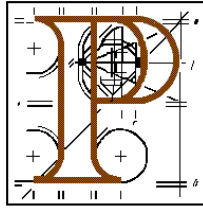


An Bord Pleanála



Inspector's Report

Appeal Reference No: 06D.245473

Development: Permission for detached two storey house and garage and modification of existing access to facilitate both existing dwelling (Old Court) and the proposed dwelling with associated site works at Old Court, Brighton Avenue, Brighton Road, Dublin 18.

Planning Application

Planning Authority: Dun Laoghaire Rathdown Co. Co.
Planning Authority Reg. Ref.: D14A/0793
Applicant: David McFarlane
Planning Authority Decision: Grant permission

Planning Appeal

Appellant(s):
1. Alan Burns
2. Daniel and Adele McInerney, Iain and Helen Walsh
3. Karen Scanlan and John Territt
Type of Appeal: Third Party
Observers: None
Date of Site Inspection: 16th November 2015

Inspector: Emer Doyle

1.0 SITE LOCATION AND DESCRIPTION

The application site consists of the side garden of an existing dwelling located at Old Court, Brighton Avenue, Brighton Road, Dublin 18. The total site area is 0.117 hectares. The existing property at this location is located mainly to the west of the site and comprises of a detached two storey property. The garden of the existing property is well landscaped with mature planting. The bulk of the site is currently used as a vegetable patch for the existing property.

The site is bounded on two sides by the Foxrock Architectural Conservation Area i.e. to the northern and eastern boundaries, namely the properties at 'Little Gate' and 'Tahilla' respectively. I note that 'Tahilla' is the property named as No. 1 Brighton Road on the site layout map submitted with the application. The site is bounded on the south by two storey dwellings at Nos. 3, 4, and 5 Carrickmines Little housing estate. The site is bounded by a public road to the west.

A set of photographs of the site and its environs taken during the course of the site inspection is attached.

2.0 PROPOSED DEVELOPMENT

The proposed development comprises of the following:

- Construction of a two storey dwelling with a stated floor area of 226 square metres.
- Detached garage with a stated floor area of 35.4 square metres.
- Existing access to Old Court will be retained and modified to facilitate access for both the existing and proposed dwellings.

The Further Information Response included an on-site survey of the existing speed on Brighton Avenue and a construction management plan for the proposed development.

3.0 PLANNING HISTORY

No recent planning history on site.

PA Reg. Ref. D08A/0616

Permission granted to demolish existing single storey house and detached garage and to construct a replacement two storey five bedroom over basement house with separate garage/store building containing a dormer bedroom and ancillary accommodation at Little Gate, Brighton Road.

4.0 PLANNING AUTHORITY DECISION

4.1 TECHNICAL REPORTS

Planning Report

The planner's report noted that 6 No. submissions were received including a letter from the RPA in relation to the Luas line Section 49 Levy. It considered the significant overlooking or overshadowing would not occur and that having regard to the eclectic mix of design within the area, the proposed development would not be significantly out of character with the surrounding area. Further information was requested in relation to the issues raised in the Transportation Report.

Transportation Report

The Transportation Department Report dated the 28th of January 2015 required further information in relation to a speed survey and a construction management plan. A further report dated the 25th of August 2015 considered that the sightlines available were acceptable and recommended permission subject to conditions.

Surface Water Drainage Report

No objection subject to a condition.

Railway Procurement Agency

The proposed development is within the area set out in the Luas line B1 Section 49 and a condition should be included in relation to the Section 49 Luas Line B1 levy.

4.2 Planning Authority Decision

Dun Laoghaire Rathdown issued a notification of decision to grant permission subject to 14 No. conditions.

Condition 8 is as follows:

'The applicant shall ensure that adequate on-site car parking facilities, to the satisfaction of Dun Laoghaire - Rathdown County Council, are made available for site workers during the course of construction.

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

All other conditions are of a standard nature.

5.0 GROUNDS OF APPEAL

Third party appeals against the Council's decision was submitted by the following parties:

1. Alan Burns
2. Daniel and Adele McInerney, Iain and Helen Walsh
3. Karen Scanlan and John Territt

The grounds of appeal and can be summarised as follows:

- Impact on Residential Amenities.
- Design unsuitable for Architectural Conservation Area and out of character with other houses in the area.
- Proposed development would set an undesirable precedent.
- Failure to comply with Development Plan.
- Traffic Safety.
- Removal of an area of mature landscaping to create visibility splays is outside of applicants control and would affect the character of the entrance to Brighton Avenue.
- Impact on Foul Drainage.
- Concerns regarding impact of access road to site.
- Concerns regarding construction traffic.
- Impacts of construction noise on autistic child.
- Photographs of site entrance as submitted by applicant are not accurate. Representative from the Board is requested to visit the site during the hours of 8-10am to get a realistic view.
- Property has already been subdivided and further subdivision is unacceptable.
- Planning Notice was on gates to site. These gates were frequently left open and one had to enter the private property to view this notice.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

The Planning Authority response considers that the grounds of appeal do not raise any new matter which would justify a change in attitude to the proposed development.

6.2 First Party Response

The response submitted on behalf of the applicants can be summarised as follows:

- Parking will be within the site confines.
- The site access will be marshalled and opened only for access and deliveries.
- There is a 100mm foul line traversing the site. During building construction, this pipe will be identified, treated as a live line and protected.

6.3 Observations

None.

7.0 POLICY CONTEXT

The Dun Laoghaire Rathdown Development Plan 2010 - 2016 is the operative County Development Plan for the area.

Zoning

The site is located within an area zoned as Objective A 'To protect or improve residential amenity.'

Policy RES4 - Existing Housing Stock and Densification - it is Council policy to improve and conserve housing stock in level of the County, to densify existing built up areas and to maintain and improve residential amenities in existing residential developments.

Section 16.3.4 (v) of the Development Plan relates to development in corner/side garden sites.

The site is within the designated area for the Luas Line B1 Section 49 Development Contribution Scheme.

ASSESSMENT

Having examined the file and having visited the site I consider that the main issues in this case relate to:

1. Principle of Proposed Development
2. Design and Impact on the Character of the Area
3. Impact on Residential Amenities
4. Traffic Safety
5. Other Matters

Principle of Proposed Development

The subject site is located within lands zoned 'Objective A' of the operative County Development Plan, which seeks to protect and/or improve residential amenity and where residential development is permitted in principle subject to compliance with the relevant policies, standards and requirements set out in the plan. Accordingly the principle of an additional dwelling is acceptable at this location.

Design and Impact on the Character of the Area

The main concerns raised in the third party appeals relate to scale, massing, height, and impact on adjoining Foxrock Architectural Conservation Area. It is also stated that a single storey design would be more appropriate and that the design is not in keeping with existing development in the area and would set an undesirable precedent.

Section 16.3.4 of the Development Plan refers to Additional Accommodation in Existing Built-up areas and Section 16.3.4 (v) refers to corner/side garden sites. Under this section of the Development Plan it is stated that applications will be assessed having regard to size, design, layout relationship with the existing dwelling and immediately adjacent properties. I note that the appeal submitted on behalf of Mr. Alan Burns stated that the site is not a corner/side garden site and should not be determined under this policy. It is stated that as the site creates a new building line, it should be considered to be a backland site. I consider that the site is not a backland site and that it is located mainly within the side garden of the existing property and I shall assess the site in accordance with the policy above.

The application site is located in a mature residential area characterised by an unusually varied mix of house types, particularly on Brighton Road to the north. There appears to be a very varied mix of finishes in the area also. The site is adjoining the Foxrock Architectural Conservation Area.

The proposed design provides for a two storey detached dwelling with a height of 8.5 metres and a stated floor area of 226 square metres. A contiguous front elevation demonstrating both the existing and proposed houses has been submitted with the application and I consider that both dwellings are similar in terms of scale and height. There are many large detached dwellings of similar height and scale in the area and I do not consider that the scale or height are excessive at this location.

I note that the site is adjoining the Foxrock Architectural Conservation Area, however, having regard to the location of the site behind the Foxrock Architectural Conservation Area, it will be possible only to get glimpses of the proposed development from the ACA. As such, I am of the view that the design of the proposed dwelling is satisfactory and that the height, design and scale will not detract from the overall character of the area.

Impact on Residential Amenity

Concerns have been raised by the appellants regarding overlooking and loss of privacy and overbearing impact of the proposed development. Concern is also raised with regard to the location of the access road serving the site.

The proposed front elevation and plans show windows relating to a walk in wardrobe and stairs. Concern is expressed that the planning process has no control on the future use of these rooms. I consider that there is no difficulty in terms of overlooking with the existing layout. However, in order to protect the residential amenities of adjoining properties, I would recommend a condition which would require permission for a future change of use of this room to a habitable room. I also consider that obscure glazing in this room would address the concerns raised.

I note that the site plan submitted indicates a 22 metre separation distance which is outlined in yellow. This appears to be partially using the larger rear gardens of the two storey detached dwellings in Carrickmines Little to achieve this distance. However I note that the rear garden varies between c. 9.7 metres and c. 19 metres and the dwelling is angled on the site so that the first floor windows do not directly overlook the houses in Carrickmines Little. Having regard to the factors outlined above, I do not consider that the proposed development would unduly detract from the residential amenities of the area by virtue of overlooking.

I consider that the location of the access road would have very little impact on the residential amenities of adjoining dwellings for normal day to day use. There would be greater impacts during the construction period but such impacts would be temporary and short term.

Having regard to the size of the site, the generous rear garden, the distance from adjoining properties and the overall size and scale of the

proposed development, I do not consider that the proposed development would have an overbearing impact on adjoining residencies.

In terms of overlooking and impact on privacy, I am of the view that the proposed development will have minimum impact on existing development in the area. As such, I am of the view that the proposed development would not unduly impact upon the residential amenity of the neighbouring properties.

Traffic Safety

The main concerns raised relate to the safety of the proposed access at this location.

I note that Design Manual for Urban Roads and Streets requires sightlines, for vehicles existing from a setback of 2.5 metres of 45 metres on both sides. In the report from the Transportation Department dated the 28th of January 2015, it was stated that reduced sightlines would be acceptable if the applicant could demonstrate that the existing traffic speeds are low by submitting a speed survey of existing speeds on Brighton Avenue in accordance with advice from Table 4.2 of the Design Manual for Urban Roads and Streets. Such a survey was carried out on Wednesday the 22nd of April 2015 between the hours of 07.00 to 19.00 and was submitted to the Planning Authority dated the 17th of September 2015 in response to the Further Information Request. The survey results are summarised in a Table in Section 3 of the Report. The total number of vehicles was 1,133. The northbound 85th percentile kph speed was 45 and the southbound 85th percentile kph was 40.7. While a speed limit of 50kph applies to Brighton Avenue, the actual speeds are slower considering the alignment and residential nature of the road.

I note that the appeal from Karen Scanlan requested an official from the Board to visit the site between 8am to 10am in order to get a realistic view and witness the existing traffic movements and parking. I can confirm that I carried out my site inspection on a Monday morning between these peak hours. I was on the site and in the vicinity of the site for approximately 30 minutes. I can confirm that the area is busy with both pedestrian and vehicular traffic and that vehicular speed is low having regard to the nature of the road and the proximity to a bend. There are double yellow lines in close proximity to the site to prevent parking in proximity to the site on Brighton Avenue.

I consider that having regard to these factors, together with the results of the traffic survey, the proposed sight lines are acceptable at this location.

Other Matters

Construction Management

The main concerns raised regarding construction management relate to traffic and pedestrian safety, parking for construction vehicles, hours of working and noise. I draw the Boards attention in particular to a handwritten note at the bottom of the appeal from Adele and Daniel McInerney which states that their son, Daniel, is autistic and will be hugely affected by the noise of the proposed development. It is stated that he has sensory problems and will not be able to enjoy the garden.

A construction management plan was submitted in response to the further information request and these details have been repeated in the appeal response which deal with some of the matters raised in the appeals. It is stated that site access will be provided during the existing secure site entrance and the gate will be marshalled and opened only for access and deliveries. These activities will be supervised to minimise/avoid any conflict between construction activities on Brighton Avenue/ Road. The existing pedestrian pathway that exists on Brighton Avenue is located on the opposite side of the road to the site which will avoid conflict between construction activities and pedestrian movements. The overall size of the site in the ownership of the applicant is 0.5 of an acre and it is intended to provide car parking within the site boundary with minimum on street car parking for construction workers. Building contractors normal working hours are from 8.00am - 5.00pm Monday to Friday with possible Saturday working hours 8.00am-1.00pm. It is stated that the applicant is living next door to the site and he has requested that within the tender documents a condition is included that noise is kept to a minimum, and within reasonable working day hours.

I am satisfied that the construction management plan is satisfactory and the impacts on adjoining residences have been considered. Whilst I have great sympathy in relation to the impacts of all neighbours including the autistic child referred to above, construction impacts are temporary and short term.

Foul Drainage

Concern is raised in relation to foul drainage which will have to be diverted during the course of construction and the impact this would have on Alan Burns (Little Gates) property. The appeal response stated that an on site survey picked up a 100mm foul line traversing the site which will be diverted around the proposed dwelling. All pipes running under the access road will be en-cased in concrete as per the building regulations. During building construction, this pipe will be identified, treated as a live line and protected. I am satisfied that this response addresses the issues raised.

Site Notice

It is pointed out in the appeal by Karen Scanlan that the site notice was displayed on the entrance gate of the existing dwelling at Old Court which was frequently left open during daylight hours and one had to enter into private property to view the planning notice. The planner's report noted that 'following site inspection, the planning notice was considered to be clearly visible.' The Planning Authority has accepted that this application is valid and the Board have no further role in this matter.

Appropriate Assessment

Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

RECOMMENDATION

Based on the above assessment, I recommend that permission be granted for the proposed development for the reasons and considerations set out below:

REASONS AND CONSIDERATIONS

Having regard to the nature, scale and design of the proposed development, to the residential zoning of the site as set out in the current Development Plan for the area and to the character of the general area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic safety and convenience. 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 by further plans and particulars received by the Planning Authority dated the 4th day of August 2015 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

3. (a) The windows of the walk-in-wardrobe serving the master bedroom on the first floor shall be glazed with obscure glass.
(b) The use of the room shall not be altered without a prior grant of planning permission.

Reason: In the interests of residential amenity.

4. 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.

5. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

6. The construction of the development shall be managed in accordance with the details submitted to the Planning Authority.

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

7. Site development and building works shall be carried out only between 0800 hours and 1900 hours from Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times shall 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.

8. 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.

Emer Doyle
Inspector

1st December 2015