY CONTEXT

7.1 Local Planning Context

The appeal site is governed by the policies and provisions contained in the Fingal Development Plan, 2011-2017. The site is zoned 'RS' and the zoning objective for such land is to: "*provide for residential development and protect and improve residential amenity*". The vision for this land use zoning is to ensure that any new development in existing residential areas has a minimal impact on existing amenity.

8.0 ASSESSMENT

8.1 Overview

I have reviewed the development sought under this application against relevant planning policy and guidance, the planning history of the site and its setting, the submissions and responses received by the Board in relation to this appeal. In addition, I have conducted an inspection of the site and its setting. Based on this review I consider that the key issues in this case are:

- *Principle of the Proposed Development and Compliance with Local Planning Policy Provisions;*
- *Residential Amenity Impact;*
- *Visual Amenity Impact; &*
- *Other Matters Arising.*

The above broad headings cover the main points made in the submissions, responses and observations received by the Board and they also encapsulate my *de novo* consideration of this planning application.

Before I commence my assessment I first note that my assessment below is based on the proposed development as revised by the applicants further information response received by the Planning Authority on the 18th day of June, 2015. This response clarifies a number of minor discrepancies in the original suite of drawings accompanying this application. In particular they provide revised and

accurately depicted site location plans and ground floor plan layout of the proposed by way of this application altered and amended detached dwelling house relative to common boundaries. They also provide clarity in relation to the exact location of the access route for a proposed pedestrian walkway to the east of the proposed amended and altered dwelling house. I concur with the Planning Authority that whilst the revisions made are minor in nature the further information provided by the applicant provided needed clarity on the alterations and amendments proposed to the dwelling house previously permitted on Plot 6 under P.A. Reg. Ref. No. F06A/1576 and subsequent permission P.A. Reg. Ref. No. F08/0313 to allow this current application to be determined.

8.2 Principle of the Proposed Development and Compliance with Local Planning Policy Provisions

I first of all note to the Board that Plot No. 6, the appeal site, benefits from a yet to expire grants of planning permission for a detached five bedroom three and a half storey dwelling house under the parent grant of permission P.A. Reg. Ref. No. F06A/1576 and as subsequently amended under grant of permission P.A. Reg. Ref. No. F08/0313.

In addition to this Plot 6 and the land that forms its immediate site context is zoned 'RS' under the current Fingal Development Plan. The stated zoning objective for such land is to: "*provide for residential development and protect and improve residential amenity*".

In general residential development such, as the development sought under this application which essentially seeks alterations and additions to a previously permitted but yet to be built detached dwelling house, is deemed to be acceptable subject to other relevant planning considerations being satisfied. In particular, and as set out in the accompanying vision for 'RS' zoned land that any new development in existing residential areas has a minimal impact on existing residential amenity, i.e. is not a bad neighbour development. Accordingly, the principle of the proposed development is acceptable in this instant case subject to safeguards.

I also concur with the Planning Authority in this instant case that having regard to the residential standards set out in the Development Plan, including those relating to lateral separation distances, internal room dimensions and configuration through to provision private open space

the alterations and additions proposed to the approved detached dwelling house are all consistent with its standards and guidance for new residential development. As such I raise no significant concerns in relation to the proposed development and its compliance with applicable local planning policy provisions for this type of development.

8.3 Residential Amenity Impact

The appellants raise concerns that the proposed development would adversely impact on the residential amenities of adjoining and neighbouring properties due to the additional overlooking, overshadowing, visual overbearance as well as visual incongruous design when compared to the design attributes the layout of this coherently designed residential development. They also raise concerns that the proposed development, if permitted, would result in the devaluation of their properties.

The matter of visual amenity impact of the proposed development is discussed separately in Section 8.4 of this report below and on the matter of devaluation of property while I accept that this is a reasonable concern for properties adjoining a proposed development site no substantive evidence has been provided in support of such a contention; however, should it be concluded by the Board that upon examination of specific considerations such as overlooking, reduced privacy through to overshadowing that such impacts are material and significantly adverse in their own right it would not in my view be unreasonable to conclude that this would not have some implications on the value of properties, particularly on those adjoining the subject development site.

On the matter of overshadowing and visual overbearance I note that the rear elevations and the rear gardens of the appeal site and the neighbouring properties to the east and west face due south. A 2.6-meter separation distance between the proposed single storey rear elevation and the nearest shared boundary which I note is shared with the detached dwelling on Plot 7 which adjoins the eastern boundary of the site.

The detached dwelling house on Plot 7 shares a similar lateral separation distance to that proposed for the detached dwelling house on the appeal site though I note it has a staggered side building line. The single storey addition would project a stated 6.525-meters from the

main rear building line and would extend across 5.3-meters of the rear elevation which at this point has a width of circa 9.8-meters. A gabled hipped roof is proposed over the proposed rear extension with a maximum measured ridge height of circa 6.2-meters. It would appear that this height is to accommodate a double height space over the proposed rear extension. As such it fails in terms of its built form to be appreciable as a single storey extension with the provision of roof lights and its ridge height just sitting below the eaves level of the main rear elevation further adding to this extensions two storey appearance. Indeed I note single storey projections that are visible within this residential scheme from the public domain, in particular behind the principle elevation are characteristically single storey in their overall height and built form as such they do not overtly obscure the appreciation of the first floor elevation.

While I accept that the southerly orientation of the rear garden area together with the lateral separation distance between the proposed extension and the rear elevation as well as private amenity space of adjoining properties would be materially and significantly adversely impacted by overshadowing at a level that could be considered out of context in suburban setting like this I am of the view that the height of the rear extension is excessive and overbearing. Subject to a reduction in its overall height I raise no other significant issues with the proposed rear extension.

On the matter of reduced privacy while I do consider that the presence of roof lights over the rear extension which in the form proposed has a two storey character could give rise to a perceived level of overlooking for properties on either side the modifications to the side and elevations in terms of the provision of additional windows which the drawings indicate would be glazed in obscure glass would not in my view give rise to any additional perception of overlooking over and above the previously approved detached dwelling house on this site nor is the level of windows present on the side elevation of the amended dwelling house in any way at odds with the dwellings within this formally designed and laid out residential scheme which includes window openings at first and second floor level.

In addition, the dimensions of these windows proposed and their fenestration detailing is in keeping with the design of these windows as approved under the parent grant of permission and as provided for in the dwelling units that are to date completed. As such I accept the 1st

Party's argument that the design of this scheme includes a level of mutual overlooking and the amendments proposed do not significantly add to this.

Accordingly should the Board be minded to grant permission I recommend that it include an appropriate condition to ensure that these additional windows on the side elevation are permanently maintained in obscure glazing.

In this instance case I consider that the proposed amendments and alterations subject to safeguards would not give rise to any serious injury to residential amenities of properties in its vicinity.

8.5 Visual Amenity Impact:

Subject to a reduction in the overall height of the roof structure in order to ensure that the proposed rear extension is legible as a single storey addition I consider that the overall design resolution of this extension and its palette of materials are acceptable.

In this regard I further consider that the proposed design resolution and the palette of materials employed for the proposed altered and extended dwelling house has taken its starting point from this highly coherent residential scheme. This includes where the attic and basement level habitable floor levels have been omitted.

Moreover, the rear garden area of Plot 6 is ample in its size and can therefore accommodate a single storey extension without resulting in a substandard private amenity space nor would any such extensions significantly diminish the overall design of this scheme as appreciated from the public domain.

Accordingly I raise no other serious visual amenity impact concerns nor would I consider that to permit the proposed rear extension would significantly compromise the pattern of development that characterises Streamstown Wood residential scheme or its wider setting.

8.6.0 Other Matters Arising

- *Valid Application - Article 23(d) of the Planning & Development Regulation, as amended:* The appellant is correct in pointing out that this application does not include any contiguous rear elevations and

these are required under Article 23 (d) of the said regulations for such an application. Should the Board be minded to grant permission I recommend that they seek that this information be first provided.

- *Appropriate Assessment:* Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced to an update standard location, I consider that no appropriate assessment issues arise in this case.
- *Boundary Treatments:* Should the Board be minded to grant permission for the proposed development I consider it reasonable that Conditions 10 and 11 of the Planning Authority's notification to grant permission be attached as this would ensure that the roadside boundary and access to the site are consistent with neighbouring properties in this coherent and formally designed residential scheme.
- *Condition No. 14:* This condition in the Planning Authority's notification to grant permission restricts the lifetime of this permission. Should the Board be minded to grant permission for the proposed development I consider it reasonable that such a condition is attached to ensure the timely completion of the detached dwelling house on Plot No. 6, a plot which in its current state visually detracts in a significant and material manner from its streetscape scene. It would also correspond with the expiry date of the parent grant of permission which was extended to the 30th May, 2017.

9.0 RECOMMENDATION

- 9.1 I recommend that permission be granted for the proposed development based on the reasons and considerations set out below and subject to the conditions set out thereunder:

REASONS AND CONSIDERATIONS

Having regard to the zoning of the site, the scale and nature of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity,

and it would 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, as amended by the further plans and particulars submitted on the 18th day of June, 2015, 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.

In default of agreement, the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The terms and conditions of the grant of permission P.A. Reg. Ref. No. F06A/1576 and subsequent permission P.A. Reg. Ref. No. F08/0313 shall be complied with in full in the course of the development herein permitted, save for the changes shown on the plans submitted for this application.

Reason: In the interest of the proper planning and sustainable development of the area.

3. The ridge height of the rear extension shall be reduced to a maximum of 5.2-meters in height. In this regard, revised drawings shall be submitted to the Planning Authority for their written agreement.

Reason: In the interest of residential and visual amenity.

4. All bathroom and en-suite windows shall be fitted and permanently maintained with obscure glass. In this regard, the use of obscure film is not acceptable.

Reason: In the interest of residential amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall match those present within the

Streamstown Wood residential scheme and any deviation from the materials, colours and textures within this scheme 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 entire premises shall be used as a single dwelling unit apart from such uses as may be exempted development for the purposes of the Planning and Development Regulations, 2001, as amended.

Reason: To prevent unauthorised development.

7. 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.

8. This permission shall expire on the 30th May, 2017.

Reason: To coincide with P.A. Reg. Ref. No. F06A/1576 and in the interest of visual amenities.

9. 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, noise management measures, off-site disposal of construction waste and methods to keep public roads clean from spillages and deposits that may arise during the course of construction.

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

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and 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.

11. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

P.M. Young
Planning Inspector
22nd October, 2015.