



An
Bord
Pleanála

Inspector's Report ABP-305627-19

Development	Demolition of existing house and construction of two storey, part single storey 5 bedroom house and all associated site works
Location	29 Georgian Village, Castleknock, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW19A/0079
Applicant(s)	Aine McBride
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Xavier Montibert & Ann Murray
Observer(s)	No
Date of Site Inspection	19 January 2020
Inspector	Una Crosse

1.0 Site Location and Description

- 1.1. The appeal site has an area of 0.2709 hectares and comprises the property known as 29 Georgian Village. Georgian Village comprises a residential development of large detached dwellings on large sites. The property currently accommodates a large bungalow which has an area of 295 sq.m and which was constructed c.1980. It includes a sunroom and a garage. The site has been cleared of mature trees and vegetation with a spoil heap on site and evidence of large excavators.
- 1.2. The site is adjoined to the north by the internal road network and footpath within the estate. To the east there is an area of public open space with a line of trees defining the boundary between the appeal site and the open space. A large detached dwelling adjoins to the west which also addresses the Georgian Village internal road network. To the south, the site adjoins the rear boundary of a series of properties arranged in blocks of 3 dwellings which address an internal road parallel to White's Road.

2.0 Proposed Development

- 2.1. The proposal provides for the demolition of the existing house on site which is a large bungalow with converted attic with an area of 295 sq.m. It is proposed to construct a replacement dwelling house on the site which is a detached, two storey and part single storey unit with 5 bedrooms with an area of 570.2 sq.m. It is proposed to finish the dwelling with stone cladding and render/dry dash. The design provides for a large north south elevation with two returns at each end creating an internal courtyard open to the garden. It is proposed to provide 2 sheds in the rear garden and new boundary walls to front of the site. Two entrances from the public road is proposed and a side gate is proposed from the rear garden into the adjoining public open space. It is intended to connect to the existing water supply and wastewater treatment system and into the existing surface water system.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 14 conditions which include the following:

- Projecting first floor window on east elevation omitted and replaced with conventional window.
- Entire premises to be used as single dwelling unit.
- Surface water drainage design to be submitted.
- Comply with the recommendations of the Arboricultural impact assessment.
- External finishes to be agreed.
- Permission does not authorise the sheds included in the drawings.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer is summarised as follows:

- Principle of proposal acceptable as an initiative to deliver incremental living space within a residentially zoned area.
- Large hipped roof dwelling has a conventional rectilinear design and is set within an area of similar large dwellings on large sites and aligned centrally on the site and will not impact unduly negatively on residential amenities of the area.
- Rear of dwelling is 39.8m from opposing site boundary and will not impact on residential amenities by overlooking.
- Front and rear boundaries of existing house to west with dwelling separated by 1.2m from adjoining public open space and 3m from site boundary with property to the west and will not result in overshadowing or overbearing.
- Surface water drainage design following principles of SuDS required.
- Tree survey and landscape plan required.

- Second driveway proposed would require removal of tree which is not appropriate and side gate into public open space should be removed.
- No appropriate assessment issues arise.
- Proposal not of a scale which would require and EIAR and no characteristics of proposal which would require same to be undertaken.
- Principle acceptable but issues existing and further formation required.

Further information was sought in respect of:

- Revised site layout providing only one vehicular entrance.
- Complete tree survey.
- Landscape Plan
- Revised site plan showing gateway into public open space removed.

Report following receipt of Further Information

- Notes submissions received.
- Notes response in relation to access arrangements and comments of Transport Section which proposes a number of conditions.
- Notes response in terms of trees and Parks response which proposes a number of conditions which should be reflected in any decision. Notes that measures will be taken to ensure adjoining and adjacent street trees not impacted negatively.
- In terms of overlooking, noted that first floor windows 39.8m from opposing site with no impact on residential amenities by way of overlooking.
- In relation to site clearance and landscape plan, proposal will not unduly impact on visual and residential amenities of the area with no objection from Parks Division noted and the conditions proposed should be attached.
- Omission of side gate noted, proposed arrangements will not impact on amenities of the area.
- Concluded that no impacts arising and that details of external finishes should be provided by way of compliance and given no details provided in relation to the proposed garden sheds that they should be removed.

3.2.2. Other Technical Reports

Transportation Planning Section

- Does not condone the use of multiple access points to dwellings for safety and visibility reasons with adequate space to front of dwelling to accommodate the turning manoeuvres on site and no justification for a second access point. The existing access point should be sole access point.
- No objection subject to existing access remaining sole access, footpath and kerb to be dishd, stormwater, works to be carried out at expense of developer.
- Following receipt of further information response there is no objection subject to conditions outlined above.

Parks Division

- Impact of proposal including scale of same and recent site clearance on neighbouring boundary trees.
- Complete tree survey is required prepared by an Arboricultural consultant.
- Tree bond may be calculated.
- Noted site has been cleared of trees with applicant required to submit a landscape plan.
- Proposal to provide second entrance would result in removal of street tree and do not agree with same.
- Request additional information noting proposed side gate from rear garden into the public open space and request details of right of way across public open space and if no information provided gateway should be removed.

Report following receipt of response to further information includes conditions as follows:

- Tree on street to be retained and grass verge protected.
- Tree Bond of €5,000
- No storage of plant or machinery in public open space.

Water Services Department

- No objection subject to conditions

3.3. Prescribed Bodies

Irish Water – No objection subject to conditions.

3.4. Third Party Observations

Two third party submissions were received initially by the Planning Authority. In addition to the grounds of appeal they also refer to

- Concern sheds may interfere with security of home by providing unintentional access.
- Use of granite/grey brick not in keeping with those in Georgian Village.
- Impact of tree removal on wildlife.

In response to further information three submissions were received which raise concerns with the Arboricultural response, the landscape plan and the proposal to omit the side gate leaving same open to interpretation. Concern remains regarding the overlooking that will arise and the sheds and the inclusion of a 3m boundary wall.

4.0 Planning History

None of note on the site.

5.0 Policy Context

5.1. Development Plan

Fingal Development Plan 2017-2023

Site is zoned residential - 'RS' the objective of which is to provide for residential development and protect and improve residential amenity.

Objective DMS28

This objective states that a *'separation distance of a minimum 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 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs'.

5.2. Natural Heritage Designations

- 5.2.1. The Royal Canal pNHA is located c.1.3km to the north of the subject site. The nearest Natura 2000 site, South Dublin Bay and River Tolka Estuary SPA is c.8km to the east.

5.3. EIA Screening – Preliminary Examination

- 5.3.1. Having regard to the nature and scale of the proposed development which provides for the replacement of an existing residential unit with a new residential unit, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was received and is summarised as follows:

- While accept principle of proposal concern arises from fact that mature trees removed from the site before permission sought and subsequently granted as set out in initial objection.
- Removal of trees has exposed property to otherwise unnecessary and inequitable overlooking by the proposed house.
- Proposal has seven large second floor windows with direct views into home with one small dormer window in existing structure.
- Ask that overall importance of removed trees has in terms of guaranteeing privacy of properties as well as their role in providing a haven for wildlife is recognised and that the permission is reviewed by the Board.

- Trees are important visual and screening element in Castleknock and form part of villages inherent character and ask Board, if they decide to grant permission, to condition that trees be replanting along the rear boundary that will grow to at least 15m in height at maturity.

6.2. Applicant Response

The applicant has responded to the appeal and it is summarised as follows:

- Content of appeal noted but of opinion that all of the pertinent issues raised have been addressed in the initial application to FCC.
- Request the Board to review a number of issues with some of conditions attached.
- Condition 2 – request Board reinstate removal of bay window on east elevation as it has no impact on adjoining properties and allows passive surveillance of the public open space.
- Condition 4 – original access with entrance and exit is preferable, safer and more in keeping with other entrances on the road.
- Condition 5(c) – preference to use the existing surface water connection which serves the existing house.
- Condition 6 – already existing infrastructure to services the site which can be availed of.
- Condition 7(b) – unreasonable as there are no trees on site.
- Condition 13 – omission of 2 sheds unreasonable as could be built as exempted development and request they are reinstated.
- Condition 14 – attic conversion should be taken into account in calculation of any financial contribution.
- Dwelling designed in accordance with Development Plan standards.
- Design of house informed and refined to address any issues with adjoining properties with particular concern in terms of privacy, overlooking, overshadowing with design of the house.

- Substantial separating distances provided restricting any possible overlooking.
- Copy of drawings submitted with original application submission included.

6.3. **Planning Authority Response**

The PA response to the appeal is summarised as follows:

- Condition 7 of decision requires compliance with Arboricultural Impact Assessment and Landscaping and Tree Planting Scheme.
- Separation distance from rear first floor windows of proposal and boundary to south is 39m which exceeds requirements of Objective DMS28 of Development Plan and not considered that proposal will give rise to direct overlooking of properties to south on Whites Road.
- Request ABP uphold decision of Planning Authority include s48 contribution condition.

6.4. **Observations**

- 6.4.1. No observations on the appeal were received.

7.0 **Assessment**

7.1. **Procedure**

- 7.1.1. I would note that in their response to the appeal, the applicant have sought to effectively appeal a number of conditions which were included by the Planning Authority. I do not consider that this is an appropriate means of addressing their concerns. They had an opportunity to appeal these conditions with a first party appeal and chose not to use this facility and seeking to do same through the appeal response is not appropriate. If the Board do not agree with this contention I will address the matters in section 7.3 below.

7.2. **Residential Amenity**

- 7.2.1. The principle concern raised in the appeal relates to the potential impact of the proposed development on the amenity of the appellants property. The appellants are located on White's Road directly to the south of the appeal site and share a

boundary. I note that the appeal site adjoins the entire boundary of two properties to the south and part of two others. The rear elevation of the first floor of the proposed residential unit is located in excess of 39 metres of the rear boundary wall with the rear elevations of the adjoining properties to the south a further 16 metres away from the shared boundary. This separation distance is well in excess of the separation distance required between first floor opposing windows. As set out in Objective DMS28 a minimum separation distance between opposing first floor windows is 22m. The separation distance between opposing first floor windows between the proposal and the appellant's property, at c.55m, is well in excess of this requirement. While I acknowledge that the removal of the trees on the rear boundary makes the appellants property more exposed than it previously was, resulting in perceived overlooking, this does not result in adverse overlooking which would impact on the residential amenity of the property.

7.2.2. I note the concerns expressed regarding the removal of trees on the site and the resultant change in the context arising between the appellant's property and the appeal site. However, the trees on the site were not protected and therefore no evidence has been put forward which would prevent the property owner from carrying out such clearance works on their property. I do however consider that the landscaping plan submitted with the further information response is poor and provides little detail on the landscape strategy for the site. No detail is provided regarding the nature of planting proposed along the rear site boundary. If the Board are minded to grant permission I would suggest that a condition is attached which requires the submission of a comprehensive landscape plan for the site.

7.3. **Other Matters**

7.3.1. As outlined in Section 7.1 above, the applicant has sought to appeal a number of the conditions attached to the Planning Authority Notification by way of the response to the appeal rather than via the appropriate first party appeal process. While I consider that this is an inappropriate use of the process, I will address the matters for the Boards consideration. The first matter relates to Condition 2 of the Notification which requires the omission of the bay window on the eastern elevation. This proposed opening addresses the boundary into the public open space and therefore does not create any residential amenity issue, I do not consider it is incongruous as given the extent

of the elevation, it can be absorbed. I therefore do not consider that there is any reasonable design rationale for its omission.

- 7.3.2. Condition 4 relates to the access arrangements. An entrance/exit system was proposed originally and at further information in response to the Planning Authority request the arrangement was revised to provide for a single access point. The transportation division objected to the entrance/exit arrangements and I note it would involve the removal of a street tree which the Park Division objected to. I would note that the applicant provides no technical support for their contention that the original proposal is safer and does not address the requirement to remove the street tree at all. I consider that the revised proposal outlined in the response to the further information request should remain and condition 4 is merely a reaffirmation of condition one. For clarity I consider that condition 4, clarifying that a single access is permitted, should be retained.
- 7.3.3. Condition 6 requires that the applicant provide an acceptable surface water drainage strategy which complies with SuDS. The applicants state that the existing system is satisfactory. I note that the existing house was developed in the early 1980's prior to the modern surface water drainage requirements and in this regard the requirements in terms of surface water are reasonable. Condition 7(b) relates to the requirement for a tree bond which the applicant considers is unreasonable as there are no trees on the site. I note that a tree protection plan was prepared for the trees in the vicinity of the site and I consider that given the proximity of same that the bond is reasonable.
- 7.3.4. Condition 13 requires that the sheds proposed are omitted. The applicant considers that given they could be built as exempted development that they should not be omitted. However as the Planning authority point out no plans or particulars were included with the application and I note that none were submitted with the appeal response to support the proposal to retain same. I consider that it is reasonable that they should be omitted. Condition 14 seeks a recalculation of the development contribution required. Given the appellant did not appeal this condition I do not consider it is appropriate to address the matters arising in terms of what should or should not have been included.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to nature and scale of the proposal which seeks to replace an existing house with a new residential unit, the absence of any pathways from the site and the distance of the site to the nearest Natura 2000 sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1.1. I recommend that planning permission should be granted subject to the conditions outlined below.

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning of the site and the existing use of the site for residential purposes, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of residential amenity, traffic safety and would not detract from the character of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 21st day of August, 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Site access arrangements shall comply with the details outlined in the submission received by the Planning Authority on 21st August 2019.

Reason: In the interest of clarity.

3. Prior to commencement of development the following details shall be submitted for the written agreement of the Planning Authority
 - i. A revised site layout plan which provides for the omission of the proposed sheds within the rear garden area.
 - ii. A Tree Bond of €5,000 shall be lodged with the Planning Authority to ensure trees included in the submitted tree protection plan are protected and maintained in good condition during the proposed construction of the proposed development.
 - iii. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of clarity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and shall include a plan to scale of not less than 1:500 showing the species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include prunus species and details of screen planting which shall not include cupressocyparis x leylandii.

Reason: In the interest of residential and visual amenity

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phase, which shall be carried out in full, and details of the methods and locations to be employed for the prevention,

minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of the environment and sustainable waste management.

6. 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.

7. The developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. Water supply and drainage arrangements, including the 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

9. 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 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 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.

Una Crosse
Senior Planning Inspector

January 2020